

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE NQ MOBILE, INC. SECURITIES
LITIGATION

Case No. 1:13-cv-07608-WHP

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement (the “Stipulation”) is entered into by and between the Court-appointed Lead Plaintiffs (consisting of the Allene E. Mossman Trust, EJ Partners, HR Volin IRA, AM Volin IRA, EM Volin Roth IRA, JE Volin Roth IRA, EM Volin Trust, EM Volin IRA, and JE Volin IRA) (collectively, “Lead Plaintiffs” or the “Volin Group”) on behalf of themselves and the Class (as defined below), and Defendants NQ Mobile, Inc. (“NQ”), Henry Yu Lin, Omar Sharif Khan, Wenyong “Vincent” Shi, Suhai Ji, and K.B. Teo (the “Individual Defendants,” which, together with NQ, are collectively referred to herein as the “NQ Defendants” or “Settling Defendants”), by and through their respective counsel.¹ Defendants PricewaterhouseCoopers Zhong Tian LLP (“PwC-ZT”) and PricewaterhouseCoopers International Limited (“PwC-IL,” which, together with PwC-ZT, are collectively referred to herein as the “Auditor Defendants”) are not parties to the Stipulation. The Stipulation is intended by Lead Plaintiffs and the NQ Defendants (collectively, the “Parties”) to fully, finally, and forever resolve, discharge, release and settle the Settled Claims, as defined below, upon and subject to the terms and conditions hereof.

WHEREAS:

A. This putative securities class action was initiated in the United States District Court for the Southern District of New York on October 28, 2013 and, pursuant to the Private Securities Litigation Reform Act (“PSLRA”), notice was thereafter duly published informing other potential class members of their right to move for appointment as lead plaintiff for the putative Class.

¹ Additional capitalized terms used in this Stipulation are defined below under the heading “Certain Definitions.”

B. On December 27, 2013, the members of the Volin Group moved to be appointed as lead plaintiffs, and moved for their attorneys, Scott+Scott, Attorneys at Law, LLP (“Scott+Scott”), to be appointed lead counsel.

C. On April 9, 2014, the Court appointed the members of the Volin Group to serve as Lead Plaintiffs and appointed Scott+Scott as Lead Counsel. The Court also consolidated a number of other related securities actions against the NQ Defendants and captioned the consolidated action: *In re NQ Mobile, Inc. Securities Litigation*, Case No. 13-cv-7608.

D. On July 21, 2014, the members of the Volin Group filed their Consolidated Class Action Complaint (“Amended Complaint”). The Amended Complaint asserted claims pursuant to §§10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder (17 C.F.R. §240.10b-5), on behalf of a class of all persons or entities that purchased or otherwise acquired NQ American Depositary Shares (“NQ ADS shares”) between March 6, 2013 through July 3, 2014, inclusive (the “Class Period”). Lead Plaintiffs alleged, *inter alia*, that the NQ Defendants had participated in a fraudulent scheme whereby they had caused NQ to report (a) inflated revenue from within China; (b) inflated revenue from its international (non-Chinese) operations; (c) inflated market share data; and (d) inflated cash and cash equivalent balances; and had also (e) fraudulently failed to disclose material vulnerabilities and defects in NQ’s security software product offerings.

E. On December 16, 2014, the NQ Defendants and PwC-IL filed their respective motions to dismiss, together with supporting memoranda, declarations and annexed exhibits.

F. On February 6, 2015, Lead Plaintiffs filed their briefs in opposition to the motions to dismiss, together with a supporting declaration and annexed exhibits.

G. On February 18, 2015, the NQ Defendants and PwC-IL filed their reply briefs in support of their respective motions to dismiss.

H. On February 23, 2015, after having exchanged mediation briefs and certain other materials, counsel for Lead Plaintiffs and counsel for the NQ Defendants participated in a day-long mediation under the auspices of a highly experienced mediator, Robert A. Meyer, Esq., of

Loeb & Loeb LLP (the “Mediator”). At the end of a full day’s mediation with the Mediator, Lead Plaintiffs and the NQ Defendants were able to reach an agreement to settle the claims asserted against the NQ Defendants.

I. On March 3, 2015, the Court was informed of the pending settlement among the Parties hereto.

J. On March 27, 2015, the Court granted PwC-IL’s motion to dismiss the claims asserted against it with prejudice.

K. Settling Defendants denied and continue to deny that they have committed any act or omission giving rise to any liability and/or violation of law. Settling Defendants further deny that they made any material misstatements or omissions, that Lead Plaintiffs or the Class have suffered any damages, or that Lead Plaintiffs or the Class were harmed by any conduct alleged in the Action or that could have been alleged therein. Neither the Settlement (as defined below), nor this Stipulation, whether or not consummated, nor any of its terms nor any proceedings relating thereto, shall be construed as, or deemed to be evidence of, or an admission or concession on the part of any Settling Defendants with respect to any claim of, any fault or wrongdoing or damage whatsoever, or of any infirmity in any defense that the Settling Defendants have or could have asserted. Settling Defendants do not admit any liability or wrongdoing in connection with the allegations set forth in the Action, or any facts related thereto.

L. Settling Defendants represent that they are entering into this Settlement to eliminate the burden and expense of further litigation. Settling Defendants also have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like the Action. Settling Defendants have, therefore, determined that it is desirable and beneficial to them that the Action be settled in the manner and upon the terms and conditions set forth in this Stipulation.

M. Lead Counsel represent that they have conducted a diligent investigation into the claims and the underlying events and transactions alleged in this Action. Among other things,

Lead Counsel have analyzed public filings, records, analyst reports, news stories and other materials concerning NQ, certain of its customers, and the industry within which NQ operates, including the collection and review of various materials originally filed and/or disseminated in the People's Republic of China. In addition, Lead Counsel have consulted with certain third parties with information relevant to certain aspects of Lead Plaintiffs' claims, and have researched the applicable law with respect to those claims.

