

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re Merrill Lynch Research Reports : Master File No. 02 MDL 1484(JFK)
Securities Litigation :

This Document Relates to: :
All of the Actions on Schedule 1 :

-----X

STIPULATION AND AGREEMENT OF SETTLEMENT

This stipulation and agreement of settlement dated as of January 11, 2007 (the “Settlement Stipulation”) is submitted pursuant to Rule 23 of the Federal Rules of Civil Procedure. Subject to the approval of the Court, this Settlement Stipulation is entered into among the Co-Chairs of Plaintiffs’ Executive Committee and Plaintiffs’ Liaison Counsel (collectively, the “Co-Chairs”) on behalf of Lead Plaintiffs and the Classes (both as defined below and as defined on Schedule 1) and Defendants (defined herein) by and through their respective counsel in the following actions:

All Aboard the Training Junction v. Merrill Lynch & Co., 03-CV-2927(JFK);

In re Merrill Lynch & Co. Aether Systems Inc. Research Reports Securities Litigation,
02-CV-3429(JFK);

In re Merrill Lynch & Co. CMGI Inc. Research Reports Securities Litigation, 02-CV-
7218(JFK);

In re Merrill Lynch & Co. eToys Inc. Research Reports Securities Litigation, 02-CV-
6645(JFK);

In re Merrill Lynch & Co. Excite@Home Research Reports Securities Litigation, 02-CV-
3042(JFK);

In re Merrill Lynch & Co. Exodus Communications, Inc. Research Reports Securities Litigation, 02-CV-6914(JFK);

In re Merrill Lynch & Co. GoTo.com Research Reports Securities Litigation, 02-CV-3835(JFK);

In re Merrill Lynch & Co. Homestore.com Research Reports Securities Litigation, 02-CV-9931(JFK);

In re Merrill Lynch & Co. InfoSpace Analyst Reports Securities Litigation, 01-CV-6881(JFK);

In re Merrill Lynch & Co. Internet Capital Group, Inc. Research Reports Securities Litigation, 02-CV-3050(JFK);

In re Merrill Lynch & Co. iVillage Inc. Research Reports Securities Litigation, 02-CV-6637(JFK);

In re Merrill Lynch & Co. Lifeminders Research Reports Securities Litigation, 02-CV-9852(JFK);

In re Merrill Lynch & Co. LookSmart, Ltd. Research Reports Securities Litigation, 02-CV-7739(JFK);

In re Merrill Lynch & Co. Openwave Systems, Inc. Research Reports Securities Litigation, 02-CV-3252(JFK);

In re Merrill Lynch & Co. Pets.com, Inc. Research Reports Securities Litigation, 02-CV-3634(JFK);

In re Merrill Lynch & Co. Quokka Sports, Inc. Research Reports Securities Litigation, 02-CV-7585(JFK);

In re Merrill Lynch & Co. B2B HOLDRs Securities Litigation, 02-CV-5002(JFK);

In re Merrill Lynch & Co. Internet Architecture HOLDERS Securities Litigation, 02-CV-3606(JFK);

In re Merrill Lynch & Co. Internet HOLDERS Securities Litigation, 02-CV-5961(JFK);

In re Merrill Lynch & Co. Internet Infrastructure HOLDERS Securities Litigation, 02-CV-4242(JFK).

This Settlement Stipulation is intended by the parties hereto to fully and finally compromise, resolve, discharge and settle the Released Claims, as defined herein, subject to the terms and conditions set forth below and final approval of the District Court:

WHEREAS:

A. Beginning in July 2001 and continuing through 2003, a number of putative class action complaints were filed, naming as defendants Merrill Lynch & Co., Inc. ("ML & Co."), Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") and Henry M. Blodget, among others. These complaints alleged, among other things, that research reports issued by MLPF&S on numerous Internet companies falsely recommended that investors buy the stocks of those companies, causing injury to plaintiffs when the stocks declined following the collapse of the market for internet stocks. More than 150 such cases were brought in over twenty jurisdictions nationwide involving 26 different securities. In October 2002, the Judicial Panel on Multidistrict Litigation transferred all such cases to the Southern District of New York for coordinated pre-trial proceedings. The cases were transferred to the Honorable Milton Pollack, Senior United States District Judge, and were coordinated under the caption In re Merrill Lynch Research Reports Securities Litigation, 02 MDL 1484.

B. On or about December 9, 2002, Judge Pollack issued Case Management Order #1, consolidating the cases according to the security that was the subject of each complaint, resulting

in twenty-six consolidated class actions. Case Management Order #1 further provided that additional, later-filed actions would likewise be consolidated. On February 5, 2003 (and on March 31, 2003 with respect to the Homestore.com action), Lead Plaintiffs and Lead Counsel were appointed by the Court. The Court also appointed a Plaintiffs' Executive Committee and Co-Chairs of the Plaintiffs' Executive Committee. In addition, the Court appointed Plaintiffs' Liaison Counsel. Certain cases were ultimately voluntarily dismissed or abandoned. On or about March 13, 2003, Lead Plaintiffs filed consolidated amended complaints.

C. On April 30, 2003, Defendants (defined below) moved, pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6) and Section 21D(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), to dismiss the complaints in the consolidated cases captioned In re Merrill Lynch 24/7 Real Media Inc. Research Reports Sec. Litig., 02-CV-3210(MP) and In re Merrill Lynch Interliant Inc. Research Reports Sec. Litig., 02-CV-3321(MP). These two cases were selected as "test cases" to test the sufficiency of plaintiffs' allegations that, among other things, Defendants violated Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5 by allegedly falsely recommending that investors buy the securities of 24/7 Real Media, Inc. and Interliant Inc., which caused injury to plaintiffs when the stocks declined following the collapse of the market for internet stocks. On June 30, 2003, Judge Pollack granted Defendants' motions and dismissed the complaints with prejudice for failure to state a claim upon which relief can be granted on the grounds that: (i) plaintiffs had failed to plead loss causation; (ii) plaintiffs had failed to plead fraud with the required particularity; (iii) the "buy" and "accumulate" recommendations in the research reports were not misleading in light of the cautionary language contained in the reports; and (iv) plaintiffs' claims were barred by the statute of limitations. See In re Merrill Lynch & Co. Research Reports Sec. Litig., 273 F. Supp. 2d 351 (S.D.N.Y. 2003).

On January 20, 2005, the United States Court of Appeals for the Second Circuit affirmed the dismissal of the 24/7 Real Media and Interliant complaints on the grounds that plaintiffs failed to plead loss causation, further noting that the research reports warned of the very risks that materialized. See Lentell v. Merrill Lynch & Co., 396 F.3d 161 (2d Cir. 2005). The Second Circuit also held that the claims were not barred by the statute of limitations but did not reach Judge Pollack's ruling that the claims were not pled with the required particularity. After the Second Circuit denied plaintiffs' motion for reconsideration or rehearing, the 24/7 Real Media plaintiff petitioned for *certiorari* to the United States Supreme Court. On October 11, 2005, the Supreme Court declined to review the case. See 126 S. Ct. 421 (U.S. 2005).

D. On or about July 17, 2003, Defendants moved to dismiss nine additional complaints (also asserting violations of Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5 thereunder) on the basis of the Court's previous decision in the 24/7 Real Media, Inc. and Interliant, Inc. actions. On or about October 29, 2003, the Court dismissed with prejudice, pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6) and Section 21D(b) of the Exchange Act, the following actions:

In re Merrill Lynch & Co. eToys Inc. Research Reports Sec. Litig., 02-CV-6645(MP);

In re Merrill Lynch & Co. Homestore.com Research Reports Sec. Litig., 02-CV-9931(MP);

In re Merrill Lynch & Co. iVillage Inc. Research Reports Sec. Litig., 02-CV-6637(MP);

In re Merrill Lynch & Co. Lifeminders Research Reports Sec. Litig., 02-CV-9852(MP);

In re Merrill Lynch & Co. LookSmart, Ltd. Research Reports Sec. Litig., 02-CV-7739(MP);

In re Merrill Lynch & Co. Openwave Systems, Inc. Research Reports Sec. Litig., 02-CV-3252(MP);

In re Merrill Lynch & Co. Pets.com, Inc. Research Reports Sec. Litig., 02-CV-3634(MP);

In re Merrill Lynch & Co. Quokka Sports, Inc. Research Reports Sec. Litig., 02-CV-7585(MP).

