

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

\_\_\_\_\_  
IN RE: TELXON CORPORATION :  
SECURITIES LITIGATION :  
\_\_\_\_\_ X

Case No. 5:98-CV-2876  
Judge Kathleen O'Malley  
Magistrate Judge Patricia Hemann

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION,  
APPLICATION FOR ATTORNEYS' FEES AND EXPENSES, AND SETTLEMENT HEARING**

**TO: ALL PERSONS OR ENTITIES WHO PURCHASED SECURITIES OF TELXON CORPORATION, INCLUDING COMMON STOCK, CALL OPTIONS, NOTES AND DEBENTURES, AND SELLERS OF PUT OPTIONS, DURING THE PERIOD OF MAY 21, 1996 THROUGH FEBRUARY 23, 1999**

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE RELATES TO THE PROPOSED SETTLEMENT OF ALL CLAIMS AGAINST TELXON CORPORATION, FRANK E. BRICK, AND KENNETH W. HAVER IN THIS CLASS ACTION. YOU MAY BE ENTITLED TO RECEIVE MONEY PURSUANT TO THE PROPOSED SETTLEMENT DESCRIBED HEREIN. IN ADDITION, YOUR RIGHTS MAY BE AFFECTED BY THE CLASS ACTION LAWSUIT PENDING AGAINST PRICEWATERHOUSECOOPERS, LLP.**

**Summary of Settlement with the Telxon Defendants**

The purpose of this notice is to inform you of:

(1) the proposed settlement for \$37,000,000.00 in cash, plus an interest in certain claims brought by Telxon Corporation against PricewaterhouseCoopers LLP ("PwC") for an amount not to exceed \$3,000,000.00 (the "State Law Claims Contribution Amount"), plus accrued interest (the "Settlement"), in exchange for the release of all claims against Telxon Corporation, and each of its present and former partners, officers, directors, employees, agents, and attorneys, and the legal representatives, heirs, successors and assigns of each such present or former stockholder, officer, director, employee, agent and attorney ("Telxon"), Frank E. Brick, and Kenneth W. Haver (collectively, the "Telxon Defendants"), and Telxon's parent company, Symbol Technologies, Inc. (except for those claims against Symbol expressly reserved by members of the Telxon Class as described in the Stipulation relating to certain pending actions);

(2) a final settlement hearing (the "Settlement Hearing") which will be held before the Honorable Kathleen O'Malley, in Courtroom No. 16A of the United States District Court for the Northern District of Ohio (the "Court"), 801 W. Superior Avenue, Cleveland, Ohio, 44113-1840 at 4:00 p.m., on February 12, 2004, to consider whether: (a) the Settlement is fair, reasonable adequate, and in the best interests of the Telxon Class (as defined below) and should be approved; (b) to enter a Judgment, dismissing and releasing the claims of the Telxon Class against the Telxon Defendants; and (c) to grant the application of court-appointed counsel ("Class Counsel") in the above-captioned and related class actions (the "Telxon Action") for attorneys' fees and reimbursement of expenses (the "Fees and Expenses Application"). The Settlement, the terms of which are only summarized in this Notice, is embodied in a Stipulation and Agreement of Settlement dated December 5, 2003, as amended (the "Stipulation") which has been filed with the Court. All defined terms as set forth in the Stipulation are adopted for this Notice and the terms used herein shall have the same meaning as in the Stipulation.

The Court, by order dated September 19, 2001, certified the Telxon Action to proceed as a class action and certified a class under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of all persons or entities who purchased the securities of Telxon, including common stock, call options, notes and debentures, and sellers of put options, during the period of May 21, 1996 through February 23, 1999 (the "Telxon Class Period"). The Telxon Class excludes: (1) the Telxon Defendants; (2) members of the immediate families of Frank E. Brick and Kenneth W. Haver; (3) any subsidiary or affiliate of Telxon; (4) directors, officers and employees of Telxon or its subsidiaries or affiliates including, but not limited to, their current and former partners, officers, directors, employees, agents and attorneys, and the legal representatives, heirs, successors and assigns of each such present or former partner, officer, director, employee, agent and attorney during the Telxon Class Period; (5) any entity in which any excluded person or entity has a controlling interest; (6) persons who have made or will make requests for complete exclusion from the Telxon Class in the manner and within the time provided by order of the Court and do not thereafter rescind such requests ("Opt-Outs"); (7) PwC, its legacy firm Coopers & Lybrand LLP, and their successors, subsidiaries, affiliates and their current and former partners, officers, directors, stockholders, employees, agents and attorneys, and the legal representatives, heirs, successors and assigns of each such present or former partner, officer, director, stockholder, employee, agent and attorney; (8) the plaintiff in *Wyser-Pratte Management Co., Inc. v. Telxon Corporation, et al.*, Case No. 5:02-CV-1105 (N.D. Ohio), and all of its affiliates including, without limitation, Mr. Guy Wyser-Pratte, and any entity controlled by Mr. Wyser-Pratte or Wyser-Pratte Management Co., Inc.; (9) the plaintiffs in *Connolly et al. v. Telxon Corporation*, Case No. 00-CV-9410 (D. Col); and (10) the legal representatives, successors, heirs, assigns and affiliates of any such persons.