N. Based on their investigation and review, Lead Plaintiffs and Lead Counsel believe that the claims asserted in the Action have merit. However, Lead Plaintiffs and Lead Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against the Settling Defendants, including the inherent uncertainties and risks of any complex securities litigation, and including the additional complexities of obtaining certain discovery in the People's Republic of China. After weighing the substantial and immediate benefits that the Class will receive under the Settlement against the risks, costs and uncertainties of further litigation, Lead Plaintiffs and Lead Counsel have therefore concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to the Class and are in its best interests, and have agreed to settle the claims raised in the Action pursuant to the terms and provisions of this Stipulation.

NOW THEREFORE, without any admission or concession whatsoever on the part of Lead Plaintiffs of any lack of merit of the Action, and without any admission or concession whatsoever on the part of the Settling Defendants of any liability or wrongdoing on their part or of any lack of merit in their defenses, it is hereby STIPULATED AND AGREED, by and among the Parties to this Stipulation through their respective undersigned attorneys, and subject to approval of the Court, that, in consideration of the benefits flowing to the Parties hereto from the Settlement, all Settled Claims (as defined below) as against the Released Parties (as defined below) and all Settled Defendants' Claims (as defined below) as against the Released Plaintiff Parties (as defined below) shall be compromised, settled, released, and dismissed with prejudice, and without costs, upon and subject to the following terms and conditions:

CERTAIN DEFINITIONS

As used in this Stipulation, the following terms shall have the following meanings:

(a) “Action” means *In re NQ Mobile, Inc. Securities Litigation*, Case No. 1:13-cv-07608-WHP, pending in the United States District Court for the Southern District of New York.

(b) “Alternative Judgment” has the meaning ascribed to that term in ¶24(f) below.

(c) “Auditor Defendants” has the meaning ascribed to that term in the first paragraph of this Stipulation, above.

(d) “Authorized Claimant” means a Class Member who submits a timely and valid Proof of Claim form to the Claims Administrator.

(e) “Claims Administrator” means Gilardi & Co., LLC or such other entity as the Court shall appoint to provide notice and administer the Settlement.

(f) “Class” means, for the purposes of this Settlement only, all persons or entities that purchased or otherwise acquired NQ ADS shares between March 6, 2013 and July 3, 2014, inclusive, and that were allegedly damaged thereby. Excluded from the Class are: all Defendants; all current or former officers, directors or partners of NQ, its affiliates, parents or subsidiaries; any corporation, trust or other entity in which any Defendant has or had a controlling interest; the members of the immediate families of the Individual Defendants; the parents, subsidiaries and affiliates of NQ; and the legal representatives, heirs, successors, or assigns of any excluded Person. Also excluded from the Class will be any Person who timely and validly seeks exclusion from the Class in accordance with the requirements of the Notice.

(g) “Class Distribution Order” means an order of the Court approving the Claims Administrator’s administrative determinations concerning the acceptance and rejection of the claims submitted, and approving any fees and expenses not previously paid (including the unpaid fees and expenses of the Claims Administrator) and, if the Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants.

(h) “Class Member” means any person or entity that is a member of the Class and not excluded therefrom.

(i) “Company” means NQ Mobile, Inc.

(j) “Court” means the United States District Court for the Southern District of New York.

(k) “Effective Date of Settlement” or “Effective Date” means the date upon which the Settlement contemplated by this Stipulation shall become effective, as set forth in ¶24 below.

(l) “Escrow Agent” means Gilardi & Co., LLC.

(m) “Fee and Expense Award” refers to any award of attorneys’ fees and expenses by the Court to Lead Counsel as described in ¶9.

(n) “Final” means when the last of the following with respect to the Final Judgment or any Alternative Judgment (as defined in ¶24(f) below) shall occur: (i) the expiration of the time to file a motion to alter or amend the Final Judgment or Alternative Judgment under Federal Rule of Civil Procedure 59(b) without any such motion having been filed, or if such a motion is filed, the determination of that motion in such a manner as to permit the consummation of the Settlement, in accordance with the terms and conditions of this Stipulation; (ii) if there is an appeal from the Final Judgment or Alternative Judgment, the date of final affirmance on appeal or review of the Final Judgment or Alternative Judgment and the expiration of the time for any further judicial review whether by appeal, reconsideration, or a petition for a writ of certiorari; or (iii) if there is no appeal from the Final Judgment or Alternative Judgment, the expiration of the time for the filing or noticing of any appeal from the Final Judgment or Alternative Judgment.

(o) “Final Judgment” means the proposed judgment to be entered by the Court approving the Settlement, substantially in the form attached hereto as Exhibit B.

(p) “Lead Counsel” or “Plaintiffs’ Counsel” means the law firm of Scott+Scott.

(q) “Lead Plaintiffs” means the Allene E. Mossman Trust, EJ Partners, HR Volin IRA, AM Volin IRA, EM Volin Roth IRA, JE Volin Roth IRA, EM Volin Trust, EM Volin IRA, and JE Volin IRA, who were duly-appointed lead plaintiffs by the Court on April 9, 2014.

(r) “Net Settlement Fund” shall have the meaning ascribed to it in ¶4(a) below.

(s) “Notice” means the Notice of Proposed Settlement of Class Action, which is to be sent to all Class Members, and which, subject to the approval of the Court, shall be substantially in the form attached as Exhibit A-1 to Exhibit A hereto.

(t) “NQ Defendants” has the meaning ascribed to that term in the first paragraph of this Stipulation, above.

(u) “Order for Notice and Hearing” means the proposed order to be entered by the Court preliminarily approving the Settlement and directing notice thereof to the Class, and which, subject to the approval of the Court, shall be substantially in the form attached as Exhibit A hereto.