The Court's decision is published at In re Merrill Lynch & Co. Research Reports Sec. Litig., 289 F. Supp. 2d 416 (S.D.N.Y. 2003)

On November 9, 2003, the Court dismissed with prejudice pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6) and Section 21D(b) of the Exchange Act the consolidated complaint in an action captioned All Aboard the Training Junction v. Merrill Lynch & Co., 03-CV-2927(MP) containing similar allegations concerning the securities of DoubleClick, Inc. for the reasons set forth in its previous decisions. See In re Merrill Lynch & Co. Research Reports Sec. Litig., 218 F.R.D. 408 (S.D.N.Y. 2003).

Lead plaintiffs in these nine actions appealed the Court's orders of dismissal to the United States Court of Appeals for the Second Circuit. The Court of Appeals stayed the nine appeals pending its resolution of the 24/7 Real Media, Inc. and Interliant, Inc. appeals in the case captioned Lentell v. Merrill Lynch & Co., 396 F.3d 161 (2d Cir. 2005). Following the resolution of the Lentell appeal, the stay of the nine appeals was lifted on June 21, 2005. Lead Plaintiffs and Defendants agreed to settle the cases prior to the briefing of the appeals.

On December 8, 2003, Defendants moved, pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6) and Section 21D(b) of the Exchange Act, to dismiss the following eight additional complaints (asserting violations of Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5 thereunder) on the basis of the Court's previous decisions:

In re Merrill Lynch & Co. Aether Systems Inc. Research Reports Sec. Litig., 02-CV-3429(JFK);

In re Merrill Lynch & Co. CMGI Inc. Research Reports Sec. Litig., 02-CV-7218(JFK);

In re Merrill Lynch & Co. Excite@Home Research Reports Sec. Litig., 02-CV-3042(JFK);

In re Merrill Lynch & Co. Exodus Communications, Inc. Research Reports Sec. Litig., 02-CV-6914(JFK);

In re Merrill Lynch & Co. GoTo.com Research Reports Sec. Litig., 02-CV-3835(JFK);

In re Merrill Lynch & Co. InfoSpace Analyst Reports Sec. Litig., 01-CV-6881(JFK);

In re Merrill Lynch & Co. Inktomi Corporation Research Reports Sec. Litig., 02-CV-6916(JFK);

In re Merrill Lynch & Co. Internet Capital Group, Inc. Research Reports Sec. Litig., 02-CV-3050(JFK).

On October 18, 2005, lead plaintiff for the Inktomi Corporation class action voluntarily dismissed the action. The motions to dismiss the seven remaining consolidated complaints were fully briefed and pending in the District Court at the time the Settlement was reached.

E. Four other consolidated actions remain pending in the District Court as to which no motions to dismiss have yet been filed:

In re Merrill Lynch & Co. Internet Architecture HOLDERS Sec. Litig., 02-CV-3606(JFK);

In re Merrill Lynch & Co. Internet HOLDERS Sec. Litig., 02-CV-5961(JFK);

In re Merrill Lynch & Co. Internet Infrastructure HOLDERS Sec. Litig., 02-CV-4242(JFK);

In re Merrill Lynch & Co. Internet Architecture HOLDERS Sec. Litig., 02-CV-3606(JFK).

Discovery

F. Lead Counsel has investigated the allegations of wrongdoing asserted and the alleged damages suffered by the Classes. In connection therewith, Lead Counsel reviewed and analyzed tens of thousands of documents and information obtained from: (a) the New York Attorney General relating to its investigation of MLPF&S; (b) Lead Counsel's own investigation relating to the subject securities and MLPF&S' brokerage business; and (c) the investigation of their damages expert.

G. The Co-Chairs, on behalf of Lead Plaintiffs and Lead Counsel, believe that the investigation they have undertaken, together with their analysis of the potential outcome of their appeals pending in the Second Circuit, provides an adequate and satisfactory basis for the Settlement described herein.

Benefits of the Settlement to the Class

H. The Co-Chairs believe that the Settlement provides an excellent monetary recovery for the Classes (as defined below) based on the claims asserted, the procedural posture of the cases (including the previous dismissals and the decision by the Second Circuit in Lentell v. Merrill Lynch & Co. affirming the first dismissal), the evidence developed and the damages that might be proven by the Classes in the Actions (as defined below).

I. The Co-Chairs, on behalf of Lead Plaintiffs and Lead Counsel, further recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Actions through trial and appeal. They have also considered the uncertain outcome and the risk of any litigation, including the risk that they might recover nothing, especially in complex actions such as the Actions, as well as the difficulties and delays inherent in any such litigation. The Co-Chairs are also mindful of the inherent problems of proof and possible defenses to the

federal securities law violations asserted against Defendants and therefore believe that it is desirable that the Released Claims (as defined below) be fully and finally compromised, settled and resolved as set forth herein. Based upon their evaluation, the Co-Chairs, on behalf of Lead Plaintiffs and Lead Counsel, have determined that the Settlement set forth in this Settlement Stipulation is fair, reasonable and adequate and in the best interests of Lead Plaintiffs and the Classes.

NOW THEREFORE, without any admission or concession on the part of Lead Plaintiffs or Lead Counsel of any lack of merit of the Actions, and without any admission or concession of any liability or wrongdoing or lack of merit in the defenses whatsoever by Defendants, it is hereby STIPULATED AND AGREED, by and among the parties to this Settlement Stipulation, through their respective attorneys, subject to approval of the District Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the PSLRA and other conditions set forth herein, in consideration of the benefits flowing to the parties hereto from the Settlement, that the Actions and all Released Claims (as defined below) as against the Released Parties (as defined below) shall be finally and fully compromised, settled, released and dismissed, on the merits and with prejudice, in the manner and upon and subject to the terms and conditions set forth herein.

Certain Definitions

1. The following capitalized terms used in this Settlement Stipulation shall have the meanings specified below:

(a) "Actions" means the actions listed on Schedule 1, involving the securities of certain issuers which are among the actions coordinated as In re Merrill Lynch & Co., Inc. Research Reports Securities Litigation, 02 MDL 1484(JFK). An "Action" means any one of the Actions listed on Schedule 1.

(b) "Authorized Claimant" means any Class Member whose claim for recovery has been allowed pursuant to the terms of this Settlement Stipulation.

(c) "Claim" means the submission to be made by Class Members, on the Proof of Claim form attached hereto as Exhibit A-2, or as may be required by the District Court.

(d) "Claims Administrator" means Analytics, Inc., the firm which the Co-Chairs request be appointed by the Court to administer the Settlement and disseminate notice to the Classes.

(e) "Class" or "Classes" means such classes as may be certified by the District Court for purposes of settlement of the Actions. Included in such Class or Classes are any Person who purchased one or more of the securities listed on Schedule 1 during the putative class period corresponding to such security as set forth on Schedule 1. Excluded from the Classes are the Defendants, any entity in which any Defendant has a controlling interest, officers and directors of the Defendants and the legal representatives, heirs, predecessors, successors and assigns of any such excluded party.

(f) "Class Members" means Persons who are members of the one or more of the Classes set forth on Schedule 1 who do not timely and properly exclude themselves therefrom.

(g) "Co-Chairs" means Edward F. Haber of Shapiro Haber & Urmy LLP, Herbert E. Milstein of Cohen, Milstein, Hausfeld & Toll, P.L.L.C., Jacqueline Sailer of Murray, Frank & Sailer LLP (f/k/a Rabin & Peckel LLP and Rabin, Murray & Frank LLP) and Frederic S. Fox of Kaplan Fox & Kilsheimer LLP .

(h) "Complaints" means the last filed complaints or proposed amended complaints in the Actions listed on Schedule 1.

(i) "Defendants" means ML & Co., MLPF&S, B2B HOLDERS/SM Trust, Internet Architecture HOLDERS/SM Trust, Internet HOLDERS/SM Trust and Internet Infrastructure HOLDERS/SM Trust, Henry M. Blodget, Virginia Syer Genereux, John L. Steffens, E. Stanley O'Neal, George A. Schieren, Ahmass L. Fakahany, Thomas A. Patrick, Dominic A. Carone or Michael J. Castellano.