Class Plaintiffs will continue to prosecute certain related claims that remain pending against PwC and have not been settled, in the action *Hayman, et ano v. PricewaterhouseCoopers LLP*, Case No. 1:01-CV-1078 (N.D. Ohio) (the "PwC Action"). If you desire to be excluded from the Settlement and Telxon Class, you must state so in writing as described below. The deadline for filing requests for exclusion is February 2, 2004.

**A. Statement of Class Plaintiffs' Recovery**

Class Plaintiffs, represented by Class Counsel, Zwerling, Schachter & Zwerling, LLP, have entered into a proposed Settlement that will resolve all claims of Class Plaintiffs and members of the Telxon Class against the Telxon Defendants. Under the terms of the

Settlement, Telxon will make a cash payment for the benefit of the Telxon Class in the amount of thirty-seven million dollars (\$37,000,000.00) plus any amount which becomes payable as a result of a judgment or settlement on Telxon's state law claims against PwC, up to three million dollars (\$3,000,000.00) (the "Settlement Fund") and which will earn interest until distributed. The average recovery per share will depend on when Telxon Class members purchased and sold the Telxon securities, the number of securities affected, and the amount of inflation per share, as more fully described below in Section VII of this Notice. According to Class Plaintiffs, each share of Telxon common stock (and other securities) purchased during the Telxon Class Period was affected, to varying degrees, by Telxon's materially misleading financial statements and financial information disclosed during the Telxon Class Period. The Telxon Defendants would dispute Class Plaintiffs' allegations in the absence of a settlement of the Litigation. Class Plaintiffs estimate that, in all, approximately 54.4 million shares of Telxon common stock were purchased during the Telxon Class Period (Telxon's approximately 16 million shares outstanding were purchased multiple times) and may be entitled to share in the recovery from the Telxon Defendants. Assuming that all affected shares elected to participate in the entire Settlement of \$40 million, the average recovery per share purchased would be approximately \$0.74, but with some Telxon Class Members recovering more and some less, depending on when their shares or securities were acquired or sold, as more fully described in the accompanying Plan of Allocation of Net Settlement Fund (the "Plan of Allocation").

The Settlement with the Telxon Defendants will have no effect on the claims of Telxon Class members for claims asserted against PwC in the PwC Action, as described more fully below, except that under applicable federal law, any damages potentially recoverable at trial from PwC may be reduced by the greater of either:

(a) the amount that corresponds to the percentage of the Telxon Defendants' responsibility; or

(b) the amount the Telxon Defendants paid to Class Plaintiffs,

unless a jury finds that PwC knowingly engaged in a violation of the securities laws in which case PwC will be jointly and severally liable for all damages, but such judgment may be reduced by the greater of (a) or (b) above.

#### **B. Statement of Potential Outcome**

Class Plaintiffs and the Telxon Defendants do not agree that damages would be recoverable at all, and do not agree on the average amount of damages per share that would be recoverable if Class Plaintiffs were to have ultimately prevailed on their claims. The issues on which the Settling Parties disagree include, among other things, whether the prices at which Telxon common stock traded were artificially inflated due to the Telxon Defendants' conduct. Accordingly, the Telxon Defendants challenge Class Plaintiffs' damages calculations, assert defenses to the amount of damages recoverable against them, and dispute the maximum amount of damages recoverable if the Telxon Class prevailed on each of their claims and in all respects.

#### **C. Statement Respecting the Fees and Expenses Application**

Class Counsel intends to apply to the Court for an award of attorneys' fees of 30% (or between \$11.1 and \$12 million) of the Settlement Fund, after payment of Court-approved expenses, or approximately \$0.22 per share from the Settlement Fund.

Class Counsel also will apply for payment of out-of-pocket costs and expenses incurred in prosecuting the claims of the Telxon Class, including fees of Class Plaintiffs' damages and accounting experts, and costs and expenses incurred by the representative Class Plaintiffs, in a total amount not to exceed \$1,950,000.00 or approximately \$0.04 per share. For a more detailed discussion of Class Counsel's Fees and Expenses Application, see Section VI "Application for Attorneys' Fees and Expenses."