(v) “Person” means an individual, corporation, partnership, limited partnership, limited liability partnership, association, joint stock company, limited liability company or corporation, variable interest entity, professional corporation, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity, including his, her or its spouses, heirs, predecessors, successors, representatives, or assignees.

(w) “Plan of Allocation” means the plan described in the Notice or any alternate plan approved by the Court whereby the Net Settlement Fund shall be distributed to Authorized Claimants. Any Plan of Allocation is not part of the Stipulation, and the Released Parties shall have no responsibility therefore or liability with respect thereto.

(x) “Proof of Claim” means the Proof of Claim and Release to be submitted to Class Members, substantially in the form attached as Exhibit A-3 to Exhibit A hereto.

(y) “Publication Notice” means the summary notice of proposed Settlement and hearing for publication and which, subject to the approval of the Court, shall be substantially in the form attached as Exhibit A-2 to Exhibit A hereto.

(z) “Released Parties” means the NQ Defendants; each and all of their past, present or future directors, officers, employees, partners, insurers, co-insurers, reinsurers, attorneys, advisors, investment advisors, personal or legal representatives, agents, assigns, executors,

estates, administrators, related or affiliated persons or entities, predecessors, successors, parents, subsidiaries, affiliated variable interest entities, divisions and joint ventures; any entity in which any Settling Defendant has a controlling interest; the Individual Defendants' immediate family members, spouses and marital communities; and any trust of which any Individual Defendant is the settlor or which is for the benefit of any of their immediate family members. Released Parties do not include the Auditor Defendants.

(aa) "Released Plaintiff Parties" means each and every Lead Plaintiff, Class Member and Lead Counsel, and each and all of their past or present directors, officers, employees, partners, insurers, co-insurers, reinsurers, attorneys, advisors, investment advisors, personal or legal representatives, agents, assigns, executors, estates, administrators, related or affiliated persons or entities, predecessors, successors, parents, subsidiaries, affiliated variable interest entities, divisions and joint ventures; the Class Members' immediate family members, spouses and marital communities; and any trust of which any Lead Plaintiff, Class Member or Lead Counsel is the settlor or which is for the benefit of any of their immediate family members.

(bb) "Releasing Parties" means individually and collectively Lead Plaintiffs and each Class Member, whether or not they object to the Settlement set forth in this Stipulation, and whether or not they make a claim for payment from the Net Settlement Fund.

(cc) "Settled Claims" means any and all claims, debts, demands, rights, liabilities, and causes of action of every nature and description whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether known or "Unknown" (as defined below), whether based on federal, state, local, statutory, common or foreign law or any other law, rule or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or unliquidated, at law or in equity, and whether matured or un-matured, that (i) have been asserted in this Action or in the Amended Complaint, or (ii) could have been asserted in the Action or any other forum by the Releasing Parties against any of the Released Parties, which arise out of, or are based upon or related in any way to, the allegations, transactions, facts, reports, communications, matters or

occurrences, representations or omissions involved in the Action or set forth or referred to in the Amended Complaint, and that relate to the purchase or acquisition of NQ ADS shares during the Class Period. Excluded from Settled Claims are claims based upon, relating to, or arising out of the interpretation or enforcement of the Settlement.

(dd) “Settled Defendants’ Claims” means all claims, debts, demands, rights, liabilities, and causes of action of every nature and description whatsoever (including, but not limited to, any claims for damages, interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses or liabilities whatsoever), whether known or “Unknown” (as defined below), whether based on federal, state, local, statutory, common or foreign law or any other law, rule or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or unliquidated, at law or in equity, and whether matured or un-matured, that any Released Party may have against any of the Released Plaintiff Parties that arise out of or relate in any way to the institution, prosecution, settlement or resolution of the Action or the Settled Claims, *except* claims based upon, relating to, or arising out of the interpretation or enforcement of the Settlement.

(ee) “Settlement” means settlement of the Action on the terms set forth in this Stipulation.

(ff) “Settlement Fairness Hearing” means the hearing to be scheduled by the Court to review the Settlement and determine whether it is fair and adequate and should be approved.

(gg) “Settlement Fund” means: (i) US \$5,100,000 in cash to be paid by or on behalf of the Settling Defendants and to be held by the Escrow Agent (as set forth below); and (ii) any earnings on any such monies.

(hh) “Settling Defendants” has the same meaning as “NQ Defendants.”

(ii) “Settling Defendants’ Counsel” means the law firm of Skadden, Arps, Slate, Meagher & Flom LLP.

(jj) “Summary Notice” means the summary notice of proposed Settlement and hearing for publication, which, subject to the approval of the Court, shall be substantially in the form attached as Exhibit A-2 to Exhibit A hereto.

(kk) “Taxes” has the meaning ascribed to that term in ¶6(c) below.

(ll) “Unknown Claims” means any and all Settled Claims against the Released Parties, which the Releasing Parties do not know or suspect to exist in his, her, or its favor as of the Effective Date, and any Settled Defendants’ Claims against the Released Plaintiff Parties which the Released Parties do not know or suspect to exist in his, her, or its favor as of the Effective Date, which if known by the Releasing Parties or Released Parties might have affected his, her, or its decision(s) with respect to the Settlement. With respect to any and all Settled Claims and Settled Defendants’ Claims, the Parties stipulate and agree that by operation of the Final Judgment, upon the Effective Date, Lead Plaintiffs and the Released Parties shall have expressly waived, and each Class Member shall be deemed to have waived, and by operation of the Final Judgment shall have expressly waived, the provisions, rights and benefits of 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 OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

and any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or any foreign jurisdiction, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code §1542.