(j) "Defendants' Counsel" means the law firm of Skadden, Arps, Slate, Meagher & Flom LLP and/or Foley & Lardner LLP and/or Sidley Austin LLP.

(k) "District Court" means the United States District Court for the Southern District of New York.

(l) "Effective Date" means the first day following the date on which the Settlement contemplated by this Settlement Stipulation shall become effective as set forth in ¶ 27 below.

(m) "Escrow Account" means the interest-bearing accounts established pursuant to ¶¶ 4, 6 & 34 herein.

(n) "Escrow Agents" shall mean Kaplan Fox & Kilsheimer LLP and Murray, Frank & Sailer LLP. The Escrow Agent shall perform the duties set forth in this Settlement Stipulation.

(o) "Final Approval" means the date of the entry of the Order and Final Judgment by the District Court in each of the Actions approving (i) the Settlement and (ii) the release of the Released Claims as to the Released Parties as fair, adequate and reasonable; and

dismissing the claims of the Lead Plaintiffs and the Classes against each of the Defendants, with prejudice and the expiration of any time for appeal or review of the Order and Final Judgment, or, if any appeal is filed and not dismissed, after the Order and Final Judgment is upheld on appeal in all material respects and is no longer subject to review upon appeal or review by certiorari or otherwise, and the time for any petition for reargument, appeal or review, by certiorari or otherwise, has expired; or, in the event that the District Court enters an order and final judgment in a form other than that provided above (“Alternative Judgment”) and none of the parties hereto elect to terminate this Settlement, the date that such Alternative Judgment becomes final and no longer subject to appeal or review by certiorari or otherwise, and the time for any petition for reargument, appeal or review, by certiorari or otherwise, has expired.

(p) “Former Individual Defendant” means a natural person affiliated, or formerly affiliated, with ML & Co. or any of its subsidiaries who was formerly, but is not now, named as a defendant in any of the Actions, including but limited to Justin Baldauf, Kirsten Campbell, Sofia Ghachem, David Komansky, Thomas Mazzucco, Edward McCabe or Deepak Raj.

(q) “Individual Defendant” means a natural person, affiliated or formerly affiliated with ML & Co. or any of its subsidiaries, who is named as a defendant in any of the Actions and who has not been dismissed from all such Actions, including but not limited to Henry M. Blodget, Virginia Syer Genereux, John L. Steffens, E. Stanley O’Neal, George A. Schieren, Ahmass L. Fakahany, Thomas A. Patrick, Dominic A. Carone or Michael J. Castellano.

(r) “Lead Counsel” means counsel selected by Lead Plaintiffs and appointed by the Court to represent the interests of Lead Plaintiffs and the Classes, collectively.

- (s) "Lead Plaintiffs" means Persons appointed by court order as lead plaintiff in an Action, collectively.
- (t) "Net Settlement Fund" shall have the meaning set forth in ¶ 5 herein.
- (u) "Order and Final Judgment" means the order(s) and final judgment(s) to be entered in the Actions pursuant to ¶ 25 of this Settlement Stipulation and substantially in the form of Exhibit B hereto.
- (v) "Payor Defendants" means ML & Co.
- (w) "Person" and "Persons" means any individual, corporation, partnership, association, affiliate, joint stock company, estate, trust, unincorporated association, entity, government and any political subdivision thereof, or any other type of business or legal entity.
- (x) "Plan of Allocation" means the plan for allocating the Net Settlement Fund (as set forth in the Notice of Pendency and Proposed Settlement of Class Actions) to Authorized Claimants after payment of expenses of notice and administration of the Settlement, Taxes and Tax Expenses and such attorneys' fees, costs and expenses as may be awarded by the Court.
- (y) "Preliminary Order" means the Preliminary Order in Connection With Settlement Proceedings that the Co-Chairs and Defendants will seek from the District Court, substantially in the form attached as Exhibit A and as described in ¶ 24 below.
- (z) "Publication Notice" means the summary notice of pendency and proposed settlement for publication substantially in the form attached as Exhibit A-3.
- (aa) "Released Claims" means any and all claims, actions, debts, demands, set-offs (both legal and equitable), causes of action, rights or liabilities whatsoever (including,

past, present and future parent entities, affiliates, subsidiaries, predecessors and successors and each of their assigns, insurers, partners, officers, directors, controlling persons, representatives, employees, agents, attorneys, counsel, underwriters, and financial or investment advisors.

(cc) "Settlement" means the settlement as set forth in this Settlement Stipulation.

(dd) "Settlement Amount" means one hundred twenty-five million dollars (\$125,000,000) in cash plus an amount, equivalent to simple interest, imputed on \$125,000,000 beginning on March 30, 2006 through the date that payment is made pursuant to ¶ 4 herein, at the three-month LIBOR rate that is listed in the Wall Street Journal as of the last day of the month (or if there is no rate listed for that day, the rate on the closest day in time prior to the last day of the month in which the three-month LIBOR rate is quoted in the Wall Street Journal). If money is advanced pursuant to ¶ 6 herein, no interest will be imputed on that amount from the date such money is advanced.

(ee) "Settlement Fund" means the payment made pursuant to ¶ 4 herein.

(ff) "Settlement Notice" means the Notice of Pendency of Class Actions and Proposed Settlement which is to be sent to Class Members substantially in the form attached hereto as Exhibit A-1.

(gg) "Taxes" means any taxes due and payable with respect to the income earned by the Settlement Fund, including any interest or penalties thereon.

(hh) "Tax Expenses" means any expenses and costs incurred in connection with the payment of Taxes (including, without limitation, expenses of tax attorneys and/or

accountants and expenses relating to the filing or failure to file all necessary or advisable tax returns).

(ii) "Unknown Claims" means any and all Released Claims that any Lead Plaintiff or any Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties. With respect to any and all Released Claims, the parties stipulate and agree that upon the Effective Date, Lead Plaintiffs shall expressly, and each Class Member shall be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Lead Plaintiffs and Defendants acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims was separately bargained for and was a key element of the Settlement.

Defendants, including any and all of their respective successors in interest, predecessors, representatives, trustees, executors, administrators, heirs, assigns or transferees, immediate and remote, and any person or entity acting for or on behalf of, or claiming under any of them, and each of them, release plaintiffs and plaintiffs' counsel in these Actions from any and all claims arising out of or relating to their filing and prosecution of the Actions.

SCOPE AND EFFECT OF SETTLEMENT

2. The obligations incurred pursuant to this Settlement Stipulation shall be in full and final disposition of the Actions as against Defendants and any and all Released Claims as

but not limited to, any claims for damages, equitable relief, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on federal, state or local statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity, matured or un-matured, whether direct, derivative, representative, class, individual or in any other form, including both known claims and Unknown Claims, that have been asserted in these Actions by the Class Members or any of them against any of the Released Parties, or which otherwise were or could have been at issue in the Actions (or any of them), or that have been or could have been asserted in any forum by the Class Members or any of them against any of the Released Parties which arise out of or relate to or are based in whole or in part upon any of the allegations, transactions, facts, matters or occurrences, representations or omissions alleged, involved, set forth, or referred to in any of the Complaints. Notwithstanding the foregoing, the Released Claims expressly do not include the claims (other than claims identified in the provision to this paragraph below) that have actually been asserted under the Securities Act of 1933 or the Exchange Act or any other laws in the actions coordinated under the captions: 1) In re Initial Public Offering Securities Litigation, (Master File Number 21MC92 (SAS) (S.D.N.Y.) and 2) In re Initial Public Offering Antitrust Litigation, (01 Civ. 2014 (WHP)) (S.D.N.Y.), provided, however, that such claims shall not be excluded from this Settlement or the Released Claims to the extent that they challenge research reports or analyst statements issued or authored by the Released Parties or seek damages allegedly attributable to such research reports or analyst statements.