#### **D. Reasons for Settlement**

The principal reason for the Settlement is the substantial benefit provided to the Telxon Class now, *i.e.*, \$37,000,000.00 plus the State Law Claims Contribution Amount, as well as accrued interest, as compared to the risk that a similar, smaller, or zero recovery would be achieved after a trial and appeals, possibly years in the future. In summary, Class Plaintiffs believe that the Settlement is fair, reasonable, adequate and in the best interests of the Telxon Class considering the amount of the Settlement, the percentage of potential damages recovered, and the immediacy of recovery to the Telxon Class. Class Plaintiffs further recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Telxon Action through trial and appeals. Class Plaintiffs also have considered the uncertain outcome and the risk of any further litigation, especially in complex actions such as the Telxon Action, as well as the difficulties and delays inherent in any such action. Class Plaintiffs are mindful of the inherent problems of proof and possible defenses to the federal securities law violations asserted.

For a more detailed discussion of the reasons for the Settlement, see Section III "Reasons for the Settlement."

#### **E. Identification of Class Counsel**

Any questions regarding the Settlement or this Notice should be directed to the following Class Counsel:

Jeffrey C. Zwerling, Esq.  
Richard A. Speirs, Esq.  
Zwerling, Schachter & Zwerling, LLP  
845 Third Avenue, 6<sup>th</sup> floor  
New York, NY 10022  
(212) 223-3900  
www.zsz.com

## **I. DESCRIPTION OF THE ACTION**

### **A. Background and Claims**

The Telxon Action began on December 11, 1998. On or after that date, several class action complaints were filed against the Telxon Defendants alleging violations of the federal securities laws. The Court, by order dated August 25, 1999, consolidated those complaints into a single action, and appointed William Hayman and Arthur Hayman to serve as Lead Plaintiffs and subsequently appointed them Class Plaintiffs. The Court also appointed Zwerling, Schachter & Zwerling, LLP, as Lead Counsel, and Duvin, Cahn & Hutton, P.A., as Liaison Counsel.

On September 30, 1999, Class Plaintiffs filed an amended complaint against Telxon, Frank E. Brick and Kenneth W. Haver (the "Telxon Amended Complaint"). Class Plaintiffs allege that during the Telxon Class Period, the Telxon Defendants manipulated Telxon's finances and materially misstated Telxon's revenue and earnings in SEC filings, press releases and/or other public statements. Class Plaintiffs allege that the Telxon Defendants created the false impression that Telxon was meeting its earnings projections, and achieving increased earnings and profitability during the Telxon Class Period, through the use of improper accounting methods in violation of Generally Accepted Accounting Principles. Class Plaintiffs further allege that the Telxon Defendants acted with *scienter*, *i.e.*, they knew or recklessly disregarded that their representations to investors were materially false and misleading. Telxon has denied and continues to deny those allegations.

Class Plaintiffs allege that the Telxon Defendants' conduct artificially inflated the price of Telxon securities during the Telxon Class Period, and as a result, Class Plaintiffs and other Telxon Class members were damaged when they bought or sold Telxon securities. Telxon has denied and continues to deny those allegations.

The Telxon Defendants moved to dismiss the Telxon Amended Complaint on November 8, 1999. The Court denied the motion to dismiss on September 29, 2000.

On February 20, 2001, Telxon filed a related third-party complaint against PwC. Telxon asserts claims against PwC for contribution, accountant malpractice, fraud, constructive fraud, fraudulent concealment, fraudulent misrepresentation, negligent misrepresentation, breach of contract, and breach of fiduciary duty arising out of auditing and related professional services that PwC provided to Telxon during the Telxon Class Period. On March 25, 2002, the Court denied PwC's motion to dismiss Telxon's third-party complaint. On April 24, 2002, PwC filed its own third-party complaint against Telxon, alleging claims for contribution and indemnification. As described in Section IV, Class Plaintiffs may recover up to three million dollars relating to Telxon's state law claims against PwC.

On May 3, 2001, Lead Plaintiffs filed a complaint against PwC (the "PwC Complaint"), which contains allegations against PwC based on Telxon's alleged false and misleading financial statements. The PwC Complaint alleges that during the Telxon Class Period, PwC issued false and misleading statements regarding its audits and reviews of Telxon's financial statements.

PwC moved to dismiss the PwC Complaint on June 18, 2001. The Court denied the motion to dismiss on March 25, 2002, relating to Lead Plaintiffs' claims regarding PwC's audit opinion of Telxon for fiscal year 1998. The Court also dismissed Lead Plaintiffs' claims against PwC concerning Telxon's 1996 and 1997 audited financial statements and its unaudited 1999 financial statements. Therefore, Lead Plaintiffs' claims against PwC are limited to allegations related to PwC's audit opinion of Telxon's fiscal year 1998 financial statements. The PwC Action has not been settled and a trial is expected in 2004.