The Releasing Parties and Released Parties may hereafter discover facts other than or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Settled Claims and Settled Defendants' Claims. Nevertheless, Lead Plaintiffs and the Released Parties shall expressly, fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released, any and all Settled Claims and Settled Defendants' Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiffs and the Released Parties acknowledge, and Class Members shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Settled Claims and Settled Defendants' Claims were separately bargained for and were key elements of the Settlement.

SCOPE AND EFFECT OF SETTLEMENT

1. The obligations incurred pursuant to this Stipulation shall be in full and final disposition of: (i) the Action against the Settling Defendants; (ii) any and all Settled Claims; and (iii) any and all Settled Defendants' Claims.

2. (a) Upon the Effective Date of this Settlement, Lead Plaintiffs and all Class Members, on behalf of themselves and each of the Releasing Parties: (i) shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever waived, released, relinquished, and discharged all Settled Claims, regardless of whether such Class Member executes and delivers a Proof of Claim; (ii) shall forever be enjoined from prosecuting any Settled Claim against any of the Released Parties; and (iii) agree and covenant not to sue any of the Released Parties on the basis of any Settled Claims or to assist any third party in commencing or maintaining any suit against the Released Parties related to any Settled Claims.

(b) Upon the Effective Date of this Settlement, each of the Settling Defendants and the Released Parties: (i) shall be deemed to have, and by operation of the Final

Judgment shall have, fully, finally, and forever released and discharged each and all of the Released Plaintiff Parties from each and every one of the Settled Defendants' Claims; (ii) shall forever be enjoined from prosecuting the Settled Defendants' Claims; and (iii) agrees and covenants not to sue any of the Released Plaintiff Parties on the basis of any Settled Defendants' Claims or to assist any third party in commencing or maintaining any suit against the Released Plaintiff Parties related to any Settled Defendants' Claims.

(c) The releases provided in this Stipulation shall become effective immediately upon occurrence of the Effective Date without the need for any further action, notice, condition, or event.

THE SETTLEMENT CONSIDERATION

3. In consideration of the releases provided herein and in full settlement of the Settled Claims, NQ, on behalf of the NQ Defendants, shall cause US \$5,100,000 (the "Settlement Amount") to be transferred to the Escrow Agent within fifteen (15) business days of the later of: (i) the Court's entry of the Order for Notice and Hearing (or substantially similar order) as set forth in this Stipulation; or (ii) Lead Counsel provision to Settling Defendants' Counsel of written payment instructions and a completed W-9 form.

USE OF SETTLEMENT FUND

4. (a) The Settlement Fund, net of Taxes, if any, on the income thereof, shall be used to pay: (i) the notice and administration costs of the Settlement referred to in ¶8 hereof; (ii) any Fee and Expense Award made by the Court; and (iii) any remaining administration expenses referred to in ¶21 hereof and any other attorney and administrative costs, fees, payments, or awards subsequently approved by the Court. 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 ¶¶11-13 hereof. Any portions of the Settlement Fund required to be held in escrow prior to the Effective Date shall be held by the Escrow Agent for the Settlement Fund. The Settlement Fund held by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time

as the Net Settlement Fund shall be distributed to Authorized Claimants, or returned to the Settling Defendants pursuant to this Stipulation and/or further order of the Court. The Escrow Agent shall not disburse the Settlement Fund, or any portion thereof, except as provided in this Stipulation, or upon Order of the Court. The Escrow Agent shall be responsible for investing the Settlement Fund in short-term (up to one-year maturity) United States agency or Treasury securities or other instruments backed by the full faith and credit of the United States government or an agency thereof, or fully insured by the United States government or an agency thereof, including a United States Treasury money market fund or a bank account that is either (i) fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or (ii) secured by instruments backed by the full faith and credit of the United States government. The proceeds of these instruments or accounts shall be reinvested in similar instruments or accounts at their then-current market rates as they mature. In the event that the yield on securities identified herein is negative, in lieu of purchasing such securities all or any portion of the Settlement Fund held may be deposited in a non-interest-bearing account that is fully insured by the FDIC. All risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne by the Settlement Fund and not by the Released Parties.

(b) If there is any balance remaining in the Settlement Fund after six months from the date of distribution of the Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise), or as reasonably soon thereafter, the Claims Administrator shall, if logistically feasible and economically justifiable, make a further distribution of such balance among Authorized Claimants in an equitable fashion. After any reallocation, or if a reallocation is not undertaken, any balance that still remains in the Settlement Fund shall be donated to The Legal Aid Society of New York, a non-sectarian, §501(c)(3) non-profit organization.

5. Lead Plaintiffs and Class Members shall look solely to the Settlement Fund as full, final, and complete satisfaction of all Settled Claims. Except as set forth in ¶3 above and ¶15 below, Settling Defendants shall have no obligation under this Stipulation or the Settlement to pay or cause to be paid any amount of money, and Settling Defendants shall have no

obligation to pay or reimburse any fees, expenses, costs, liability, losses, Taxes, or damages whatsoever alleged or incurred by Lead Plaintiffs, by any Class Member, or by any Releasing Party, including but not limited to their attorneys, experts, advisors, agents, or representatives, with respect to the Action and Settled Claims. Lead Plaintiffs and Class Members shall be deemed to acknowledge that, as of the Effective Date, the releases given herein shall become effective immediately by operation of the Final Judgment and shall be permanent, absolute, and unconditional.

TAX TREATMENT OF SETTLEMENT FUND

6. (a) The Parties agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation §1.468B-1, and agree not to take any position for Tax purposes inconsistent therewith. The Settlement Fund, less any amounts incurred for notice, administration, and/or Taxes, plus any accrued interest thereon, shall revert to the person(s) making the deposits, as provided in ¶28 below, if the Settlement does not become effective for any reason, including by reason of a termination of the Settlement pursuant to ¶¶26 or 27 herein. The Settlement Fund includes any interest earned thereon.