(bb) "Released Parties" means Defendants and Former Individual Defendants and their respective heirs, executors, personal representatives, estate and administrators; their

against all Released Parties. It is an important element to the Defendants' participation in the Settlement that the Released Parties obtain the fullest possible release from further liability to any Class Member relating to the Released Claims and it is the intention of the parties to this Settlement Stipulation that all further risk and liability of Defendants and the Released Parties relating to the Released Claims hereby be eliminated.

3. (a) Upon the Effective Date of this Settlement, Class Members (including but not limited to any Class Member who is a party to any other action, arbitration or other proceeding who is asserting claims related to the Released Claims against any of the Defendants or Released Parties that are pending on the day of Final Approval) on behalf of themselves, their heirs, joint tenants, tenants in common, beneficiaries, executors and administrators, successors and assigns, release and shall be deemed to have released, dismissed and forever discharged the Released Claims against each and all of the Released Parties, with prejudice and on the merits, without costs to any party.

(b) Lead Plaintiffs and all Class Members, whether or not any such person submits a Proof of Claim, or otherwise shares in the Settlement Fund, on behalf of themselves and each of their predecessors, successors, assigns, personal representatives, heirs and any other person who purports to claim through them, will be deemed by this Settlement to release and forever discharge the Released Parties from any and all of the Released Claims. As of the Effective Date, Lead Plaintiffs and all Class Members and anyone claiming through or on behalf of any of them, are forever barred and enjoined from commencing, instituting, prosecuting or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or other forum of any kind, asserting against any of the Released Parties, and each of them, any of the Released Claims.

(c) Upon the Effective Date of the Settlement, all claims for contribution, indemnification, or any other form of relief by other alleged joint tortfeasors against the Released Parties based upon, arising out of, relating to, or in connection with the Released Claims of the Classes or any Class Member are thereby barred, extinguished, discharged, satisfied and otherwise rendered unenforceable to the full extent permitted by law, and the future filing of any such claims enjoined.

THE SETTLEMENT CONSIDERATION

4. In full and complete settlement of the Released Claims, the Payor Defendants shall pay the Settlement Amount, on or before thirty (30) days following the date of the entry of the Preliminary Order, into the Escrow Account established for the Settlement Fund by the Co-Chairs for the benefit of the Class Members.

5. The Settlement Fund, net of any Taxes and Tax Expenses, shall be used to pay 1) the notice and administration costs referred to in ¶¶ 33-34 hereof, 2) the attorneys' fee and expense award referred to in ¶¶ 11-14 hereof, and 3) the remaining administration expenses referred to in ¶ 16(a) hereof. The balance of the Settlement Fund after the above payments shall be the Net Settlement Fund, which shall be distributed to the Authorized Claimants as provided in ¶¶ 17-21 hereof. All costs and expenses incurred by or on behalf of the Lead Plaintiffs and the Classes associated with the Settlement shall be paid from the Settlement Fund and in no event shall Defendants bear any further or additional responsibility for any such costs or expenses beyond payment of the Settlement Amount.

6. Within five (5) business days of the entry of the Preliminary Order, the Payor Defendants will advance \$4 million of the Settlement Amount to the Escrow Agent to be used for reasonable out-of-pocket costs in connection with providing notice of the Settlement to the

Classes (“Notice”) and for other reasonable out-of-pocket administrative expenses (the “Notice and Administration Fund”). Upon written agreement of the parties, or order of the Court, additional amounts may be transferred from the Settlement Fund to the Notice and Administration Fund. The Escrow Agent shall not disburse funds from the Notice and Administration Fund except as provided in this Settlement Stipulation, or by an order of the District Court, or with the written agreement of counsel for all parties. All funds held by the Escrow Agent shall be deemed to be in the custody of the Court and such funds shall remain subject to the jurisdiction of the District Court until such time as the funds shall be distributed or returned to Defendants pursuant to this Stipulation and/or further order of the Court. The Escrow Agent shall hold the funds in an interest bearing bank account insured by the FDIC.

7. Upon the payment of the Settlement Fund or any portion thereof, the parties agree to treat the Settlement Fund as a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and the Claims Administrator shall be responsible for timely making such elections as are necessary or advisable to carry out the provisions of this paragraph, including but not limited to the relation-back election (as defined in Treasury Reg. § 1.468B-1) to the earliest permitted date. Such elections shall comply with the procedures and requirements contained in such Regulations. Additionally, it shall be the responsibility of the Claims Administrator to prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing(s) to occur. The Claims Administrator and the Co-Chairs, as required, shall do all things that are necessary or advisable to carry out the provisions of this paragraph and Defendants shall reasonably cooperate with the Claims Administrator and the Co-Chairs to carry out the provisions of this paragraph.

8. All Taxes (including any interest or penalties) arising with respect to the income earned by the Settlement Fund after the Settlement Amount is paid into a segregated account, including any Taxes or Tax detriments that may be imposed upon Defendants with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a "qualified settlement fund" (limited by the amount of simple interest earned on the Settlement Fund at the LIBOR and not any higher interest rate that Defendants may earn on the Settlement Fund) for Federal or state income tax purposes and all Tax Expenses shall be considered to be a cost of administration of the Settlement and shall be paid out of the Settlement Fund. The Released Parties shall not have any liability or responsibility for any such Taxes or Tax Expenses. The Co-Chairs, or their agents, shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund and the distributions and payments therefrom, including, without limitation, the tax returns described in Treas. Reg. § 1.468B-2(k), and to the extent applicable, Treas. Reg. § 1.468B-2(l). Such returns shall be consistent with the terms hereof and in all events shall reflect that all such Taxes, including any interest or penalties, on the income earned by the Settlement Fund shall be paid out of the Settlement Fund, subject to the limitations set forth in this paragraph. The Co-Chairs, or their agents, shall also timely pay Taxes and Tax Expenses, subject to the limitations set forth in this paragraph, out of the Settlement Fund, and are authorized to withdraw, without prior order of the District Court, from the Settlement Fund amounts necessary to pay Taxes and Tax Expenses. The parties hereto agree to cooperate with the Claims Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Stipulation. The Released Parties shall have no responsibility or liability for the acts or omissions of Lead Counsel or their agents, as described herein.

9. This is not a claims-made settlement. As of the Effective Date, Defendants shall have no right to the return of the Settlement Fund or any portion thereof irrespective of the number of Claims filed, the collective amount of losses of Authorized Claimants, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants from the Settlement Fund. Any undistributed money from the Settlement Fund that cannot be distributed cost effectively to a Class Member shall be donated to one or more charities (as the District Court may approve upon the Co-Chairs' suggestion).

10. The finality of the Settlement shall not be conditioned on any ruling by the District Court concerning the Plan of Allocation or the award of attorneys' fees. Any order or proceeding relating to a request for approval of the Plan of Allocation, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate the Settlement or affect or delay the Effective Date or the effectiveness or finality of the Order and Final Judgment and the release of the Released Claims. There shall be no distribution of any of the Settlement Fund to any Class Member until the Plan of Allocation is finally approved and such order of approval is affirmed on appeal and/or is no longer subject to review by appeal or certiorari, and the time for any petition for rehearing, appeal, or review, by certiorari or otherwise, has expired.

ATTORNEYS' FEES AND EXPENSES

11. The Co-Chairs on behalf of Lead Counsel will apply to the District Court for an award from the Settlement Fund of attorneys' fees plus reimbursement of actual expenses, plus interest. Such amounts as are awarded by the District Court shall be payable from the Settlement Fund to the Co-Chairs pursuant to ¶ 14. The Co-Chairs shall allocate the attorneys' fees and expense awards amongst Lead Counsel and other plaintiffs' counsel in a manner in which they in

good faith believe reflects the contributions of such counsel to the prosecution and settlement of the Actions.

12. Defendants shall have no responsibility for, and no liability with respect to, the allocation of any award of fees or expenses that the District Court may make in these Actions by the Co-Chairs among Lead Counsel and other counsel who may represent or purport to represent Lead Plaintiffs and the Classes in connection with these Actions or any other person who may assert some claim thereto.

13. The procedure for and amounts of any award of attorneys' fees and expenses, and the allowance or disallowance by the District Court thereof, shall not be a condition of the Settlement. The Co-Chairs shall request that their application for an award of attorneys' fees and expenses be considered by the District Court separately from the District Court's consideration of the fairness and adequacy of the Settlement. Any order or proceedings relating to such request, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate the Settlement or affect the release of the Released Claims. The finality of the Settlement shall not be conditioned on any ruling by the District Court concerning the Co-Chairs' application for attorneys' fees and expenses.