### **B. The PwC Class**

On August 26, 2002, the Court certified a class against PwC (the "PwC Class") for all persons or entities who purchased the securities of Telxon, including common stock, call options and debentures, and sellers of put options, during the period of June 29, 1998 through February 23, 1999 and were damaged thereby. The PwC Class overlaps with the Telxon Class and the claims on behalf of the PwC Class are **not** being settled herein.

### **C. The Telxon Defendants' Defenses**

In addition to denying the truth of the allegations against it, the Telxon Defendants interposed numerous substantial defenses to the claims of the Telxon Class, including that: they fail to state a cause of action in their complaints; the complaints fail to allege primary violations of the federal securities law; the complaints fail to allege loss causation; persons or entities other than the Telxon Defendants were responsible for the losses of the Telxon Class; and lack of reliance.

## **II. PROSECUTION OF THE CLAIMS**

Since October 30, 2000, Class Counsel has conducted extensive discovery during the prosecution of the Telxon Action. Class Counsel requested from Telxon, and Telxon produced, hundreds of thousands of pages of documents relevant to the claims. Class Counsel carefully reviewed and analyzed the documents for use in the preparation and taking depositions of witnesses from Telxon and others. Class Counsel also obtained and reviewed testimony of relevant witnesses who testified before the Securities and Exchange Commission.

Class Counsel prepared extensive briefs and other papers and argued motions relating to the Telxon Action and PwC Action on both the merits and discovery issues. Class Plaintiffs also served written discovery including document requests and interrogatories which Class Counsel analyzed and reviewed in assessing the merits of the case.

In June 2003, after completing over forty depositions taken over a period of twelve months, Class Counsel, counsel for the Telxon Defendants and counsel for PwC agreed to non-binding mediation of their claims. After two days of mediation with Professor Eric D. Green of Resolutions, LLC, on October 31, 2003, Class Plaintiffs and the Telxon Defendants agreed to the principal terms of the Settlement described in this Notice.

### **III. REASONS FOR THE SETTLEMENT**

Prior to entering into the Stipulation, Class Counsel carefully analyzed the facts underlying the Telxon Class' claims in the Telxon Action. Class Counsel researched the law governing the claims and the Telxon Defendants' defenses, including those set forth above. To assist in their evaluation of the Settlement, Class Counsel had at their disposal the extensive pretrial discovery that the Telxon Class had taken against the Telxon Defendants and others, as well as testimony, documents and other information relating to an investigation of Telxon by the Securities and Exchange Commission. Class Counsel also considered the expense and length of time necessary to prosecute the Telxon Action through trial, including the costs of trial preparation, the likely appeals, the uncertainty of the outcome of these complex litigations, and the immediate and substantial benefit to the Telxon Class provided by the Settlement.

Thus, the decision to enter into this Settlement was made with knowledge of the facts and circumstances underlying the claims, and the strengths and weaknesses of those claims. Indeed, Class Plaintiffs believed that a recovery against the Telxon Defendants that approximated the maximum "potential outcome" was uncertain and presented great risks. There existed a real possibility that the Telxon Defendants could avoid liability altogether by asserting that it had acted properly and relied upon PwC. Even if Class Plaintiffs successfully prosecuted the case against the Telxon Defendants at a trial, and obtained a judgment against them, defense costs related to the trial and the inevitable appeals would likely consume proceeds otherwise available to the Telxon Class. Based upon consideration of these factors, the Telxon Defendants' other defenses, and the assets available to recover against it in the event the Telxon Action was successful, and balancing the many risks against the certain and substantial benefits that the Telxon Class will receive as a result of the Settlement, Class Counsel determined that the Settlement described herein is fair, reasonable and adequate and that it is in the best interests of Class Plaintiffs and the Telxon Class to settle the Telxon Action on the terms described herein.

### **IV. SUMMARY OF THE PROPOSED SETTLEMENT**

The terms of the Settlement are set forth in detail in the Stipulation, which has been filed in the Court. The Telxon Defendants will pay at least \$37,000,000.00, for the benefit of the Telxon Class. In addition, Telxon will pay for the benefit of the Telxon Class that portion of any monies received by Telxon from PwC either upon settlement or judgment relating to Telxon's State Law Claims, due as follows: (1) the first one million dollars (\$1,000,000.00) recovered after Telxon's recovery of certain costs; and thereafter, (2) twenty-five percent (25%) of any additional amount received, up to an additional two million dollars (\$2,000,000.00). The Telxon Defendants and the Telxon Class will agree to cooperate with each other in the prosecution of their respective claims against PwC as applicable.