(b) For the purpose of §1.468B of the Code and the Treasury regulations thereunder, the Escrow Agent shall be designated as the “administrator” of the Settlement Fund. The Escrow Agent shall timely and properly file all income, informational, and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treasury Regulation §1.468B-2(k)). Such returns shall be consistent with the provisions of this ¶6 and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein.

(c) All (i) taxes or other similar imposts or charges (including any estimated taxes, interest, penalties, or additions to tax) arising with respect to the income earned by the Settlement Fund, including any taxes that may be imposed upon the Released Parties 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” within the meaning of Treasury

Regulation §1.468B-1 (or any relevant equivalent for state tax purposes); and (ii) other taxes or tax expenses imposed on or in connection with the Settlement Fund including expenses of tax attorneys and accountants (collectively “Taxes”), shall promptly be paid out of the Settlement Fund by the Escrow Agent without prior order from the Court. The Escrow Agent shall also be obligated to, and shall be responsible for, withholding from distribution to Class Members any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes. The Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this paragraph.

(d) Neither the Parties nor their counsel shall have any responsibility for or liability whatsoever with respect to: (i) any act, omission, or determination of the Escrow Agent or the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement Fund or otherwise; (ii) the Plan of Allocation; (iii) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (iv) any losses suffered by, or fluctuations in the value of, the Settlement Fund; or (v) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns. The Escrow Agent shall indemnify and hold harmless the Released Parties from and against any claims, liabilities, or losses relating to the matters addressed in the preceding sentence. The Escrow Agent may use funds from the Settlement Fund to indemnify the Released Parties but any indemnification obligation by the Escrow Agent shall not be limited by the amounts available in the Settlement Fund.

CLAIMS ADMINISTRATOR

7. The Claims Administrator shall administer and calculate the claims that shall be allowed and shall oversee distribution of the Settlement Fund subject to the jurisdiction of the Court. The Claims Administrator agrees to be subject to the jurisdiction of the Court with respect to the administration of the Settlement and the distribution of the Settlement Fund pursuant to the terms of this Stipulation. The Released Parties shall have no role in, or

responsibility for, the administration of the Settlement and shall have no liability to Lead Plaintiffs, the Class, or any other Person in connection with, as a result of, or arising out of such administration.

PAYMENT OF ADMINISTRATION EXPENSES

8. Lead Counsel may pay from the Settlement Fund, without further approval from Settling Defendants or the Court, the reasonable costs and expenses up to the sum of \$250,000 associated with Notice to the Class and the administration of the Settlement, including, without limitation, the actual costs of Notice (including the actual costs of publishing, printing, and mailing the Notice, reimbursement to nominee owners for forwarding the Notice to their beneficial owners), and the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing Notice and processing the submitted claims, and the fees, if any, related to the Escrow Account and the investment of the Settlement Fund. All costs and expenses incurred in connection with the administration of the Settlement in excess of \$250,000 shall be paid from the Settlement Fund subject to approval from the Court.

ATTORNEYS' FEES AND EXPENSES

9. Lead Counsel will submit an application or applications (the "Fee and Expense Application") to the Court for an award from the Settlement Fund of: (i) attorneys' fees not to exceed 33-1/3% of the Settlement Fund; (ii) reimbursement of litigation expenses, plus interest, incurred in connection with the prosecution of the Action; and (iii) the reasonable costs and expenses (including lost wages) incurred by Lead Plaintiffs in conjunction with their representation of the Class. Settling Defendants will take no position regarding the Fee and Expense Application. Attorneys' fees, expenses, and interest as are awarded by the Court to Lead Counsel shall be paid from the Settlement Fund to Lead Counsel immediately upon entry by the Court of an order awarding such amounts, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Lead Counsel's obligation to repay those amounts to the Settlement Fund plus accrued interest at the same net rate as is earned by the Settlement Fund, if

and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or cost award is reduced or reversed or return of the Settlement Fund is required consistent with the provisions of ¶28 hereof. In such event, Lead Counsel shall, within ten (10) business days from the event which requires repayment of the fee or expense award, refund to the Settlement Fund the fee and expense award paid to it, along with interest, as described above.

10. Notwithstanding any other provision of this Stipulation to the contrary, the Fee and Expense Application to be paid out of the Settlement Fund shall be considered by the Court separate and apart from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceeding relating to the Fee and Expense Application, or any appeal of any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Stipulation or the Settlement of the Action, or affect the finality or binding nature of any of the releases granted hereunder. Lead Counsel may determine and distribute the attorneys' fees among other plaintiffs' counsel in a manner which, in Lead Counsel's sole discretion, they believe reflects the contributions of such counsel to the prosecution and settlement of the Action with Settling Defendants and the benefits conferred on the Class. The Released Parties shall have no responsibility for, and no liability whatsoever with respect to, any payment or allocation of attorneys' fees or expenses to Lead Counsel, or to any other plaintiffs' counsel.

DISTRIBUTION TO AUTHORIZED CLAIMANTS

11. The Claims Administrator shall determine each Authorized Claimant's *pro rata* share of the "Net Settlement Fund" based upon each Authorized Claimant's Recognized Claim as defined in the Plan of Allocation described in the Notice annexed as Exhibit A-1 to Exhibit A hereto, or in such other Plan of Allocation as the Court approves.

12. The Plan of Allocation set forth in the Notice is not a necessary term of this Stipulation and it is not a condition of this Stipulation that any particular Plan of Allocation be approved. The Released Parties will take no position with respect to the proposed Plan of

Allocation or such Plan of Allocation as may be approved by the Court. The Plan of Allocation is a matter separate and apart from the Settlement between the Parties, and any decision by the Court concerning the Plan of Allocation shall not affect the validity or finality of the proposed Settlement.