14. Except as otherwise provided in this paragraph, the attorneys' fees and expenses awarded by the District Court shall be paid to the Co-Chairs from the Settlement Fund within two (2) business days of the date the District Court enters an order awarding such fees and expenses. In the event that the Effective Date does not occur, or the Order and Final Judgment is reversed or modified in any way that affects the award of attorney fees and expenses, or the Settlement Stipulation is terminated for any other reason, then each counsel receiving fees or expenses under this provision shall, within ten (10) business days from receiving notice from

Defendants' Counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund or to the Payor Defendants, as appropriate, either the full amount of the fees and expenses previously received by it pursuant to these provisions or an amount consistent with any modification of the Order and Final Judgment with respect to the fee and expense award. The Co-Chairs and any other plaintiffs' counsel's law firm that receives fees and expenses, on behalf of itself and each partner and/or shareholder of it, agrees that the law firm and its partners and/or shareholders are subject to jurisdiction of the District Court for the purpose of enforcing the provisions of this paragraph and each may be jointly and severally liable for repayment of fees and expenses. Furthermore, without limitation, the Co-Chairs and any other plaintiffs' counsel's law firm that receives fees and expenses, and each such firm's partners and/or shareholders, agree that the District Court may, upon application of the Defendants, summarily issue orders, including, without limitation, judgments and attachment orders and may make appropriate findings of or sanctions for contempt against that firm or any of its partners and/or shareholders should such law firm fail timely to repay fees and expenses pursuant to this paragraph. In the event that any objection to the Settlement or to the award of fees and expenses is lodged with the District Court that may affect the finality of any award of fees and expenses, the Co-Chairs shall not be paid fees and expenses under this provision unless they provide a letter of credit or other security satisfactory to the Payor Defendants and in such case, the award of fees shall be paid within two (2) business days after such security is provided. If no such letter of credit or other security satisfactory to the Payor Defendants is provided, then the award of fees and expenses will be paid immediately upon the Effective Date.

**DISTRIBUTION TO AUTHORIZED CLAIMANTS
AND ADMINISTRATION OF SETTLEMENT**

15. The Co-Chairs or the Claims Administrator, subject to the supervision, direction and approval of the District Court, shall administer and calculate the Claims submitted by Class Members, oversee distribution of the Settlement Fund and perform all claims administration procedures necessary or appropriate in connection therewith. Defendants shall have no liability, obligation or responsibility for the Class notice, administration or processing of claims or of the Settlement or disbursement of the Net Settlement Fund, including without limitation, determinations as to the validity of any Proof of Claim the amounts of claims, distributions of the Settlement Fund, or any loss incurred by the Escrow Agent or the Claims Administrator. Defendants shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms.

16. The Settlement Amount and Fund shall be applied as follows:

(a) To pay all costs and expenses incurred in connection with providing notice to the Class, locating Class Members, soliciting claims, assisting with the filing of claims, administering and distributing the Settlement Fund to the Class Members, processing proofs of claim, processing requests for exclusion and costs;

(b) To pay Taxes and Tax Expenses owed by the Settlement Fund;

(c) Subject to the approval and further order(s) of the District Court, for payment of all attorneys' fees and expense reimbursement as may be awarded by the District Court to the Co-Chairs, who may make payment therefrom to other plaintiffs' counsel as the former deems appropriate based upon the work done by such other plaintiffs' counsel and such other plaintiffs' counsel's relative contribution to the prosecution and settlement of the Actions;

(d) Subject to the approval and further order(s) of the District Court, and upon the Effective Date, to distribute the Net Settlement Fund to Authorized Claimants as provided herein and in the manner set forth in the notice attached hereto as Exhibit A-1 (which notice shall include a Plan of Allocation of the Net Settlement Fund), or as otherwise ordered by the District Court in order to participate in such distribution of the Net Settlement Fund.

17. For purposes of determining the extent, if any, to which a Class Member shall be entitled to be treated as an "Authorized Claimant," the following conditions shall apply:

(a) Each Class Member seeking to participate in distributions from the Net Settlement Fund shall be required timely to submit to the Claims Administrator a separate signed Proof of Claim (in the form attached hereto as Exhibit A-2), supported by such documents as are designated therein, including proof of all purchases and sales of the securities listed Schedule 1 during the specified Class Periods, the Claimant's loss, or such other documents or proof as the Co-Chairs, in their discretion, may deem acceptable;

(b) All Proofs of Claim must be submitted by the date specified in the Settlement Notice unless such period is extended by Order of the District Court. Any Class Member who fails to submit a Proof of Claim within such period shall be forever barred from receiving any payment pursuant to this Settlement Stipulation (unless, by Order of the District Court, a later submitted Proof of Claim by such Class Member is approved), but in all other respects shall be subject to and bound by the provisions of this Settlement Stipulation and the Settlement including the terms of the Order and Final Judgment to be entered in these Actions and the releases of the Released Claims provided for herein, and will be barred from bringing any action or proceeding against the Released Parties concerning the Released Claims. Provided that it is received before the motion is made to distribute the Settlement proceeds to the Classes,

a Proof of Claim shall be deemed to have been submitted when postmarked, if received with a postmark indicated on the envelope and if mailed by first-class mail, postage prepaid, and addressed in accordance with the instructions thereon. In all other cases, the Proof of Claim shall be deemed to have been submitted when actually received by the Claims Administrator;

(c) Each Proof of Claim shall be submitted to and reviewed by the Claims Administrator, under the supervision of the Co-Chairs, who shall determine in accordance with this Settlement Stipulation the extent, if any, to which each claim shall be allowed, subject to review by the District Court pursuant to subparagraph (e) below;

(d) Proofs of Claim that do not meet the submission requirements may be rejected. Prior to rejection of a Proof of Claim, the Claims Administrator shall communicate with the claimant in order to afford the claimant opportunity to remedy any curable deficiencies in the Proof of Claims submitted. The Claims Administrator shall notify, in a timely fashion and in writing, all claimants whose Proofs of Claim it proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the claimant whose claim is to be rejected has the right to a review by the District Court if the claimant so desires and complies with the requirements of subparagraph (e) below;

(e) If any claimant whose claim has been rejected in whole or in part desires to contest the rejection, the claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the District Court. If a dispute concerning a claim cannot be otherwise resolved, the Co-Chairs shall present the request for review to the Court. If a claimant fails to serve upon the Claims Administrator the notice

required in this paragraph, his, her or its Proof of Claim, to the extent rejected, will not be allowed; and

(f) The administrative determinations of the Claims Administrator accepting and rejecting claims shall be presented to the Court, on notice to all Defendants' Counsel, for approval by the District Court.

18. Each claimant shall be deemed to have submitted to the jurisdiction of the District Court with respect to his, her or its claim, and the claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to the claimant's status as a Class Member and the validity and amount of the claimant's claim. No discovery shall be allowed on the merits of the Actions or Settlement in connection with processing of the Proofs of Claim.

19. No Class Member or Authorized Claimant shall have any claim against the Co-Chairs, Lead Plaintiffs, Lead Counsel, any other plaintiffs and plaintiffs' counsel in the Actions, Defendants or any of their counsel, the Claims Administrator or any employees or agents of any of the foregoing, based on the distributions made substantially in accordance with this Settlement Stipulation or as otherwise approved or directed by the District Court. Payment pursuant to this Settlement Stipulation shall be deemed final and conclusive against all Class Members. All Class Members whose claims are not approved by the District Court shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be subject to and bound by the provisions of this Settlement Stipulation and the Settlement, including the terms of the Order and Final Judgment to be entered in the Actions and the releases provided for herein, and will be barred from bringing any action against the Released Parties concerning the Released Claims.

20. All proceedings with respect to the administration, processing and determination of claims described by ¶ 17 of this Settlement Stipulation and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the District Court.