The Telxon Defendants have denied and continue to deny each and all of the claims that the Telxon Class alleges against them, and contend that they have substantial defenses. The Telxon Defendants also have denied and continue to deny, among other things, the allegations that the Telxon Class has suffered damage as a result of their actions. The Telxon Defendants have stated that they entered into the Settlement to avoid the burden, expense, and risk of further litigation with the Telxon Class.

If the Court approves the Settlement, and the other conditions to the Settlement are satisfied, then the Court will enter a final judgment approving the Settlement as fair, reasonable, adequate and in the best interests of the Telxon Class ("Judgment"). The Judgment shall also provide that members of the Telxon Class release the Telxon Defendants from each and every claim by each and every Telxon Class Member against the Telxon Defendants concerning any transaction between any Telxon Class Member and Telxon relating to the allegations of the Telxon Amended Complaint. **To the extent that certain Telxon Class Members are also members of the PwC Class, they will NOT be releasing their claims against PwC, still being prosecuted in *Hayman, et al. v. PricewaterhouseCoopers LLP*, 1:01 CV 1078.**

The Settlement will become effective on the latest occurrence of the date of final affirmance on an appeal from or other judicial review of the Judgment or the expiration of the time by which an appeal or other judicial review must be taken.

Any proceeding or order, any appeal or other judicial review that solely concerns any allocation of the proceeds among Telxon Class Members and/or any application by Class Counsel for attorneys' fees, costs or expenses, shall not in any way delay or preclude the Judgment from becoming final.

When the designated Escrow Agent receives written notice signed by counsel for each of the Telxon Class and the Telxon Defendants that the conditions to the Settlement have been satisfied, the Settlement Amount, including the interest accrued on it (less the amount awarded to or requested by (if no award has yet been made) Class Counsel in the Fees and Expenses Application), shall be distributed to the Telxon Class.

### **V. PARTICIPATION IN THE SETTLEMENT; PROOFS OF CLAIM AND RELEASE**

Only those members of the Telxon Class who suffered a loss will be eligible to share in the distribution of the Net Settlement Fund, in accordance with the Plan of Allocation. Each person wishing to participate in the distribution of the Net Settlement Fund must timely submit a valid and separate "Proof of Claim and Release" no later than June 11, 2004 to the address set forth in the attached Proof of Claim and Release form. Further, each Proof of Claim and Release must be supported by such documents specified in the Proof of Claim and Release as are reasonably available to the claimant. The Proof of Claim and Release includes a release of the Telxon Defendants, as well as various other affiliated persons and entities, in the form set forth in the Proof of Claim and Release accompanying this Notice. Any Telxon Class Member who fails to submit a Proof of Claim and Release by June 11, 2004, and who does not exclude themselves from the Telxon Class, shall be forever barred from receiving any payments pursuant to the Settlement set forth in the Stipulation, but will in all other

respects be subject to the provisions of the Stipulation, including the terms of any judgment entered and the releases given. This means that each Telxon Class Member releases the Released Claims against the Released Persons and is enjoined and prohibited from filing, prosecuting, or pursuing any of the Released Claims against the Released Persons regardless of whether or not such Telxon Class Member submits a Proof of Claim and Release. The Telxon Defendants are not responsible for and shall not be liable for any disputes and decisions regarding the form, content, timeliness and adequacy of Proofs of Claim or any payments made pursuant to Proofs of Claim and Release.

The Court has reserved jurisdiction to allow, disallow or adjust on equitable grounds the claim of any Telxon Class Member. Payment pursuant to the Plan of Allocation approved by the Court shall be conclusive against all claimants. No person shall have any claim against Class Counsel or the Claims Administrator or other agent designated by Class Counsel based on the distributions made substantially in accordance with the Stipulation and the Settlement contained therein, the Plan of Allocation, or further orders of the Court. The Telxon Defendants and their counsel shall have no involvement in or responsibility for or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation or the determination, administration and calculation of, or payment pursuant to, Proofs of Claim and Release, the repayment or withholding of taxes owed by the Settlement Fund, acts or omissions of the Escrow Agent or any losses incurred in connection therewith.

## **VI. APPLICATION FOR ATTORNEYS' FEES AND EXPENSES**

At the Settlement Hearing described below, Class Counsel intends to apply to the Court for an award of attorneys' fees for Class Counsel of 30% of the Settlement Amount (the "Fees and Expenses Application"). The Settlement Fund is estimated to be no less than \$37 million and possibly as much as \$40 million, plus any accrued interest.

The Telxon Defendants take no position on the Fees and Expenses Application.

Class Counsel also intends to apply for reimbursement of expenses actually incurred from December 11, 1998 to December 5, 2003 in the prosecution of the claims on behalf of the Telxon Class in an amount not to exceed \$ 1,950,000.00.