13. Each Authorized Claimant shall be allocated a *pro rata* share of the Net Settlement Fund based on his, her, or its Recognized Claim compared to the total Recognized Claims of all accepted claimants, as those terms are defined in the Plan of Allocation. The Settlement is non-recapture, *i.e.*, it is not a claims-made settlement. Settling Defendants shall not be entitled to get back any of the settlement monies, or interest earned thereon, once the Settlement becomes final. The Released Parties shall have no involvement in reviewing, evaluating, approving, or challenging claims, and shall have no responsibility, liability, or authority for determining the allocation of any payments to any Class Members or for any other matters pertaining to the Plan of Allocation.

ADMINISTRATION OF THE SETTLEMENT

14. Any member of the Class who does not submit a valid Proof of Claim will not be entitled to receive any of the proceeds from the Net Settlement Fund, but will otherwise be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Final Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against the Released Parties concerning the Settled Claims.

15. The Claims Administrator shall process the Settlement based upon the Proofs of Claim which may be submitted in connection with this Settlement, and, after entry of the Class Distribution Order, shall distribute the Net Settlement Fund in accordance with the Class Distribution Order. NQ shall provide to Lead Counsel, or the Claims Administrator, a list of the names and last known addresses of the persons and entities who were NQ ADS holders of record during the Class Period no later than seven (7) calendar days after entry of the Order for Notice and Hearing. Except for this obligation and their obligation to fund the Settlement or cause it to be funded, Settling Defendants shall have no liability, obligation, or responsibility for the

administration of the Settlement or disbursement of the Net Settlement Fund. Lead Counsel shall have the right, but not the obligation, to advise the Claims Administrator to waive what Lead Counsel may reasonably deem to be formal or technical defects in any Proofs of Claim submitted, including, without limitation, failure to submit a document by the submission deadline, in the interests of achieving substantial justice.

16. 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 shall be required to submit a Proof of Claim (in substantially the form set forth in Exhibit A-3 to Exhibit A hereto) which, *inter alia*, releases all of that Class Member's Settled Claims, is signed under penalty of perjury, and is supported by such documents or proof as Lead Counsel and/or the Claims Administrator, in their discretion, may deem acceptable;

(b) All Proofs of Claim must be submitted by the date specified in the Notice, unless such period is extended by Order of the Court. Any Class Member who fails to submit a Proof of Claim by such date shall be forever barred from receiving any payment pursuant to this Stipulation (unless, by Order of the Court, a later submitted Proof of Claim by such Class Member is approved), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Final Judgment to be entered in the Action and the releases provided for herein, and shall be barred from bringing any action against the Released Parties concerning the Settled Claims. Provided that it is received before the motion for the Class Distribution Order is filed, a Proof of Claim shall be deemed to have been submitted when posted, if received with a postmark indicated on the envelope and if mailed by first-class mail 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, who shall determine, in accordance with this Stipulation, the approved Plan of

Allocation, and any applicable orders of the Court, the extent, if any, to which each claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below. The Released Parties shall not have any role in, or responsibility or liability to any Person or entity for, the solicitation, review, evaluation, approval, or rejection of any Proofs of Claim;

(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 remedy the curable deficiencies in that claimant's submitted Proof of Claim. The Claims Administrator shall notify, in a timely fashion and in writing, all claimants whose Proofs of Claim they propose 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 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 such 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 Court. If a dispute concerning a claim cannot be otherwise resolved, Lead Counsel shall thereafter present the request for review to the Court; and

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

17. Each claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the claimant's claim, and the claim will be subject to investigation and discovery pursuant to the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that claimant's status as a Class Member and the validity and amount of the claimant's claim. No discovery shall be allowed to be directed to Settling Defendants or any of

the Released Parties, and no discovery shall be allowed on the merits of the Action or Settlement in connection with processing of the Proofs of Claim.

18. Payment pursuant to this Stipulation shall be deemed final and conclusive against all Class Members. All Class Members whose claims are not approved by the Court shall be barred from any participation in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Final Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against the Released Parties concerning the Settled Claims. No Person shall have any claim against the Lead Plaintiffs or their counsel (including Lead Counsel), or any claims administrator, or other agent designated by Lead Counsel, based on the distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or any order(s) of the Court.

19. All proceedings with respect to the administration, processing, and determination of claims 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 Court, but shall not delay or affect the finality of the Final Judgment.

DISTRIBUTION TO AUTHORIZED CLAIMANTS

20. The Net Settlement Fund shall be distributed by the Claims Administrator to, or for the account of, Authorized Claimants, as the case may be, only after the Effective Date and after: (i) all claims 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 Court, and all appeals therefrom have been resolved or the time therefor has expired; (iii) all matters with respect to the Fee and Expense Application have been resolved by the Court, all appeals therefrom have been resolved or the time therefore has expired; and (iv) all fees and costs of administration have been paid.

21. Lead Counsel will apply to the Court for entry of a Class Distribution Order approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the claims submitted herein and approving any fees and expenses not previously applied for, including the fees and expenses of the Claims Administrator, and, if the Effective Date has occurred, directing payment of the Net Settlement Fund to or for the account of Authorized Claimants, as the case may be.

TERMS OF ORDER FOR NOTICE AND HEARING

22. Promptly after this Stipulation has been fully executed, Lead Counsel shall apply to the Court by motion on notice for entry of the Order for Notice and Hearing, substantially in the form annexed hereto as Exhibit A, and Settling Defendants shall join (upon Lead Counsel's request) in requesting entry of such an Order. Lead Counsel and Settling Defendants shall jointly request that the postmark deadline for objecting and/or submitting exclusions from this Settlement be set at least thirty (30) calendar days prior to the Settlement Fairness Hearing. Upon receiving any objection(s) and/or request(s) for exclusion ("Requests for Exclusion"), the Claims Administrator shall promptly notify Lead Counsel and Settling Defendants' Counsel of such objection(s) and/or Requests for Exclusion.