21. The Net Settlement Fund shall be distributed to Authorized Claimants by the Claims Administrator only after the Effective Date and after: (i) all timely Proofs of Claim have been processed and all claimants whose claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to be heard concerning such rejection or disallowance; (ii) all objections with respect to all rejected or disallowed claims have been resolved by the District Court, and all appeals therefrom have been resolved or the time therefor has expired; (iii) all matters with respect to attorneys' fees, costs and disbursements have been resolved by the District Court, all appeals therefrom have been resolved or the time therefor has expired; and (iv) all costs of administration have been paid.

22. In the interests of achieving substantial justice, the Co-Chairs shall have the right, but not the obligation, to advise the Claims Administrator to waive what they deem to be formal or technical defects in any submitted Proofs of Claim.

23. Following distribution of the Net Settlement Fund, the Claims Administrator shall maintain the completed Proofs of Claim on file for three years after the Effective Date.

**TERMS OF PRELIMINARY ORDER IN
CONNECTION WITH SETTLEMENT PROCEEDINGS**

24. Promptly after execution of this Settlement Stipulation, Co-Chairs and Defendants' Counsel shall submit the Settlement Stipulation together with its Exhibits to the

District Court and shall jointly apply for entry of a Preliminary Order in Connection with Settlement Proceedings substantially in the form annexed hereto as Exhibit A.

TERMS OF ORDER AND FINAL JUDGMENT

25. If the Settlement contemplated by this Settlement Stipulation is approved by the District Court, the Co-Chairs and Defendants' counsel shall jointly request that the Court enter an Order and Final Judgment substantially in the form annexed hereto as Exhibit B. The Settlement is expressly conditioned upon, among other things, the entry of an Order and Final Judgment substantially in the form annexed hereto as Exhibit B.

SUPPLEMENTAL AGREEMENT

26. Simultaneously herewith, the Co-Chairs and Defendants are executing a "Supplemental Agreement" setting forth certain conditions under which this Settlement Stipulation may be withdrawn or terminated at the discretion of Defendants if potential Class Members who purchased in excess of a certain number of shares of the issuers listed on Schedule I exclude themselves from the Classes. The Supplemental Agreement shall not be filed with the District Court except that the substantive contents of the Supplemental Agreement may be brought to the attention of the District Court, *in camera*, if so requested by the District Court. The Parties will keep the terms of the Supplemental Agreement confidential, except if compelled by judicial process to disclose the Supplemental Agreement. In the event of a withdrawal from this Settlement Stipulation pursuant to the Supplemental Agreement, this Settlement Stipulation shall become null and void and of no further force and effect. Notwithstanding the foregoing, the Settlement Stipulation shall not become null and void as a result of the election by the Defendants to exercise their option to withdraw from the Settlement Stipulation pursuant to the

Supplemental Agreement until the conditions set forth in the Supplemental Agreement have been satisfied.

EFFECTIVE DATE OF SETTLEMENT, WAIVER OR TERMINATION

27. The Effective Date of Settlement shall be the latest date when all the following shall have occurred:

(a) entry of the Preliminary Order;

(b) approval by the District Court of the Settlement and certification of the Classes following notice to the Class and a hearing in accordance with Rule 23 of the Federal Rules of Civil Procedure; and

(c) entry by the District Court of an Order and Final Judgment and the expiration of any time for appeal or review of the Order and Final Judgment, or, if any appeal is filed and not dismissed, after the Order and Final Judgment is upheld on appeal in all material respects and is no longer subject to review upon appeal or review by certiorari or otherwise, and the time for any petition for reargument, appeal or review, by certiorari or otherwise, has expired, or, in the event that the District Court enters an order and final judgment in form other than that provided above (“Alternative Judgment”) and none of the parties hereto elect to terminate this Settlement, the date that such Alternative Judgment becomes final and no longer subject to appeal or review by certiorari or otherwise, and the time for any petition for reargument, appeal or review, by certiorari or otherwise, has expired.

28. Defendants’ Counsel or the Co-Chairs shall have the right to terminate the Settlement and this Settlement Stipulation by providing written notice of their election to do so (“Termination Notice”) to the other within thirty (30) days of the date on which: 1) the District

Court declines to enter the Preliminary Order; 2) the District Court refuses to approve this Settlement Stipulation or any material part of it; 3) the District Court declines to enter the Order and Final Judgment; 4) the Order and Final Judgment is vacated, modified or reversed in any material respect by the United States Court of Appeals for the Second Circuit or the United States Supreme Court; 5) an Alternative Judgment is vacated, modified or reversed in any material respect by the United States Court of Appeals for the Second Circuit or the United States Supreme Court; or 6) the Effective Date of Settlement otherwise does not occur.

Defendants may also terminate the Settlement and this Settlement Stipulation pursuant to ¶ 26.

The foregoing list is not intended to limit or impair the parties' rights under the law of contracts of the State of New York with respect to any breach of this Settlement Stipulation. In the event the Settlement and this Settlement Stipulation are terminated, the provisions of ¶¶ 6-8, 29-31, 35 and 48 shall survive termination.

29. In the event the Settlement and this Settlement Stipulation are terminated or if the Effective Date fails to occur for any reason, the parties to this Settlement Stipulation shall be deemed to have reverted *nunc pro tunc* to their respective status in the Actions as of the date and time immediately prior to the execution of this Settlement Stipulation and, except as otherwise expressly provided, the parties shall proceed in all respects as if this Settlement Stipulation and any related orders had not been entered and without any prejudice in any way from the negotiation, fact or terms of this Settlement.

30. In the event this Settlement Stipulation is terminated or if the Effective Date fails to occur for any reason, then within ten (10) business days after written notice is sent by the Co-Chairs or Defendants' Counsel, the balance of the Settlement Fund including the Notice and Administration Fund, less any expenses paid or incurred but not yet paid, shall be refunded to the

Payor Defendants, including interest accrued thereon. In such event, the parties to this Settlement Stipulation shall be deemed to have reverted *nunc pro tunc* to their respective status as of the date and time immediately before the execution of this Settlement Stipulation and, except as otherwise expressly provided, they shall proceed in all respects as if this Settlement Stipulation and related orders had not been entered and without prejudice in any way from the negotiation, fact or terms of this Settlement.

NO ADMISSION OF WRONGDOING

31. This Settlement Stipulation, whether or not consummated, and any proceedings taken pursuant to it:

(a) shall not be offered or received against Defendants, other Released Parties, Lead Plaintiffs or the Classes as evidence of, or be deemed to be evidence of, any presumption, concession or admission by any of the Defendants or other Released Parties or by any of the Lead Plaintiffs or the Classes with respect to the truth of any fact alleged by Lead Plaintiffs or the validity, or lack thereof, of any claim that had been or could have been asserted in the Actions or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Actions or in any litigation, or of any liability, negligence, fault or wrongdoing of Defendants or other Released Parties;

(b) shall not be offered or received against the Released Parties as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Released Party, or against Lead Plaintiffs or any of the Classes as evidence of any infirmity in the claims of Lead Plaintiffs and the Classes;

(c) shall not be offered or received against the Released Parties, Lead Plaintiffs or the Classes as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the parties to this Settlement Stipulation, in any arbitration proceeding or other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Settlement Stipulation; provided, however, that if this Settlement Stipulation is approved by the Court, the Released Parties may refer to it to effectuate the liability protection granted them hereunder;

(d) shall not be construed against the Released Parties, Co-Chairs or Lead Plaintiffs or the Classes as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; and

(e) shall not be construed as or received in evidence as an admission, concession or presumption against Lead Plaintiffs or the Classes or any of them that any of their claims are without merit or that damages recoverable under the Complaints would not have exceeded the Settlement Fund.

32. This Settlement Stipulation and the Settlement may be pleaded as a full and complete defense to any action, suit or other proceeding that may be instituted, prosecuted or attempted with respect to any of the Released Claims. The Released Parties may offer the Settlement Stipulation or Order and Final Judgment from these Actions in any other action that may be brought against them by any Class Member or other Released Party in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any similar defense or counterclaim. The Class Members and Defendants agree that any such proceeding would cause irreparable injury to the

party against whom it is brought and that the District Court or any court of competent jurisdiction may enter an injunction restraining the prosecution of such proceeding.