Class Counsel believes that the fees they seek from the Settlement, as a result of the Agreement, are substantially less than those customarily sought in actions brought on a contingency basis. Class Counsel believes that the fees requested are justified by the time and effort expended in the prosecution of the claims on behalf of the Telxon Class, the risks undertaken and the result achieved, as well as the time and effort that will be required of Class Counsel prior to final approval of the Settlement.

### **Dismissal and Releases**

If the proposed Settlement is approved, the Court will enter a Judgment. The Judgment will dismiss the Released Claims with prejudice as to the Telxon Defendants and the other Released Persons as so defined.

The Judgment will provide that all Telxon Class Members who do not validly and timely request to be excluded from the Telxon Class shall be deemed to have released and forever discharged all Released Claims (to the extent Telxon Class members have such claims) against all Released Persons.

## **VII. PLAN OF ALLOCATION**

The Net Settlement Fund will be distributed to Telxon Class Members who submit valid and timely Proof of Claim and Release forms ("Authorized Claimants") in connection with the Plan of Allocation described below. The Plan of Allocation provides that you will be eligible to participate in the distribution of the Settlement Fund only if you have a net loss on all transactions in Telxon publicly-traded securities during the Telxon Class Period. The Plan of Allocation will be submitted to the Court for its approval at the Settlement Hearing.

For purposes of determining the amount an Authorized Claimant may recover under the Plan of Allocation, Class Counsel has reviewed the potential losses of Telxon Class Members. However, the Plan of Allocation does not provide compensation for all trading losses that may have occurred during the Telxon Class Period because the amounts of some trading losses may not have been related to the alleged wrongful conduct.

To the extent there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant's Recognized Loss, as defined below. If however, the amount in the Net Settlement Fund is not sufficient to permit payment of the total Recognized Loss of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Settlement Fund that each Authorized Claimant's Recognized Loss bears to the total of the Recognized Losses of all Authorized Claimants. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

The total of all profits shall be subtracted from the total of all losses to determine if a Telxon Class Member has a claim. Only if a Telxon Class Member had a net loss, after all profits from transactions in Telxon securities during the Telxon Class Period are subtracted from all losses, will such Telxon Class Member be eligible to receive a distribution from the Net Settlement Fund (the "Recognized Loss").

A claim will be calculated as follows to determine the Recognized Loss:

## COMMON STOCK

1. For shares of Telxon Common stock that were purchased or otherwise acquired from May 21, 1996 through December 10, 1998 inclusive, and:

- a. Sold at a loss from May 21, 1996 through December 10, 1998, the Recognized Loss per share is the price paid minus selling price times 10%;
- b. Sold at a loss from December 11, 1998 through January 26, 1999, the Recognized Loss per share is the lesser of (i) price paid minus \$15.00 (the closing price of Telxon on December 11, 1998) or (ii) \$12.25 per share (the drop in Telxon price from December 10, 1998 to December 11, 1998);
- c. Sold at a loss from January 27, 1999 through February 22, 1999, the Recognized Loss per share is the lesser of (i) price paid minus \$10.063 (the closing price of Telxon on January 27, 1999) or (ii) \$15.44 per share (the sum of the drops in Telxon price from December 10, 1998 to December 11, 1998 and January 26, 1999 to January 27, 1999);
- d. Sold at a loss on February 23, 1999, the Recognized Loss per share is the lesser of (i) price paid minus \$7.188 (the closing price of Telxon on February 23, 1999) or (ii) \$16.82 per share (the sum of the drops in Telxon price from December 10, 1998 to December 11, 1998 plus January 26, 1999 to January 27, 1999 plus February 22, 1999 to February 23, 1999);
- e. Retained at the end of the Class Period, the Recognized Loss per share is the lesser of (i) price paid minus \$6.688 (the closing price of Telxon on February 24, 1999) or (ii) \$17.32 (the sum of the drops in Telxon price from December 10, 1998 to December 11, 1998 plus January 26, 1999 to January 27, 1999 plus February 22, 1999 to February 23, 1999 plus February 23, 1999 to February 24, 1999).