TERMS OF FINAL JUDGMENT

23. If the Settlement contemplated by this Stipulation is approved by the Court, Lead Counsel and Settling Defendants' Counsel shall jointly request that the Court enter a Final Judgment substantially in the form annexed as Exhibit B hereto.

EFFECTIVE DATE OF SETTLEMENT, WAIVER, OR TERMINATION

24. The Effective Date of Settlement shall be the date when all the following shall have occurred and shall be conditioned on the occurrence of all of the following events:

(a) the Settlement Amount has been paid into the Settlement Fund by or on behalf of the Settling Defendants as required by the Stipulation;

(b) entry of the Order for Notice and Hearing in all material respects in the form attached hereto as Exhibit A;

- (c) final approval by the Court of the Settlement, following notice to the Class and a hearing;
- (d) NQ has not exercised its option to terminate the Stipulation pursuant to ¶27 below;
- (e) no party has exercised his, her, or its rights to terminate the Stipulation pursuant to ¶26 below; and
- (f) entry by the Court of a Final Judgment, substantially in the form of Exhibit B annexed hereto, and the Final Judgment becomes Final, or, in the event that the Court enters a final judgment in a form other than that provided above (“Alternative Judgment”) and neither Lead Plaintiffs nor any Defendant elects to terminate this Settlement, the date that such Alternative Judgment becomes Final.

25. Notwithstanding any other provision herein, any proceeding or order, or motion for reconsideration, appeal, petition for a writ of certiorari or its equivalent pertaining solely to any Plan of Allocation and/or Fee and Expense Application, shall not in any way delay or preclude the Effective Date.

26. Lead Plaintiffs and NQ Defendants, through their respective counsel, shall, in each of their separate discretions, have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so (“Termination Notice”) to all other Parties hereto within thirty (30) days of the date on which: (a) the Court files an order declining to enter the Order for Notice and Hearing in any material respect; (b) the Court files an order refusing to approve this Stipulation or any material part of it; (c) the Court files an order declining to enter the Final Judgment in any material respect; (d) the Final Judgment is modified or reversed by a court of appeal or any higher court in any material respect; or (e) an Alternative Judgment is modified or reversed by a court of appeal or any higher court in any material respect. Notwithstanding this paragraph, the Court’s determination as to the Fee and Expense Application and/or any Plan of Allocation, or any determination on appeal from any such order, shall not provide grounds for termination of the Stipulation or Settlement.

27. If prior to the Settlement Fairness Hearing, Persons who otherwise would be members of the Class have filed with the Court valid and timely Requests for Exclusion from the Class in accordance with the provisions of the Order for Notice and Hearing and the Notice given pursuant thereto, and Class Members in the aggregate representing more than a certain percentage of the NQ ADS shares subject to this Settlement choose to exclude themselves from the Class in an amount greater than the amount specified in a separate Supplemental Agreement between the Parties (the "Supplemental Agreement"), the NQ Defendants, in their sole and absolute discretion, shall have the option (which option must be exercised unanimously) to terminate this Stipulation in accordance with the procedures set forth in the Supplemental Agreement. The Supplemental Agreement will not be filed with the Court unless and until a dispute among the Parties concerning its interpretation or application arises. Copies of all Requests for Exclusion received by the Claims Administrator, together with copies of all written revocations of Requests for Exclusion, shall be delivered to Settling Defendants' Counsel promptly, and in no event later than fourteen (14) calendar days prior to the Settlement Hearing. The required procedure for and consequences of making such an election are as follows:

(a) such option to withdraw shall be exercised by serving written notice, signed by Settling Defendants' Counsel on behalf of NQ Defendants, upon Lead Counsel, not less than seven (7) calendar days before the Settlement Fairness Hearing;

(b) if NQ Defendants exercise the option to withdraw from the Settlement as provided herein, and if Lead Plaintiffs have not caused the written retraction of sufficient Requests for Exclusion, as provided in ¶5 of the Supplemental Agreement, and the remaining Requests for Exclusion equal or exceed the percentage set forth in ¶1 of the Supplemental Agreement, this Stipulation will be null and void, and the provisions of ¶28 hereof will apply.

28. Except as otherwise provided herein, in the event the Settlement is terminated in accordance herewith, is vacated, is not approved, or the Effective Date fails to occur for any reason, then the Parties to this Stipulation shall be deemed to have reverted to their respective litigation positions in the Action as of March 3, 2015, and, except as otherwise expressly

provided herein, the Parties shall proceed in all respects as if this Stipulation and any related orders had not been entered, and any portion of the Settlement Fund previously paid by or on behalf of Settling Defendants, together with any interest earned thereon (and, if applicable, repayment of any attorneys' fee and expense award referred to in ¶9 hereof), less any Taxes due with respect to such income, and less costs of administration and notice actually incurred and paid or payable from the Settlement Fund (not to exceed \$250,000 without the prior approval of NQ Defendants or the Court) shall be returned to any Person who funded the Settlement Fund in proportion to the amount paid within ten (10) business days from the date of the event causing such termination. At the request of Settling Defendants' Counsel, the Escrow Agent shall apply for any tax refund owed on the Settlement Fund and pay the proceeds to such Persons that paid into the Settlement Fund, *pro rata*, in accordance with the amounts paid by such Persons.

NO ADMISSION OF WRONGDOING

29. Nothing in this Stipulation constitutes or reflects a waiver or release of any rights or claims of any Settling Defendants against their insurers, or their insurers' subsidiaries, predecessors, successors, assigns, affiliates, or representatives. Nothing in this Stipulation constitutes or reflects a waiver or release of any rights or claims relating to indemnification, advancement, or any undertakings by an indemnified party to repay amounts advanced or paid by way of indemnification or otherwise.

30. Settling Defendants deny that they have committed any act or omission giving rise to any liability and/or violation of law, and state that they are entering into this Settlement to eliminate the burden and expense of further litigation. This Stipulation, whether or not consummated, including any and all of its terms, provisions, exhibits, and prior drafts, and any negotiations or proceedings related or taken pursuant to it:

(a) shall not be offered or received against any Settling Defendant as evidence of a presumption, concession, or admission by any Settling Defendant with respect to the truth of any fact alleged by Lead Plaintiffs or the validity of any claim that has been or could have been

asserted in the Action or any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or any litigation;

(b) shall not be offered or received against any Settling Defendant 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 Settling Defendant, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; provided, however, that if this Stipulation is approved by the Court and becomes effective pursuant to its terms, the Settling Defendants may refer to it to effectuate the liability protection granted them hereunder;

(c) shall not be construed as or received in evidence as an admission, concession, or presumption against Lead Plaintiffs or any of the Class Members that any of their claims are without merit, or that any defenses asserted by Settling Defendants have any merit, or that damages recoverable under the Amended Complaint would not have exceeded the Settlement Fund; and

(d) notwithstanding the foregoing, the Settling Defendants, Lead Plaintiffs, Class Members, and/or the Released Parties may file the Stipulation and/or the Final Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, offset or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. This ¶30 shall survive the termination of this Stipulation.

MISCELLANEOUS PROVISIONS

31. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein, and are material and integral parts hereof.

32. NQ warrants, as to the payments made by or on behalf of any Settling Defendants, that at the time of any such payment that NQ will make or cause to be made pursuant to ¶3 above, NQ will not be insolvent, nor will the payment required to be made by or on behalf of

Settling Defendants render NQ insolvent, within the meaning of and/or for the purposes of the United States Bankruptcy Code, including §§101 and 547 thereof.

33. If a case is commenced in respect of NQ or any Insurer contributing funds to the Settlement Fund on behalf of Settling Defendants under Title 11 of the United States Code (Bankruptcy) or similar domestic or foreign law, or if a trustee, receiver, conservator, or other fiduciary is appointed under any similar domestic or foreign law, and in the event of the entry of a final order of a court of competent jurisdiction determining that the transfer of money or any portion thereof to the Settlement Fund by or on behalf of the Settling Defendants to be a preference, voidable transfer, fraudulent transfer, or similar transaction and any portion thereof is required to be returned, and such amount is not promptly re-deposited into the Settlement Fund by others on behalf of the Settling Defendants, then, at the sole discretion of Lead Counsel, the Settling Parties shall jointly move the Court to vacate and set aside the releases given and any Judgment entered in favor of the Settling Defendants and the other Released Parties pursuant to this Stipulation, which releases and Judgment shall then be null and void, and the Settling Parties shall be restored to their respective positions in the Action immediately prior to the date hereof, and any cash amounts in the Settlement Fund shall be returned in accord with the provisions of ¶28 above.

34. The Parties to this Stipulation intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Lead Plaintiffs and/or any Class Member against the Released Parties with respect to the Action and the Settled Claims. Accordingly, Lead Plaintiffs and the Settling Defendants agree not to assert in any judicial proceeding that the Action was brought by Lead Plaintiffs or defended by the Settling Defendants in bad faith. The Parties hereto further agree that each has complied fully with Rule 11 of the Federal Rules of Civil Procedure, and agree not to assert in any judicial proceeding that any party violated Rule 11 of the Federal Rules of Civil Procedure in connection with the commencement, maintenance, defense, litigation, and/or resolution of the Action. The Parties agree that the amount to be 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 after consultation with experienced legal counsel under the auspices of an experienced mediator.

35. All agreements made and orders entered during the course of this Action relating to the confidentiality of documents and information shall survive the Stipulation pursuant to their terms.

36. This 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 respective successors.

37. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

38. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders relating to the award of attorneys' fees and expenses, the Plan of Allocation, and the enforcement of the terms of this Stipulation.

39. The waiver by one Party of any breach of this Stipulation by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

40. This Stipulation and its exhibits and the Supplemental Agreement constitute the entire agreement among the Parties hereto concerning the Settlement of the Action, and no representations, warranties, or inducements have been made by any Party hereto concerning this Stipulation and its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

41. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Stipulation shall exchange among themselves original signed counterparts. Signatures sent by facsimile or pdf'd via email by Lead Counsel or Settling Defendants' Counsel shall be deemed originals.

42. Lead Plaintiffs and Settling Defendants represent and warrant that they have not assigned, pledged, loaned, hypothecated, conveyed, or otherwise transferred, voluntarily or

involuntarily, to any other person or entity, the Settled Claims, or any interest in or part or portion thereof, specifically including any rights arising out of the Settled Claims.

43. This Stipulation shall be binding upon, and inure to the benefit of, the successors, assigns, executors, administrators, heirs, and legal representatives of the Parties hereto. No assignment shall relieve any Party hereto of obligations hereunder.

44. The construction, interpretation, operation, effect, and validity of this Stipulation, and all documents necessary to effectuate it, shall be governed by the 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.

45. This 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 Stipulation.

46. Each counsel and each other person executing this Stipulation and any of the exhibits hereto, or any related Settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

47. Lead Counsel and Settling Defendants' Counsel agree to cooperate fully with one another in seeking Court approval of the Order for Notice and Hearing, of the Stipulation, and of the Settlement, and in consummating the Settlement in accordance with its terms, and further agree to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

48. Neither NQ nor any other Settling Defendant nor any of their counsel shall, directly or indirectly, solicit or encourage any Person to request exclusion from the Class.

49. Pending approval by the Court of this Stipulation, all proceedings in this Action against the Settling Defendants shall be stayed.

50. Except as otherwise provided herein, each party shall bear its own costs.

DATED: August __, 2015

Respectfully submitted,

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