NOTICE AND ADMINISTRATION FUND

33. The Notice and Administration Fund shall be used by the Co-Chairs or the Escrow Agent to pay the costs of notifying the Classes, soliciting the filing of claims by Class Members, assisting them in making their claims, and otherwise administering the Settlement on behalf of the Classes.

34. As of the Effective Date, any balance, including interest, then remaining in the Notice and Administration Fund, less expenses incurred but not yet paid, shall be returned to the Settlement Fund. Thereafter, the Co-Chairs shall have the right to use such portions of the Settlement Fund as are, in their exercise of reasonable judgment, necessary to carry out the purposes set forth in ¶ 21 above. The Co-Chairs will establish an Escrow Account into which the Notice and Administration Fund will be deposited. At Defendants' request, such counsel shall provide Defendants with appropriate documentation of all out-of-pocket costs incurred in connection with providing Notice to the Classes and for other administrative expenses.

35. If the Effective Date does not occur, the balance of the Notice and Administration Fund that has not been expended, including all interest accrued thereon, shall be returned to the Payor Defendants.

MISCELLANEOUS PROVISIONS

36. All of the Exhibits attached hereto are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, in the event that there exists a conflict or

inconsistency between the terms of this Settlement Stipulation and the terms of any exhibit hereto, the terms of this Settlement Stipulation shall prevail.

37. This Settlement Stipulation may not be modified or amended, nor may any of its provisions be waived except by a writing signed by all parties hereto or their successors-in-interest.

38. Neither the Settlement Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement Stipulation or the Settlement: (i) is or may be deemed to be or may be used as an admission or evidence of the validity of any Released Claim or of any wrongdoing or liability of any of the Released Parties; or (ii) is or may be deemed to be or may be used as an admission or evidence of any fault or omission of any of the Released Parties in any civil, criminal or administrative proceeding in any court, any arbitration proceeding or any administrative agency or other tribunal, other than in such proceedings as may be necessary to consummate or enforce the Settlement Stipulation, the Settlement or the Order and Final Judgment.

39. The parties to this Settlement Stipulation intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by the Class Members against the Released Parties with respect to the Released Claims. Accordingly, Lead Plaintiffs and Defendants agree not to assert any claim under Rule 11 of the Federal Rules of Civil Procedure or any similar law, rule or regulation, that the Actions were brought or defended in bad faith or without a reasonable basis. The parties to this Settlement Stipulation agree that the amount paid and the other terms of the Settlement were negotiated at arm's-length in good faith by the parties, and reflect a settlement that was reached voluntarily based upon adequate information and after consultation with experienced legal counsel.

40. The waiver by one party of any breach of this Settlement Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Stipulation.

41. This Settlement Stipulation and its exhibits constitute the entire agreement among these parties, and no representations, warranties or inducements have been made to any party concerning this Settlement Stipulation or its exhibits, other than the representations, warranties and covenants contained and memorialized in such documents.

42. This Settlement Stipulation may be executed in one or more counterparts, including by signature transmitted via facsimile, or by a .pdf/.tif image of the signature transmitted via e-mail. All executed counterparts and each of them shall be deemed to be one and the same instrument.

43. The parties hereto and their respective counsel of record agree that they will use their best efforts to obtain all necessary approvals of the District Court required by this Settlement Stipulation.

44. Each counsel signing this Settlement Stipulation represents that such counsel has authority to sign this Settlement Stipulation on behalf of each of the Lead Plaintiffs or Defendants, as the case may be.

45. This Settlement Stipulation shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, including any and all Released Parties and any corporation, partnership, or other entity into or with which any party hereto may merge, consolidate or reorganize.

46. Notices required by this Settlement Stipulation shall be submitted either by any form of overnight mail or in person to:

Frederic S. Fox
KAPLAN FOX & KILSHEIMER, LLP
805 Third Avenue, 22nd Floor
New York, New York 10022
telephone: (212) 687-1980
facsimile: (212) 687-7714

Plaintiffs' Liaison Counsel

Jay B. Kasner
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Four Times Square
New York, New York 10036
telephone: (212) 735-3000
facsimile: (212) 735-2000

Attorneys for Defendants Merrill Lynch & Co., Inc., Merrill Lynch, Pierce Fenner & Smith Incorporated, John L. Steffens, E. Stanley O'Neal, George A. Schieren, Ahmass L. Fakahany, Thomas A. Patrick, Dominic A. Carone and Michael J. Castellano

Marc B. Dorfman
FOLEY & LARDNER LLP
3000 K Street, N.W., Suite 500
Washington, DC 20007
telephone: (202) 672-5300
facsimile: (212) 672-5399

Attorneys for Defendant Henry M. Blodget

Andrew W. Stern
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, New York 10019
telephone: (212) 839-5300

Attorneys for Defendant Virginia Syer Genereux

Notice shall be deemed effective upon receipt.

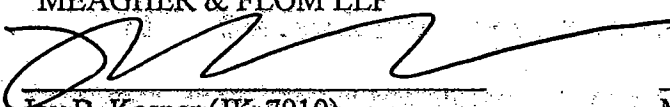
47. The administration, consummation and enforcement of the Settlement as embodied in this Settlement Stipulation shall be under the authority of the District Court and the parties intend that the District Court retain jurisdiction for the purpose of entering orders, providing for awards of attorneys' fees and expenses to the Co-Chairs, and enforcing the terms of this Settlement Stipulation and the Settlement.

48. The construction, interpretation, operation, effect and validity of this Settlement Stipulation, and all documents necessary to effectuate it, shall be governed by the internal laws of the State of New York without regard to conflicts of laws, except to the extent that federal law requires that federal law governs.

49. This Settlement Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the parties, it being recognized that it is the result of arm's-length negotiations between the parties and all parties have contributed substantially and materially to the preparation of this Settlement Stipulation.

SKADDEN, ARPS, SLATE
MEAGHER & FLOM LLP

FOLEY & LARDNER LLP


Jay B. Kasner (JK-7910)
Edward J. Yodowitz (EY-8372)
Scott D. Musoff (SM-2965)
Four Times Square
New York, New York 10036
telephone: (212) 735-3000
facsimile: (212) 735-2000

Marc B. Dorfman
3000 K Street, N.W., Suite 500
Washington, DC 20007
telephone: (202) 672-5300
facsimile: (212) 672-5399

Attorneys for Defendant Henry M. Blodgett

Attorneys for Defendants Merrill Lynch & Co.,
Inc., Merrill Lynch, Pierce Fenner & Smith
Incorporated, John L. Steffens, E. Stanley O'Neal,
George A. Schieren, Ahmass L. Fakahany, Thomas
A. Patrick, Dominic A. Carone and Michael J.
Castellano

47. The administration, consummation and enforcement of the Settlement as embodied in this Settlement Stipulation shall be under the authority of the District Court and the parties intend that the District Court retain jurisdiction for the purpose of entering orders, providing for awards of attorneys' fees and expenses to the Co-Chairs, and enforcing the terms of this Settlement Stipulation and the Settlement.

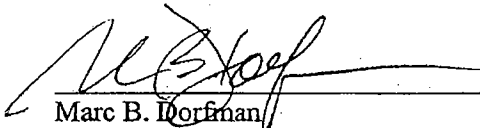
48. The construction, interpretation, operation, effect and validity of this Settlement Stipulation, and all documents necessary to effectuate it, shall be governed by the internal laws of the State of New York without regard to conflicts of laws, except to the extent that federal law requires that federal law governs.

49. This Settlement Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the parties, it being recognized that it is the result of arm's-length negotiations between the parties and all parties have contributed substantially and materially to the preparation of this Settlement Stipulation.