2. For shares of Telxon Common stock that were purchased or otherwise acquired from December 11, 1998 through January 26, 1999 inclusive, and:

- a. Sold at a loss from December 11, 1998 through January 26, 1999 inclusive, the Recognized Loss per share is the price paid minus selling price times 10%;
- b. Sold at a loss from January 27, 1999 through February 22, 1999, the Recognized Loss per share is the lesser of (i) price paid minus \$10.063 (the closing price of Telxon on January 27, 1999) or (ii) \$3.19 per share (the drop in Telxon price from January 26, 1999 to January 27, 1999);
- c. Sold at a loss on February 23, 1999, the Recognized Loss per share is the lesser of (i) price paid minus \$7.188 (the closing price of Telxon on February 23, 1999) or (ii) \$4.57 per share (the sum of the drops in Telxon price from January 26, 1999 to January 27, 1999 and February 22, 1999 to February 23, 1999);
- d. Retained at the end of the Class Period, the Recognized Loss per share is the lesser of (i) price paid minus \$6.688 (the closing price of Telxon on February 24, 1999) or (ii) \$5.07 per share (the sum of the drops in Telxon price from January 26, 1999 to January 27, 1999 and February 22, 1999 to February 23, 1999, and February 23, 1999 to February 24, 1999).

3. For shares of Telxon Common stock that were purchased or otherwise acquired from January 27, 1999 through February 22, 1999, and:

- a. Sold at a loss from January 27, 1999 through February 22, 1999, the Recognized Loss per share is the price paid minus selling price times 10%;
- b. Sold at a loss on February 23, 1999, the Recognized Loss per share is the lesser of (i) price paid minus \$7.188 (the closing price of Telxon on February 23, 1999) or (ii) \$1.38 per share (the drop in Telxon price from February 22, 1999 to February 23, 1999);
- c. Retained at the end of the Class Period, the Recognized Loss per share is the lesser of (i) price paid minus \$6.688 (the closing price of Telxon on February 24, 1999) or (ii) \$1.88 per share (the sum of the drops of Telxon price from February 22, 1999 to February 23, 1999 and February 23, 1999 to February 24, 1999).

4. For shares of Telxon Common stock that were purchased on February 23, 1999 and retained at the end of the Class Period, the Recognized Loss per share is the lesser of (i) price paid minus \$6.688 (the closing price of Telxon on February 24, 1999) or (ii) \$0.50 (the drop in Telxon price from February 23, 1999 to February 24, 1999).

## NOTES AND DEBENTURES

For the 7.5% Convertible Subordinated Debentures ("Debentures") of Telxon that were purchased from May 21, 1996 through December 10, 1998, **and sold on or after December 11, 1998 through May 24, 1999 (90 days after the end of the Class Period)**, inclusive, the Recognized Loss is, if sold at a loss, price paid minus Selling Price.

For the 5.75% Convertible Notes ("Notes") of Telxon that were purchased on or after May 21, 1996 through December 10, 1998, **and sold on or after December 11, 1998 through May 24, 1999 (90 days after the end of the Class Period)**, the Recognized Loss is, if sold at a loss, the price paid minus Selling Price.

## OPTIONS

For call options of Telxon that were purchased or otherwise acquired in the Class Period and held through December 10, 1998 and/or January 26, 1999 and/or February 22, 1999 and/or February 23, 1999, the Recognized Loss is the difference between price paid for each call option less 1) selling price for such call option if sold on or before February 23, 1999, 2) \$0.00 if the call option expired with no value on or before February 23, 1999, 3) price of the call option on February 24, 1999 if the call option was not sold or did not expire on or before February 23, 1999.

For put options of Telxon that were sold, the Recognized Loss is the difference between premium received for each put option less 1) the purchase price for such put option if purchased on or before February 23, 1999, 2) \$0.00 if the put option expired with no value on or before February 23, 1999, 3) price of the put option on February 24, 1999 if the put option was not purchased or did not expire on or before February 23, 1999.

The date of purchase or sale is the "contract" or "trade" date as distinguished from the "settlement" date. The determination of the price paid per security and the price received per security shall be exclusive of all commissions, taxes, fees and charges.

For Telxon Class Members who made multiple purchases or multiple sales during the Telxon Class Period, the earliest subsequent sale shall be matched first with holdings prior to the Telxon Class Period, then with the earliest purchase and chronologically thereafter for purposes of the claim calculations.

Class Plaintiffs do not anticipate that the Recognized Losses for Notes, Debentures and Options will significantly affect the price per share estimates herein.

The Court has reserved jurisdiction to allow, disallow or adjust the claim of any Telxon Class Member on equitable grounds.

## VIII. THE SETTLEMENT HEARING

**IF YOU DO NOT WISH TO OBJECT TO THE PROPOSED SETTLEMENT OR FEES AND EXPENSES APPLICATION, YOU NEED NOT APPEAR AT THE HEARING.**

Pursuant to an order of the Court dated December 19, 2003, a Settlement Hearing will be held in the United States District Court for the Northern District of Ohio, Courtroom No. 16A, 801 W. Superior Avenue, Cleveland, Ohio, 44113-1840, at 4:00 p.m., on February 12, 2004 before the Honorable Kathleen O'Malley to determine whether the Settlement is fair, reasonable and adequate and in the best interests of the Telxon Class, and to consider the Fees and Expenses Application.