SKADDEN, ARPS, SLATE
MEAGHER & FLOM LLP

Jay B. Kasner (JK-7910)
Edward J. Yodowitz (EY-8372)
Scott D. Musoff (SM-2965)
Four Times Square
New York, New York 10036
telephone: (212) 735-3000
facsimile: (212) 735-2000

FOLEY & LARDNER LLP




Marc B. Dorfman
3000 K Street, N.W., Suite 500
Washington, DC 20007
telephone: (202) 672-5300
facsimile: (212) 672-5399

Attorneys for Defendant Henry M. Blodget

Attorneys for Defendants Merrill Lynch & Co.,
Inc., Merrill Lynch, Pierce Fenner & Smith
Incorporated, John L. Steffens, E. Stanley O'Neal,
George A. Schieren, Ahmass L. Fakahany, Thomas
A. Patrick, Dominic A. Carone and Michael J.
Castellano

SIDLEY AUSTIN LLP


Andrew W. Stern (AS-7094)
787 Seventh Avenue
New York, New York 10019
telephone: (212) 839-5300

Attorneys for Defendant Virginia Syer Genereux

COHEN, MILSTEIN, HAUSFELD & TOLL,
P.L.L.C.

Herbert E. Milstein
Steven J. Toll
Joshua S. Devore
1100 New York Avenue, N.W.
West Tower, Suite 500
Washington, DC 20005
telephone: (202) 408-4600
facsimile: (202) 408-4699

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the Lifeminders Class

MURRAY FRANK & SAILER LLP

Jacqueline Sailer (JS-9020)
Greg Linkh (GL-0477)
275 Madison Avenue, 8th Floor
New York, New York 10016
telephone: (212) 682-1818
facsimile: (212) 682-1892

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the Aether, CMGI, DoubleClick,
Exodus, Internet HOLDRs and Openwave Classes

SHAPIRO HABER & URMY LLP

Edward F. Haber
Michelle Blauner
Theodore M. Hess-Mahan
53 State Street
Boston, Massachusetts 02109
telephone: (617) 439-3939
facsimile: (617) 439-0134

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the InfoSpace and Internet
Capital Classes

KAPLAN FOX & KILSHEIMER LLP

Frederic S. Fox (FF-9102)
Donald R. Hall (DH-0273)
Christine Fox (CF-2910)
805 Third Avenue, 22nd Floor
New York, New York 10022
telephone: (212) 687-1980
facsimile: (212) 687-7714

Plaintiffs' Liaison Counsel, Lead Counsel for the
Excite@home, Internet Architecture HOLDRs and
Internet Infrastructure HOLDRs Classes

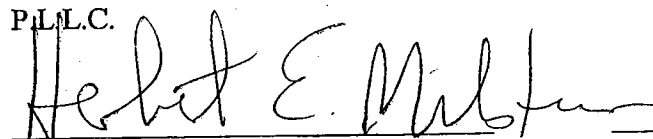
SIDLEY AUSTIN LLP

Andrew W. Stern (AS-7094)
787 Seventh Avenue
New York, New York 10019
telephone: (212) 839-5300

Attorneys for Defendant Virginia Syer Genereux

COHEN, MILSTEIN, HAUSFELD & TOLL,
P.L.L.C.

SHAPIRO HABER & URMY LLP



Herbert E. Milstein
Steven J. Toll
Joshua S. Devore
1100 New York Avenue, N.W.
West Tower, Suite 500
Washington, DC 20005
telephone: (202) 408-4600
facsimile: (202) 408-4699

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the Lifeminders Class

Edward F. Haber
Michelle Blauner
Theodore M. Hess-Mahan
53 State Street
Boston, Massachusetts 02109
telephone: (617) 439-3939
facsimile: (617) 439-0134

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the InfoSpace and Internet
Capital Classes

MURRAY FRANK & SAILER LLP

KAPLAN FOX & KILSHEIMER LLP

Jacqueline Sailer (JS-9020)
Greg Linkh (GL-0477)
275 Madison Avenue, 8th Floor
New York, New York 10016
telephone: (212) 682-1818
facsimile: (212) 682-1892

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the Aether, CMGI, DoubleClick,
Exodus, Internet HOLDRs and Openwave Classes

Frederic S. Fox (FF-9102)
Donald R. Hall (DH-0273)
Christine Fox (CF-2910)
805 Third Avenue, 22nd Floor
New York, New York 10022
telephone: (212) 687-1980
facsimile: (212) 687-7714

Plaintiffs' Liaison Counsel, Lead Counsel for the
Excite@home, Internet Architecture HOLDRs and
Internet Infrastructure HOLDRs Classes

SIDLEY AUSTIN LLP

Andrew W. Stern (AS-7094)
787 Seventh Avenue
New York, New York 10019
telephone: (212) 839-5300

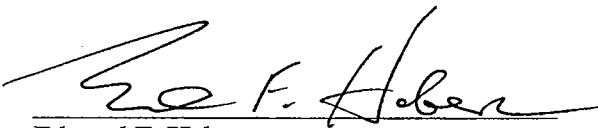
Attorneys for Defendant Virginia Syer Genereux

COHEN, MILSTEIN, HAUSFELD & TOLL,
P.L.L.C.

SHAPIRO HABER & URMY LLP

Herbert E. Milstein
Steven J. Toll
Joshua S. Devore
1100 New York Avenue, N.W.
West Tower, Suite 500
Washington, DC 20005
telephone: (202) 408-4600
facsimile: (202) 408-4699

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the Lifeminders Class



Edward F. Haber
Michelle Blauner
Theodore M. Hess-Mahan
53 State Street
Boston, Massachusetts 02109
telephone: (617) 439-3939
facsimile: (617) 439-0134

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the InfoSpace and Internet
Capital Classes

MURRAY FRANK & SAILER LLP

KAPLAN FOX & KILSHEIMER LLP

Jacqueline Sailer (JS-9020)
Greg Linkh (GL-0477)
275 Madison Avenue, 8th Floor
New York, New York 10016
telephone: (212) 682-1818
facsimile: (212) 682-1892

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the Aether, CMGI, DoubleClick,
Exodus, Internet HOLDRs and Openwave Classes

Frederic S. Fox (FF-9102)
Donald R. Hall (DH-0273)
Christine Fox (CF-2910)
805 Third Avenue, 22nd Floor
New York, New York 10022
telephone: (212) 687-1980
facsimile: (212) 687-7714

Plaintiffs' Liaison Counsel, Lead Counsel for the
Excite@home, Internet Architecture HOLDRs and
Internet Infrastructure HOLDRs Classes

SIDLEY AUSTIN LLP

Andrew W. Stern (AS-7094)
787 Seventh Avenue
New York, New York 10019
telephone: (212) 839-5300

Attorneys for Defendant Virginia Syer Genereux

COHEN, MILSTEIN, HAUSFELD & TOLL,
P.L.L.C.

SHAPIRO HABER & URMY LLP

Herbert E. Milstein
Steven J. Toll
Joshua S. Devore
1100 New York Avenue, N.W.
West Tower, Suite 500
Washington, DC 20005
telephone: (202) 408-4600
facsimile: (202) 408-4699

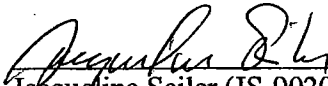
Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the Lifeminders Class

Edward F. Haber
Michelle Blauner
Theodore M. Hess-Mahan
53 State Street
Boston, Massachusetts 02109
telephone: (617) 439-3939
facsimile: (617) 439-0134

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the InfoSpace and Internet
Capital Classes

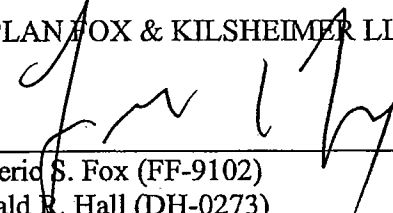
MURRAY FRANK & SAILER LLP

KAPLAN FOX & KILSHEIMER LLP



Jacqueline Sailer (JS-9020)
Greg Linkh (GL-0477)
275 Madison Avenue, 8th Floor
New York, New York 10016
telephone: (212) 682-1818
facsimile: (212) 682-1892

Co-Chairs of Plaintiffs' Executive Committee,
Lead Counsel for the Aether, CMGI, DoubleClick,
Exodus, Internet HOLDRs and Openwave Classes



Frederic S. Fox (FF-9102)
Donald R. Hall (DH-0273)
Christine Fox (CF-2910)
805 Third Avenue, 22nd Floor
New York, New York 10022
telephone: (212) 687-1980
facsimile: (212) 687-7714

Plaintiffs' Liaison Counsel, Lead Counsel for the
Excite@home, Internet Architecture HOLDRs and
Internet Infrastructure HOLDRs Classes