Any Telxon Class Member who does not request exclusion may appear at the Settlement Hearing in person, or through duly authorized counsel of his or her choice, and show cause, if any, why the Settlement or the Fees and Expenses Application should not be approved. However, no such person will be heard and no papers or briefs will be considered unless that person has filed an objection with the Clerk of the United States District Court Northern District of Ohio, 801 W. Superior Avenue, Cleveland, Ohio, 44113-1840, no later than February 2, 2004, showing proof of service by hand or first class mail, postage prepaid on the following persons:

ZWERLING, SCHACHTER  
& ZWERLING, LLP  
Jeffrey C. Zwerling  
Richard A. Speirs  
845 Third Avenue  
New York, NY 10022

*Counsel for Class Plaintiffs*

HOGAN & HARTSON LLP  
Eric J. Lobenfeld  
875 Third Avenue  
New York, NY 10022

*Counsel for the Telxon Defendants*

DUVIN, CAHN & HUTTON, P.A.  
Martin T. Wymer  
Brett S. Krantz  
1301 East Ninth Street  
Cleveland, OH 44114

*Liaison Counsel for Class Plaintiffs*

GOODMAN WEISS MILLER LLP  
Steven J. Miller  
Drew A. Carson  
100 Erievue Plaza, 27th Floor  
Cleveland, OH 44114-1882

*Counsel for the Telxon Defendants*

To object, you must, on or before February 2, 2004, file the following documents: (1) a written objection setting forth the basis of the objection, any supporting memoranda or other papers; and (2) a written statement signed by the objector setting forth the objector's name, address, telephone number and the date, amount and securities that are the subject of the objector's transactions in Telxon securities. The failure to file in a timely manner as set forth herein may bar the objector from being heard on any objections at the Settlement Hearing. In addition, if you wish to be heard on your objection in person or by counsel at the Settlement Hearing, you must also include in your written objection a statement evidencing your intent to appear at the Settlement Hearing.

You may file an objection without having to appear at the Settlement Hearing. Telxon Class Members who approve of the Settlement need not appear at the Settlement Hearing.

**ANY TELXON CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED HEREIN WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION, AND SHALL BE FOREVER FORECLOSED FROM MAKING ANY OBJECTION TO THE SETTLEMENT OR THE FEES AND EXPENSES APPLICATION.**

**IX. REQUEST FOR EXCLUSION**

If you desire to be excluded from the Telxon Class, you must so state, IN WRITING, and mail it to counsel listed above. If you request exclusion from the Telxon Class you will not participate in the Settlement and will not receive any portion of the Settlement Fund.

Your request for exclusion must state your desire to be excluded from the Telxon Class and must state your name and address. If you request exclusion from the Telxon Class, you must state the dates, number of shares, and prices for all purchases and sales of Telxon securities, including common stock, call options, notes, debentures and put options, that you made during the period from May 21, 1996 through February 23, 1999.

Your request for exclusion must be postmarked no later than February 2, 2004. If you request exclusion from the Telxon Class: (a) you will not be entitled to share in the Settlement; and (b) you will not be bound by any judgment or decision by the Court as to the Telxon Class.

**X. FURTHER INFORMATION**

For a more detailed statement of the matters involved in the Telxon Action and of the Settlement, you are referred to the papers on file in the Telxon Action, including the Stipulation, which may be inspected during regular business hours at the office of the Clerk of the United States District Court for the Northern District of Ohio, 801 W. Superior Avenue, Cleveland, Ohio, 44113-1840. If you have an account with PACER, you may consult the pleadings and other papers via Electronic Case Filing at the website of the Northern District of Ohio, <http://ecf.ohnd.uscourts.gov/>. All inquiries by members of the Telxon Class should be directed to:

Telxon Corporation Securities Litigation  
c/o The Garden City Group, Inc.  
Claims Administrator  
P.O. Box 9000 #6106  
Merrick, NY 11566-9000  
(888) 355-5299  
or

ZWERLING, SCHACHTER  
& ZWERLING, LLP  
Jeffrey C. Zwerling  
Richard A. Speirs  
845 Third Avenue  
New York, NY 10022  
*Counsel for Class Plaintiffs*

DUVIN, CAHN & HUTTON, P.A.  
Martin T. Wymer  
Brett S. Krantz  
1301 East Ninth Street  
Cleveland, OH 44114  
*Liaison Counsel for Class Plaintiffs*

**INQUIRIES SHOULD NOT BE DIRECTED TO DEFENDANTS' COUNSEL, THE CLERK OF THE COURT OR THE JUDGE**

Dated: December 29, 2003

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO