

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE COBALT INTERNATIONAL
ENERGY, INC. SECURITIES LITIGATION

Lead Case No. 4:14-cv-3428 (NFA)

**STIPULATION AND AGREEMENT OF SETTLEMENT BETWEEN
PLAINTIFFS AND UNDERWRITER DEFENDANTS OTHER
THAN GOLDMAN SACHS & CO. LLC**

This Stipulation and Agreement of Settlement, dated as of November 28, 2018 (the “Stipulation”) is entered into between (a) lead plaintiffs GAMCO Global Gold, Natural Resources & Income Trust and GAMCO Natural Resources, Gold & Income Trust (together, the “GAMCO Funds” or “Lead Plaintiffs”), St. Lucie County Fire District Firefighters’ Pension Trust Fund, Fire and Police Retiree Health Care Fund, San Antonio, Sjunde AP-Fonden, and Universal Investment Gesellschaft m.b.H. (collectively, with Lead Plaintiffs, “Plaintiffs”), on behalf of themselves and the Settlement Class (defined below);¹ and (b) defendants Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, Citigroup Global Markets Inc., J.P. Morgan Securities LLC, Tudor, Pickering, Holt & Co. Securities, Inc., Deutsche Bank Securities Inc., RBC Capital Markets, LLC, UBS Securities LLC, Howard Weil Incorporated, Stifel, Nicolaus & Company, Incorporated, Capital One Southcoast, Inc., and Lazard Capital Markets LLC (the “Underwriter Settling Defendants,” together with Plaintiffs, the “Settling

¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in ¶ 1 herein.

Parties”), and embodies the terms and conditions of the Settling Parties’ settlement of the claims against the Underwriter Settling Defendants in the above-captioned action (the “Action”). Subject to the approval of the Court and the terms and conditions expressly provided herein, this Stipulation is intended to fully, finally, and forever compromise, settle, release, resolve, and dismiss with prejudice all claims asserted in the Action against the Underwriter Settling Defendants.

WHEREAS:

A. Beginning on or about November 30, 2014, multiple putative securities class action complaints were filed in the United States District Court for the Southern District of Texas (the “Court”) by purchasers of Cobalt Securities. Pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §§ 77z–1 and 78u–4, as amended (the “PSLRA”), notice to the public was issued setting forth the deadline by which putative class members could move the Court to be appointed to act as lead plaintiff.

B. On March 3, 2015, the Court consolidated all similar putative class actions into the Action, appointed the GAMCO Funds as Lead Plaintiffs in the Action, and approved Lead Plaintiffs’ selection of the law firms of Entwistle & Cappucci LLP and Bernstein Litowitz Berger & Grossmann LLP as Lead Counsel and Ajamie LLP as Liaison Counsel for the putative class.

C. On May 1, 2015, Plaintiffs filed the Consolidated Amended Class Action Complaint (the “Amended Complaint”). The Amended Complaint asserted (a) claims under Section 11 of the Securities Act of 1933 (the “Securities Act”) against Cobalt, the

Underwriter Defendants, the Sponsor Designee Defendants, and certain of the Cobalt Individual Defendants; (b) claims under Section 12(a)(2) of the Securities Act against the Underwriter Defendants; (c) claims under Section 15 of the Securities Act against the Sponsor Defendants, GS&Co., the Sponsor Designee Defendants, and the Cobalt Individual Defendants; (d) claims under Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Securities and Exchange Commission (“SEC”) Rule 10b-5 promulgated thereunder, against Cobalt and certain of the Cobalt Individual Defendants; and (e) claims under Section 20(a) of the Exchange Act against certain of the Cobalt Individual Defendants. The Amended Complaint sought damages on behalf of a putative class of investors in Cobalt Securities during the period from March 1, 2011 through November 3, 2014 (the “Class Period”).

D. On June 30, 2015, the Defendants filed motions to dismiss the Amended Complaint. On August 31, 2015, Plaintiffs filed papers in opposition to the motions to dismiss; and on September 29, 2015, the Defendants filed reply papers on those motions. On January 19, 2016, the Court entered a Memorandum and Order denying in part and granting in part Defendants’ motions to dismiss the Amended Complaint. The Court further denied Defendants’ interlocutory appeal motions on March 14, 2016, and Defendants answered the Amended Complaint on March 25, 2016, denying liability and the essential factual allegations therein.

E. On November 2, 2016, Plaintiffs moved to certify the Action as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure. On March 22, 2017, Defendants filed their papers in opposition to the motion for class

certification; and on May 26, 2017, Plaintiffs filed their reply papers on that motion. On June 15, 2017, the Court entered its Memorandum and Order granting Plaintiffs' motion for class certification, in which the Court certified the Action to proceed as a class action (on behalf of a class of purchasers of Cobalt Securities during the Class Period as defined therein), appointed Plaintiffs as class representatives for that class, and appointed Lead Counsel as class counsel.

F. On March 15, 2017, Plaintiffs filed their Second Consolidated Class Action Amended Complaint (the "Operative Complaint") to add a claim under Section 20A of the Exchange Act against the Sponsor Defendants.

G. On June 30, 2017, Defendants filed a petition in the United States Court of Appeals for the Fifth Circuit (the "Court of Appeals") pursuant to Federal Rule of Civil Procedure 23(f), seeking permission to take an interlocutory appeal of the Court's Class Certification Order. On August 4, 2017, the Court of Appeals granted Defendants' petition. On October 10, 2017, Defendants filed their opening briefs on the appeal; on November 22, 2017, Plaintiffs filed their answering briefs on appeal; and on December 2017, Defendants filed their reply briefs.

H. On December 14, 2017, Cobalt and certain of its affiliated entities (the "Debtors") filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101–1532, in the United States Bankruptcy Court for the Southern District of Texas (the "Bankruptcy Court"). Cobalt's Chapter 11 cases are captioned *In re Cobalt International Energy, Inc.*, Case No. 4:17–bk–36709 (Bankr. S.D. Tex.).

I. On January 4, 2018, Plaintiffs and Defendants agreed to stay all proceedings in the Action until April 21, 2018 in light of Cobalt's bankruptcy, and an order to that effect was entered in the Bankruptcy Court on that date.

J. On May 22, 2018, after the expiration of the bankruptcy stay, the Court entered a revised Docket Control Order, establishing forthcoming deadlines in the case.

K. On August 16, 2018, the Court of Appeals issued a notice stating that oral argument on the appeal had been scheduled for October 1, 2018. On September 13, 2018, Plaintiffs filed a motion seeking a stay of the appeal due to the progress of settlement negotiations with the Sponsor Defendants, Sponsor Designee Defendants, GS&Co., Cobalt, and the Cobalt Individual Defendants.

L. On September 18, 2018, the Court of Appeals granted that motion in part, staying the appeal as to all Defendants except the Underwriter Settling Defendants. Oral argument as to the Underwriter Settling Defendants' appeal proceeded as scheduled on October 1, 2018.

M. On October 9, 2018, Plaintiffs, the Sponsor Defendants, Sponsor Designee Defendants and GS&Co. executed a stipulation setting forth the terms of a settlement of all Plaintiffs' claims against those Defendants (the "Sponsor Settlement").

N. On October 11, 2018, Plaintiffs, Cobalt, the Cobalt Individual Defendants, and the Plan Administrator for Cobalt and the other Debtors executed a stipulation setting forth the terms of a settlement of all Plaintiffs' claims against those Defendants (the "Cobalt Settlement").

O. On October 12, 2018, Plaintiffs filed motions for preliminary approval of the Sponsor and Cobalt Settlements. On November 1, 2018, the court granted the Sponsor and Cobalt Settlements preliminary approval. A hearing for final approval of the Sponsor and Cobalt Settlements is set for February 13, 2019.

P. On October 18, 2018, the Court of Appeals granted the Underwriter Settling Defendants' motion to stay the Underwriter Settling Defendants' appeal and the Action in the Court until January 29, 2019.

Q. On November 28, 2018, after extensive arm's-length negotiations facilitated by former United States District Judge Layn R. Phillips, acting as mediator, the Plaintiffs and the Underwriter Settling Defendants reached agreement on the terms of a settlement (the "Settlement").

R. This Stipulation (together with the exhibits hereto) reflects the final and binding agreement between the Settling Parties.

S. Based upon their investigation and prosecution of the case, Plaintiffs and Lead Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable, and adequate to Plaintiffs and the other members of the Settlement Class, and in their best interests. Based on Plaintiffs' direct oversight of the prosecution of this matter and with the advice of their counsel, Plaintiffs have agreed to settle and release the claims raised in the Action against the Underwriter Settling Defendants pursuant to the terms and provisions of this Stipulation, after considering, among other things: (a) the substantial financial benefit that Plaintiffs and the other members of the Settlement Class

will receive under the proposed Settlement; and (b) the significant risks and costs of continued litigation and trial against the Underwriter Settling Defendants.

T. This Stipulation constitutes a compromise of all matters that are in dispute between the Settling Parties. The Underwriter Settling Defendants are entering into this Stipulation solely to eliminate the uncertainty, burden and expense of further protracted litigation. Each of the Underwriter Settling Defendants denies any wrongdoing, and this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Underwriter Settling Defendants with respect to any claim or allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Underwriter Settling Defendants have, or could have, asserted. The Underwriter Settling Defendants expressly deny that Plaintiffs have asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, liability, wrongdoing or damages whatsoever. Similarly, this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of Plaintiffs of any infirmity in any of the claims asserted in the Action, or an admission or concession that any of the Underwriter Settling Defendants' defenses to liability had any merit. Each of the Settling Parties recognizes and acknowledges, however, that the Action has been initiated, filed, and prosecuted by Plaintiffs in good faith and defended by the Underwriter Settling Defendants in good faith, and that the Action as to the Underwriter Settling Defendants is being voluntarily settled with the advice of counsel.

NOW THEREFORE, it is hereby STIPULATED AND AGREED, by and among Plaintiffs (individually and on behalf of the Settlement Class) and the Underwriter Settling

Defendants, by and through their respective undersigned attorneys and subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, that, in consideration of the benefits flowing to the Settling Parties from the Settlement, all Released Plaintiffs' Claims as against the Settling Defendants' Releasees and all Released Settling Defendants' Claims as against the Plaintiffs' Releasees shall be settled and released, upon and subject to the terms and conditions set forth below.

DEFINITIONS

1. As used in this Stipulation and any exhibits attached hereto and made a part hereof, the following capitalized terms shall have the following meanings:

(a) "Action" means the consolidated securities class action in the matter styled *In re Cobalt International Energy, Inc. Securities Litigation*, Lead Case No. 4:14-cv-3428 (NFA) (S.D. Tex.), and includes all actions consolidated therein.

(b) "Alternate Judgment" means a form of final judgment that may be entered by the Court herein but in a form other than the form of Judgment provided for in this Stipulation and that the Settling Parties have confirmed in writing is acceptable.

(c) "Amended Complaint" means the Consolidated Amended Class Action Complaint for Violations of the Federal Securities Laws filed by Plaintiffs in the Action on May 1, 2015.

(d) "Authorized Claimant" means a Settlement Class Member who submits a Claim to the Claims Administrator that is approved by the Court for payment from the Net Settlement Fund.

(e) “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of Texas.

(f) “Claim” means a paper claim submitted on a Proof of Claim Form to the Claims Administrator or an electronic claim that is submitted to the Claims Administrator.

(g) “Claim Form” or “Proof of Claim Form” means the form, substantially in the form attached hereto as Exhibit 2 to Exhibit A, that a Claimant must complete and submit should that Claimant seek to share in a distribution of the Net Settlement Fund.

(h) “Claimant” means a person or entity who or which submits a Claim to the Claims Administrator seeking to be eligible to share in the proceeds of the Net Settlement Fund.

(i) “Claims Administrator” means the firm retained by Lead Plaintiffs and Lead Counsel, subject to approval of the Court, to provide all notices approved by the Court to potential Settlement Class Members and to administer the Settlement.

(j) “Class Distribution Order” means an order entered by the Court authorizing and directing that the Net Settlement Fund be distributed, in whole or in part, to Authorized Claimants.

(k) “Class Period” means the period from March 1, 2011 through November 3, 2014, inclusive.

(l) “Cobalt” means Cobalt International Energy, Inc., its estate in bankruptcy, and any related debtor or non-debtor entities.

(m) “Cobalt Individual Defendants” means Joseph Bryant, James W. Farnsworth, Jack E. Golden, Jon A. Marshall, Myles W. Scoggins, William P. Utt, John P. Wilkirson, and Martin H. Young.

(n) “Cobalt Securities” means Cobalt common stock, Cobalt 2.625% Convertible Senior Notes due 2019, and Cobalt 3.125% Convertible Senior Notes due 2024.

(o) “Court” means the United States District Court for the Southern District of Texas.

(p) “Court of Appeals” means the United States Court of Appeals for the Fifth Circuit.

(q) “Defendants” means Cobalt, the Cobalt Individual Defendants, the Underwriter Defendants, the Sponsor Designee Defendants, and the Sponsor Defendants.

(r) “Effective Date” with respect to the Settlement means the first date by which all of the events and conditions specified in ¶ 34 of this Stipulation have been met and have occurred or have been waived in writing pursuant to the notice provision provided herein.

(s) “Escrow Account” means an account maintained at City National Bank wherein the Settlement Amount shall be deposited and held in escrow under the control of Lead Counsel.

(t) “Escrow Agent” means City National Bank.

(u) “Escrow Agreement” means the agreement between Lead Counsel and the Escrow Agent setting forth the terms under which the Escrow Agent shall maintain the Escrow Account.

(v) “Final,” with respect to the Judgment or, if applicable, the Alternate Judgment, or any other court order, means: (i) if no appeal is filed, the expiration date of the time provided for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) days after entry of the judgment or order; or (ii) if there is an appeal from the judgment or order, (a) the date of final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the judgment or order is finally affirmed on an appeal, the expiration of the time to file a petition for a writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of review, and, if certiorari or other form of review is granted, the date of final affirmance following review pursuant to that grant. Any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to (i) attorneys’ fees, costs or expenses, or (ii) the plan of allocation of Settlement proceeds (as submitted or subsequently modified), shall not in any way delay or preclude the Judgment or Alternate Judgment if applicable, from becoming Final.

(w) “GS&Co.” means Goldman Sachs & Co. LLC (f/k/a Goldman, Sachs & Co.).

(x) “Immediate Family” or “Immediate Family Members” means children, stepchildren, parents, stepparents, spouses, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law. As used in this

definition, “spouse” shall mean a husband, a wife, or a partner in a state-recognized domestic relationship or civil union.

(y) “Individual Defendants” means the Sponsor Designee Defendants and the Cobalt Individual Defendants.

(z) “Investment Vehicle” means any investment company or pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds, fund of funds, and hedge funds, in which any of the Underwriter Settling Defendants have, has, or may have a direct or indirect interest, or as to which any of their respective affiliates may act as an investment advisor but of which any of the Underwriter Settling Defendants or any of their respective affiliates is not a majority owner or does not hold a majority beneficial interest. This definition of Investment Vehicle does not bring into the Settlement Class any of the Underwriter Settling Defendants themselves.

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

(bb) “Lead Counsel” means the law firms of Entwistle & Cappucci, LLP and Bernstein Litowitz Berger & Grossmann LLP.

(cc) “Lead Plaintiffs” means GAMCO Global Gold, Natural Resources & Income Trust and GAMCO Natural Resources, Gold & Income Trust.

(dd) “Liaison Counsel” means Ajamie LLP.

(ee) “Litigation Expenses” means reasonable costs and expenses incurred in connection with commencing, prosecuting and settling the Action (which may include the costs and expenses of Plaintiffs directly related to their representation of the

Settlement Class), for which Lead Counsel intend to apply to the Court for reimbursement from the Settlement Fund. Litigation Expenses does not include attorneys' fees incurred in connection with commencing, prosecuting and settling the Action.

(ff) "Net Settlement Fund" means the Settlement Fund less: (i) any Taxes; (ii) any Notice and Administration Costs (to be paid in accordance with ¶ 15 below); (iii) any Litigation Expenses awarded by the Court; and (iv) any attorneys' fees awarded by the Court.

(gg) "Non-Settling Defendants" means Cobalt, the Cobalt Individual Defendants, GS&Co., the Sponsor Defendants, and the Sponsor Designee Defendants, and any of the Underwriter Settling Defendants that are converted into a Non-Settling Defendant pursuant to the terms of ¶ 39 below.

(hh) "Notice" means the Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses, substantially in the form attached hereto as Exhibit 1 to Exhibit A, which is to be mailed to Settlement Class Members.

(ii) "Notice and Administration Costs" means the reasonable costs, fees, and expenses that are incurred by the Claims Administrator and Lead Counsel, to be paid in accordance with ¶ 15 below, in connection with: (i) providing notices to the Settlement Class concerning the Settlement herein (including, without limitation, mailing of the Notice to Settlement Class Members and publication of the Summary Notice); and

(ii) administering the Settlement, including but not limited to the Claims process, as well as the reasonable costs, fees, and expenses incurred in connection with the Escrow Account.

(jj) “Operative Complaint” means the Second Consolidated Amended Class Action Complaint for Violations of the Federal Securities Laws filed by Plaintiffs in the Action on March 15, 2017.

(kk) “Plaintiffs” means Lead Plaintiffs, and plaintiffs St. Lucie County Fire District Firefighters’ Pension Trust Fund, Fire and Police Retiree Health Care Fund, San Antonio, Sjunde AP-Fonden, and Universal Investment Gesellschaft m.b.H.

(ll) “Plaintiffs’ Counsel” means Lead Counsel, Liaison Counsel, and all other legal counsel who, at the direction and under the supervision of Lead Counsel, performed services on behalf of the Settlement Class in the Action.

(mm) “Plaintiffs’ Releasees” means: (i) Plaintiffs, their respective attorneys, and all other Settlement Class Members; (ii) the current and former parents, affiliates, subsidiaries, successors, predecessors, assigns, and assignees of each of the foregoing in (i); and (iii) the current and former officers, directors, agents, employees, attorneys, and advisors of the each of the foregoing in (i) and (ii), in their capacities as such.

(nn) “Plan of Allocation” means the proposed plan of allocation of the Net Settlement Fund set forth in the Notice.

(oo) “Preliminary Approval Order” means the order, substantially in the form attached hereto as Exhibit A, to be entered by the Court preliminarily approving the Settlement and directing that notice of the Settlement be provided to the Settlement Class.

(pp) “Prior Complaints” means any complaint, other than the Operative Complaint, filed in the Action or in any action consolidated into the Action, including: (1) Complaint, *St. Lucie County Fire District Firefighters’ Pension Trust Fund et al. v. Bryant et al.*, No. 4:14-cv-03428 (S.D. Tex.) (filed on November 30, 2014); (2) Complaint, *Newman v. Cobalt International Energy, Inc. et al.*, No. 4:14-cv-03488 (S.D. Tex.) (filed on December 5, 2014); (3) Complaint, *Ogden v. Bryant et al.*, No. 4:15-cv-00139 (S.D. Tex.) (filed on January 16, 2015); and (4) the Amended Complaint.

(qq) “PSLRA” means the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §§ 77z-1, 78u-4, as amended.

(rr) “Released Claims” means all Released Plaintiffs’ Claims and all Released Settling Defendants’ Claims.

(ss) “Released Plaintiffs’ Claims” means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that were or could have been asserted in any forum that relate to, arise out of, or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Operative Complaint or in any of the Prior Complaints and that relate to the purchase, acquisition, sale, or holding of Cobalt Securities during the Class Period. Released Plaintiffs’ Claims do not include: (i) any claims asserted, or that may

be asserted, against any Non-Settling Defendants; (ii) any claims of any person or entity who or that submits a request for exclusion from the Settlement Class that is accepted by the Court; and (iii) any claims relating to the enforcement of the Settlement.

(tt) “Released Settling Defendants’ Claims” means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims asserted in the Action against the Underwriter Settling Defendants. Released Settling Defendants’ Claims do not include: (i) any claims against any person or entity who or that submits a request for exclusion from the Settlement Class that is accepted by the Court; and (ii) any claims relating to the enforcement of the Settlement.

(uu) “Releasee(s)” means each and any of the Settling Defendants’ Releasees and each and any of the Plaintiffs’ Releasees.

(vv) “Releases” means the releases set forth in ¶¶ 5–6 of this Stipulation.

(ww) “Settlement” means the settlement between Plaintiffs and the Underwriter Settling Defendants and the resolution of this Action as against the Underwriter Settling Defendants on the terms and conditions set forth in this Stipulation.

(xx) “Settlement Amount” means \$22,750,000 in cash.

(yy) “Settlement Class” means all persons and entities who purchased or otherwise acquired Cobalt Securities between March 1, 2011 and November 3, 2014, inclusive, and were damaged thereby. Included within the Settlement Class are all persons and entities who purchased or otherwise acquired shares of Cobalt common stock

on the open market and/or pursuant or traceable to the registered public offerings on or about: (i) February 23, 2012; (ii) January 16, 2013; and (iii) May 8, 2013. Also included within the Settlement Class are all persons and entities who purchased or otherwise acquired Cobalt convertible senior notes on the open market and/or pursuant or traceable to registered public offerings on or about: (i) December 12, 2012; and (ii) May 8, 2014. Excluded from the Settlement Class are: Defendants; the officers and directors of Defendants during the Class Period (the “Excluded Officers and Directors”); members of the Immediate Family of the Individual Defendants and of the Excluded Officers and Directors; any entity in which any Defendant, any Excluded Officer or Director, or any of their respective Immediate Family Members has, and/or had during the Class Period, a controlling interest; Defendants’ liability insurance carriers; any affiliates, parents, or subsidiaries of the corporate Defendants; all corporate Defendants’ plans that are covered by ERISA; and the legal representatives, heirs, agents, affiliates, successors-in-interest or assigns of any excluded person or entity, in their respective capacity as such; *provided, however*, that any Investment Vehicle (as defined herein) shall not be deemed an excluded person or entity by definition. Also excluded from the Settlement Class are any persons and entities who or which exclude themselves by submitting a request for exclusion that is accepted by the Court.

(zz) “Settlement Class Member” means each person and entity who or which is a member of the Settlement Class.

(aaa) “Settlement Fund” means the Settlement Amount plus any and all interest earned thereon.

(bbb) “Settlement Hearing” means the hearing set by the Court under Rule 23(e)(2) of the Federal Rules of Civil Procedure to consider final approval of the Settlement.

(ccc) “Settling Parties” means the Underwriter Settling Defendants and Plaintiffs, on behalf of themselves and the Settlement Class.

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

(eee) “Settling Defendants’ Releasees” means: (i) the Underwriter Settling Defendants; (ii) the current and former parents, affiliates, subsidiaries, successors, predecessors, assigns, and assignees of each of the Underwriter Settling Defendants; (iii) the current and former officers, directors, agents, employees, attorneys, advisors, and insurers of each of the foregoing in (i) and (ii), in their capacities as such. Notwithstanding the foregoing, the Settling Defendants’ Releasees do not include any Non-Settling Defendants and do not include any of the Underwriter Settling Defendants’ liability insurance carriers, in their capacities as such.

(fff) “Sponsor Defendants” means defendants The Goldman Sachs Group, Inc., Riverstone Holdings LLC, FRC Founders Corporation (f/k/a First Reserve Corporation), ACM Ltd. (f/k/a KERN Partners Ltd.), and The Carlyle Group, L.P.

(ggg) “Sponsor Designee Defendants” means defendants Peter R. Coneway, Henry Cornell, N. John Lancaster, Kenneth W. Moore, J. Hardy Murchison, Kenneth A. Pontarelli, D. Jeff van Steenberg, Scott L. Lebovitz, and Michael G. France.

(hhh) “Stipulation” means this Stipulation and Agreement of Settlement between the Plaintiffs and the Underwriter Settling Defendants.

(iii) “Summary Notice” means the Summary Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, substantially in the form attached hereto as Exhibit 4 to Exhibit A, to be published as set forth in the Preliminary Approval Order.

(jjj) “Taxes” means: (i) all federal, state, and/or local taxes of any kind (including any interest or penalties thereon) on any income earned by the Settlement Fund; (ii) the expenses and costs incurred by Lead Counsel in connection with determining the amount of, and paying, any taxes owed by the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants); and all taxes imposed on payments by the Settlement Fund, including withholding taxes.

(kkk) “Underwriter Defendants” means the Underwriter Settling Defendants and GS&Co.

(lll) “Underwriter Settling Defendants” means Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, Citigroup Global Markets Inc., J.P. Morgan Securities LLC, Tudor, Pickering, Holt & Co. Securities, Inc., Deutsche Bank Securities Inc., RBC Capital Markets, LLC, UBS Securities LLC, Howard Weil Incorporated, Stifel, Nicolaus & Company, Incorporated, Capital One Southcoast, Inc., and Lazard Capital Markets LLC, except to the extent any of the foregoing is converted into a Non-Settling Defendant pursuant to the terms of ¶ 39 below.

(mmm) “Unknown Claims” means any Released Plaintiffs’ Claims which any Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of such claims, and any Released Settling Defendants’ Claims which any Underwriter Settling Defendant does not know or suspect to exist in its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision as to this Settlement. As to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date of the Settlement, Plaintiffs and the Underwriter Settling Defendants shall expressly waive, and each of the other Settlement Class Members shall be deemed to have waived, and by operation of the Judgment or the Alternate Judgment, if applicable, 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 or foreign law, that is similar, comparable, or equivalent to California Civil 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.

Plaintiffs and the Underwriter Settling Defendants acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

CLASS CERTIFICATION

2. Solely for purposes of this Settlement and for no other purpose, the Underwriter Settling Defendants do not contest: (a) certification of the Action as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of the Settlement Class; (b) certification of Plaintiffs as class representatives for the Settlement Class; and (c) appointment of Lead Counsel as class counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure. In the event that this Settlement is terminated pursuant to the terms of this Stipulation, the certification of the Settlement Class in connection with this Settlement shall become null and void. In such case, the Underwriter Settling Defendants shall have the right to continue to prosecute their appeal in the Court of Appeals of the Court's June 15, 2017 Memorandum and Order certifying a class, and shall have the right to otherwise oppose certification and/or seek decertification of the class.

PRELIMINARY APPROVAL OF SETTLEMENT

3. Promptly upon execution of this Stipulation, Plaintiffs shall move for preliminary approval of the Settlement, certification of the Settlement Class for settlement purposes only, and the scheduling of a hearing for consideration of final approval of the Settlement, and the Underwriter Settling Defendants shall not oppose that motion. Concurrently with the motion for preliminary approval, Plaintiffs shall apply to the Court for, and the Underwriter Settling Defendants shall agree to, entry of the Preliminary Approval Order, substantially in the form attached hereto as Exhibit A.

RELEASE OF CLAIMS

4. The obligations incurred pursuant to this Stipulation are in consideration of: (a) the full and final disposition of the Action as against the Underwriter Settling Defendants; and (b) the Releases provided for herein.

5. Pursuant to the Judgment, or the Alternate Judgment, if applicable, without further action by anyone, upon the Effective Date of the Settlement, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment, or the Alternate Judgment, if applicable, shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim against the Settling Defendants' Releasees, and shall forever be barred and enjoined from asserting, instituting, commencing, prosecuting, assisting, or maintaining any or all of the Released Plaintiffs' Claims against any of the Settling Defendants' Releasees.

6. Pursuant to the Judgment, or the Alternate Judgment, if applicable, without further action by anyone, upon the Effective Date of the Settlement, the Underwriter Settling Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment, or the Alternate Judgment, if applicable, shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Settling

Defendants' Claim against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from asserting, instituting, commencing, prosecuting, assisting, or maintaining any or all of the Released Settling Defendants' Claims against any of the Plaintiffs' Releasees. This release shall not apply to any person or entity who or that submits a request for exclusion from the Settlement Class that is accepted by the Court.

7. Notwithstanding ¶¶ 5–6 above, nothing in the Judgment, or the Alternate Judgment, if applicable, shall bar any action by any of the Settling Parties to enforce or effectuate the terms of this Stipulation or the Judgment, or Alternate Judgment, if applicable.

THE SETTLEMENT CONSIDERATION

8. In consideration of the settlement of the Released Plaintiffs' Claims against the Underwriter Settling Defendants and the other Settling Defendants' Releasees, the Underwriter Settling Defendants shall pay or cause to be paid (including by their insurers) the Settlement Amount into the Escrow Account no later than twenty (20) business days after the later of: (i) the date of entry by the Court of an order preliminarily approving this Settlement or December 6, 2018, or (ii) the receipt by Settling Defendants' Counsel from Lead Counsel of the information necessary to effectuate a transfer of funds to the Escrow Account, including wiring instructions that include the bank name and ABA routing number, account name and number, and a signed W-9 reflecting a valid taxpayer identification number for the Qualified Settlement Fund in which the Settlement Amount is to be deposited.

9. The Settlement Amount is to be paid or caused to be paid by the Underwriter Settling Defendants, severally and not jointly, pursuant to such confidential allocation as the Underwriter Settling Defendants alone have determined. No Underwriter Settling Defendant shall be liable for more than its agreed share of the Settlement Amount. In the event that one or more of the Underwriter Settling Defendants fails to pay its agreed share of the Settlement Amount, the remaining Underwriter Settling Defendants shall have the right, but not the obligation, to fund the shortfall.

USE OF SETTLEMENT FUND

10. The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Notice and Administration Costs, to be paid in accordance with ¶ 15; (c) any Litigation Expenses awarded by the Court; and (d) any attorneys' fees awarded by the Court. The balance remaining in the Settlement Fund, that is, the Net Settlement Fund, shall be distributed to Authorized Claimants as provided in ¶¶ 19–31 below.

11. Except as provided herein or pursuant to orders of the Court, the Net Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds 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 funds shall be distributed or returned pursuant to the terms of this Stipulation and/or further order of the Court. The Escrow Agent shall invest any funds in the Escrow Account exclusively in United States Treasury Bills (or a mutual fund invested solely in such instruments) and shall collect and reinvest all interest accrued thereon, except that any residual cash balances up to the amount that is insured by the FDIC may be deposited in any account

that is fully insured by the FDIC. In the event that the yield on United States Treasury Bills is negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. Additionally, if short-term placement of the funds is necessary, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States.

12. The Settling Parties agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and that Lead Counsel, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Settlement Fund. Lead Counsel shall also be responsible for causing payment to be made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund. The Settling Defendants' Releasees shall not have any liability or responsibility for any such Taxes. Upon written request, the Underwriter Settling Defendants will provide to Lead Counsel a combined statement described in Treasury Regulation § 1.468B-3(e). Lead Counsel, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a "relation back election," as described in Treasury Regulation

§ 1.468B–1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

13. All Taxes shall be paid out of the Settlement Fund, and shall be timely paid, by the Escrow Agent pursuant to the disbursement instructions to be set forth in the Escrow Agreement, and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous paragraph 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. The Settling Defendants' Releasees shall have no responsibility or liability for the acts or omissions of Lead Counsel or their agents with respect to the payment of Taxes, as described herein.

14. The Settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, no Underwriter Settling Defendant, Settling Defendants' Releasee, or any other person or entity who or which paid any portion of the Settlement Amount shall have any right to the return of the Settlement Fund or any portion thereof for any reason whatsoever, including without limitation, the number of Claims submitted, the collective amount of Recognized Losses (as set forth in the Plan of Allocation, or in such other plan of allocation as the Court approves) of Authorized Claimants, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants from the Net Settlement Fund.

15. Before the Effective Date of the Settlement, Lead Counsel may pay up to \$350,000 from the Settlement Fund, without further approval from Underwriter Settling Defendants or further order of the Court, for Notice and Administration Costs actually incurred and paid or payable. Such costs and expenses shall include, without limitation, the actual costs of printing and mailing the Notice and Claim Form (the “Notice Packet”) and publishing the Summary Notice, reimbursements to nominee owners for forwarding the Notice Packet to their beneficial owners, the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice, administering the Settlement (including processing the submitted Claims), and the fees, if any, of the Escrow Agent. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all Notice and Administration Costs paid or incurred, including any related fees, shall not be returned or repaid to any Underwriter Settling Defendants, any of the other Settling Defendants’ Releasees, or any other person or entity who or which paid any portion of the Settlement Amount. In the event that the Court preliminarily approves the Settlement such that notice can be disseminated simultaneously with notice of the Sponsor Settlement and/or Cobalt Settlement, or administration of either such settlement is conducted in conjunction with administration of this Settlement, Lead Counsel shall have the discretion to allocate reasonably all Notice and Administration Costs paid or incurred, including any related fees, among the Settlement Fund and any settlement funds for any other such settlements.

ATTORNEYS' FEES AND LITIGATION EXPENSES

16. Lead Counsel will apply to the Court for a collective award of attorneys' fees to Plaintiffs' Counsel to be paid from (and out of) the Settlement Fund. Lead Counsel also will apply to the Court for reimbursement of Litigation Expenses, which may include a request for reimbursement of Plaintiffs' reasonable costs and expenses directly related to their representation of the Settlement Class, to be paid from (and out of) the Settlement Fund. Lead Counsel's application for an award of attorneys' fees and Litigation Expenses is not the subject of any agreement between the Settling Parties other than what is set forth in this Stipulation. The Underwriter Settling Defendants shall have no responsibility for or liability whatsoever for any notice sent to members of the Settlement Class concerning Lead Counsel's application for an award of attorneys' fees and Litigation Expenses.

17. Any attorneys' fees and Litigation Expenses that are awarded by the Court shall be paid to Lead Counsel immediately upon award, 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 Plaintiffs' Counsel's obligation to make appropriate refunds or repayments to the Settlement Fund, plus accrued interest at the same net rate as is earned by the Settlement Fund, if the Settlement is terminated pursuant to the terms of this Stipulation or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the award of attorneys' fees and/or Litigation Expenses is reduced or reversed and such order reducing or reversing the award has become Final. Plaintiffs' Counsel shall make the appropriate refund or repayment in full

no later than thirty (30) days after: (a) receiving from the Settling Defendants' Counsel notice of the termination of the Settlement; or (b) any order reducing or reversing the award of attorneys' fees and/or Litigation Expenses has become Final. An award of attorneys' fees and/or Litigation Expenses is not a necessary term of this Stipulation and is not a condition of the Settlement embodied herein. Neither Plaintiffs nor Lead Counsel may cancel or terminate the Settlement based on this Court's or any appellate court's ruling with respect to attorneys' fees and/or Litigation Expenses.

18. Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution and settlement of the Action against the Underwriter Settling Defendants. The Settling Defendants' Releasees shall have no responsibility for or liability whatsoever with respect to the allocation or award of attorneys' fees or Litigation Expenses. The attorneys' fees and Litigation Expenses that are awarded to Plaintiffs' Counsel shall be payable solely from the Escrow Account.

NOTICE AND SETTLEMENT ADMINISTRATION

19. As part of the Preliminary Approval Order, Plaintiffs shall seek appointment of a Claims Administrator. The Claims Administrator shall administer the Settlement, including but not limited to the process of receiving, reviewing, and approving or denying Claims, under Lead Counsel's supervision and subject to the jurisdiction of the Court. None of the Underwriter Settling Defendants, nor any other Settling Defendants' Releasees, shall have any involvement in or any responsibility, authority, or liability whatsoever for the selection of the Claims Administrator, the Plan

of Allocation, the administration of the Settlement, the Claims process, or disbursement of the Net Settlement Fund, and shall have no liability whatsoever to any person or entity, including, but not limited to, Plaintiffs, any other Settlement Class Members, or Lead Counsel in connection with the foregoing. Settling Defendants' Counsel shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms.

20. In accordance with the terms of the Preliminary Approval Order to be entered by the Court, Lead Counsel shall cause the Claims Administrator to mail the Notice Packet to those members of the Settlement Class as may be identified through reasonable effort. Lead Counsel shall also cause the Claims Administrator to have the Summary Notice published in accordance with the terms of the Preliminary Approval Order to be entered by the Court.

21. No later than ten (10) calendar days following the filing of this Stipulation with the Court, the Underwriter Settling Defendants shall serve the notice required under the Class Action Fairness Act, 28 U.S.C. § 1715 *et seq.* ("CAFA"). The Underwriter Settling Defendants are solely responsible for the costs of the CAFA notice and administering the CAFA notice. At least seven (7) calendar days before the Settlement Hearing, the Underwriter Settling Defendants shall cause to be served on Lead Counsel and filed with the Court proof, by affidavit or declaration, regarding compliance with CAFA § 1715(b).

22. The Claims Administrator shall receive Claims and determine first, whether the Claim is a valid Claim, in whole or part, and second, each Authorized Claimant's *pro*

rata share of the Net Settlement Fund as set forth in the Plan of Allocation, or in such other plan of allocation as the Court approves.

23. The proposed Plan of Allocation is not a necessary term of the Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation that any particular plan of allocation be approved by the Court. Plaintiffs and Lead Counsel may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation in this Action. The Underwriter Settling Defendants and the other Settling Defendants' Releasees shall not object in any way to the Plan of Allocation or any other plan of allocation in this Action. No Underwriter Settling Defendant, nor any other Settling Defendants' Releasee, shall have any involvement with or liability, obligation or responsibility whatsoever for the application of the Court-approved plan of allocation.

24. Any Settlement Class Member who or that does not submit a valid Claim will not be entitled to receive any distribution 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 Judgment or, the Alternate Judgment, if applicable, to be entered in the Action and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim, or other proceeding of any kind against the Settling Defendants' Releasees with respect to the Released Plaintiffs' Claims in the event that the Effective Date occurs with respect to the Settlement.

25. Any Settlement Class Member who or that does not timely and validly request exclusion from the Settlement Class in the manner stated in the Preliminary

Approval Order: (a) shall be deemed to have waived his, her, or its right to be excluded from the Settlement Class; (b) shall be forever barred from requesting exclusion from the Settlement Class in this or any other proceeding; (c) shall be bound by the provisions of this Stipulation, the Settlement, and all proceedings, determinations, orders, and judgments in the Action relating to the Settlement, including, but limited to, the Judgment or the Alternate Judgment, if applicable, and the Releases provided for therein whether favorable or unfavorable to the Settlement Class; and (d) shall be barred and enjoined from asserting, instituting, commencing, prosecuting, assisting, or maintaining any of the Released Plaintiffs' Claims against any of the Settling Defendants' Releasees.

26. Lead Counsel shall be responsible for supervising the administration of the Settlement and the disbursement of the Net Settlement Fund subject to Court approval. No Underwriter Settling Defendant or any other Settling Defendants' Releasee, shall be permitted to review, contest, or object to any Claim, or any decision of the Claims Administrator or Lead Counsel with respect to accepting or rejecting any claim for payment. Lead Counsel shall have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claims submitted in the interests of achieving substantial justice. The extent, if any, to which a Settlement Class Member shall be entitled to be treated as an Authorized Claimant shall be as set forth in the Preliminary Approval Order attached hereto as Exhibit A and in the Notice (including the Plan of Allocation) attached hereto as Exhibit 1 to Exhibit A.

27. 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 under the Federal Rules of Civil Procedure, provided, however, that such investigation and discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or of the Settlement in connection with the processing of Claims.

28. Lead Counsel will apply to the Court, on notice to Settling Defendants' Counsel, for a Class Distribution Order: (a) approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the Claims submitted, by or on behalf of persons and entities seeking to share in the distribution of the Net Settlement Fund; (b) approving payment of any administration fees and expenses associated with the administration of the Settlement from the Escrow Account; and (c) if the Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants from the Escrow Account.

29. Payment pursuant to the Class Distribution Order shall be final and conclusive against all Claimants. All Settlement Class Members whose Claims are not approved by the Court for payment shall be barred from participating 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 Judgment or Alternate Judgment, if applicable, to be entered in this Action and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action against any and all Settling Defendants' Releasees with respect to any and all of the Released Plaintiffs' Claims.

30. No person or entity shall have any claim against Plaintiffs, Plaintiffs' Counsel, the Claims Administrator, or any other agent designated by Lead Counsel, or the Settling Defendants' Releasees and/or their respective counsel, arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or any order of the Court. The Settling Parties, their respective counsel, and all other Releasees shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund, the plan of allocation, or the determination, administration, calculation, or payment of any claim or nonperformance of the Claims Administrator, the payment or withholding of Taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

31. 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. All Settlement Class Members, other Claimants, and the Settling Parties expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations.

TERMS OF THE JUDGMENT

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

may immediately enter final judgment as against the Underwriter Settling Defendants pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

33. The Judgment shall contain a bar order (“Bar Order”) substantially in the form set forth in Exhibit B that shall, pursuant to the PSLRA and common law, bar all future claims and claims over by any individual or entity against any of the Settling Defendants’ Releasees, and by the Settling Defendants’ Releasees against any individual or entity, for (a) contribution or indemnity (or any other claim or claim over, however denominated on whatsoever theory) arising out of or related to the claims or allegations asserted by Plaintiffs in the Action, or (b) any other claim of any type, whether arising under state, federal, common, or foreign law, for which the injury claimed is that person’s or entity’s actual or threatened liability to Plaintiffs and/or members of the Settlement Class arising out of or related to the claims or allegations asserted by Plaintiffs in the Action. The Bar Order shall also provide that any final verdict or judgment that may be obtained by or on behalf of the Settlement Class or a Settlement Class Member against any individual or entity subject to the Bar Order shall be reduced by the greater of: (a) an amount that corresponds to the percentage of responsibility of the Underwriter Settling Defendants for common damages; or (b) the amount paid by or on behalf of the Underwriter Settling Defendants to the Settlement Class or Settlement Class Members for common damages. Nothing in the Bar Order or this Stipulation shall release any proofs of claim that any of the Underwriter Settling Defendants has filed in the Cobalt bankruptcy or any claims that the Underwriter Settling Defendants may have against their own respective liability insurance carriers. Nothing in the Bar Order or this Stipulation

shall be construed to impair, negate, diminish, or adversely affect any rights of the Underwriter Settling Defendants or their successors or assigns under or with respect to any insurance policies, including, but without limitation, any rights to seek to recover or to recover insurance proceeds or payments under any insurance policies with respect to amounts paid pursuant to this Stipulation or incurred in connection with the Action, or any other actual or alleged loss or liability, and the Underwriter Settling Defendants expressly reserve all rights, claims, positions, arguments, contentions, and defenses with respect to such matters.

**CONDITIONS OF SETTLEMENT AND EFFECT OF
DISAPPROVAL, CANCELLATION OR TERMINATION**

34. The Effective Date of the Settlement shall be deemed to occur on the occurrence or waiver in writing of all of the following events:

(a) the Court has entered the Preliminary Approval Order, substantially in the form set forth in Exhibit A attached hereto, as required by ¶ 3 above;

(b) the Settlement Amount has been deposited into the Escrow Account in accordance with the provisions of ¶ 8 above, or less than the Settlement Amount was deposited and Plaintiffs elected to proceed with the Settlement pursuant to ¶ 39 below;

(c) the Underwriter Settling Defendants have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation;

(d) Plaintiffs have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation; and

(e) the Court has approved the Settlement as described herein, following notice to the Settlement Class and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure, and entered the Judgment and the Judgment has become Final, or the Court has entered an Alternate Judgment and none of the Settling Parties seek to terminate the Settlement and the Alternate Judgment has become Final.

35. The occurrence of the Effective Date is not conditioned on the Court having approved a plan of allocation for the Settlement proceeds or a claims process having begun. It is expressly understood and agreed that the determination of when the Plan of Allocation for the proceeds of the Settlement should be presented to the Court for approval is to be made solely by Plaintiffs. Upon the occurrence of all of the events referenced in ¶ 34 above, any and all remaining interest or right of the Underwriter Settling Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished and the Releases herein shall be effective.

36. If (i) the Underwriter Settling Defendants exercise their right to terminate the Settlement as provided in this Stipulation; (ii) Plaintiffs exercise their right to terminate the Settlement as provided in this Stipulation; (iii) the Court disapproves the Settlement; or (iv) the Effective Date as to the Settlement otherwise fails to occur, then:

(a) the Settlement and the relevant portions of this Stipulation shall be canceled and terminated; and

(b) Plaintiffs and the Underwriter Settling Defendants shall revert to their respective positions in the Action as of immediately prior to the date of execution of this Stipulation.

(c) The terms and provisions of this Stipulation, with the exception of this ¶ 36, and ¶¶ 15, 17, 40 and 62 of this Stipulation, shall have no further force and effect with respect to the Settling Parties and shall not be used in the Action or in any other proceeding for any purpose, and any Judgment, or Alternate Judgment, if applicable, or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*.

(d) Within five (5) business days after joint written notification of termination is sent by the Settling Defendants' Counsel and Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest thereon, and change in value as a result of the investment of the Settlement Fund, any funds received by Lead Counsel consistent with ¶ 17 above), less any Notice and Administration Costs actually incurred, paid or payable and less any Taxes paid, due or owing shall be refunded by the Escrow Agent to the Underwriter Settling Defendants or any of their insurers in proportion to the amounts that each contributed to the Settlement Fund (or in such amounts or proportions or to such other persons or entities as the Underwriter Settling Defendants may direct). In the event that the funds received by Lead Counsel consistent with ¶ 17 above have not been refunded to the Settlement Fund within the five (5) business days specified in this paragraph, those funds shall be refunded by the Escrow Agent to the Underwriter Settling Defendants or any of their insurers in proportion to the amounts that each contributed to the Settlement Fund (or in such amounts or proportions or to such other persons or entities as the Underwriter Settling Defendants may direct) immediately upon their deposit into the Escrow Account consistent with ¶ 17 above.

37. It is further stipulated and agreed that each of the Underwriter Settling Defendants and Plaintiffs shall each have the right to terminate the Settlement and this Stipulation, by providing written notice of their election to do so (“Termination Notice”) to the other parties to this Stipulation within thirty (30) days of: (a) the Court’s final refusal to enter the Preliminary Approval Order in any material respect; (b) the Court’s final refusal to approve the Settlement or any material part thereof; (c) the Court’s final refusal to enter the Judgment in any material respect as to the Settlement; (d) the date upon which the Judgment is modified or reversed in any material respect by the Court of Appeals or the United States Supreme Court; or (e) the date upon which an Alternate Judgment, if applicable, is modified or reversed in any material respect by the Court of Appeals or the United States Supreme Court, and the provisions of ¶ 36 above shall apply. Any decision or proceeding, however, whether in this Court or any appellate court, with respect to an application for attorneys’ fees or reimbursement of Litigation Expenses or with respect to any plan of allocation shall not be considered material to the Settlement, shall not affect the finality of any Judgment or Alternate Judgment, if applicable, and shall not be grounds for termination of the Settlement.

38. In addition to the grounds set forth in ¶ 37 above, the Underwriter Settling Defendants shall have the unilateral right to terminate the Settlement in the event that Settlement Class Members timely and validly requesting exclusion from the Settlement Class meet the conditions set forth in the Underwriter Settling Defendants’ confidential supplemental agreement with Plaintiffs (the “Supplemental Agreement”), in accordance with the terms of that agreement. The Supplemental Agreement, which is being executed

concurrently herewith, shall not be filed with the Court and its terms shall not be disclosed in any other manner (other than the statements herein and in the Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) unless and until the Court otherwise directs or a dispute arises between Lead Plaintiffs and the Underwriter Settling Defendants concerning its interpretation or application, in which event the Settling Parties shall submit the Supplemental Agreement to the Court in camera and request that the Court afford it confidential treatment.

39. In the event that the Settlement Amount has not been fully and timely paid as provided for in ¶ 8 above, and only after satisfying the mediation protocol set forth in ¶ 59 below, Plaintiffs shall have the right, in their sole discretion, to: (i) terminate the Settlement by providing written notice of the election to terminate to Settling Defendants' Counsel; or, alternatively, (ii) elect to proceed with the Settlement, with each Underwriter Settling Defendant that has failed to pay its agreed share in accordance with the confidential allocation described in ¶ 9 immediately becoming a Non-Settling Defendant. The provisions of this paragraph shall constitute Plaintiffs' sole remedy for non-payment of the Settlement Amount in accordance with ¶ 8. In the event that any Underwriter Settling Defendant shall become a Non-Settling Defendant pursuant to this paragraph, Plaintiffs and such Non-Settling Defendant(s) shall revert to their respective positions in the Action as of immediately prior to the execution of this Stipulation. To facilitate the operation of the provisions of this paragraph, the Underwriter Settling Defendants shall, within two (2) business days after the last day for funding the Settlement Amount, identify to Lead Counsel any Underwriting Settling Defendant(s) that did not pay its

respective share(s) of the Settlement Amount and each such Underwriting Settling Defendant's allocated share of the Settlement Amount.

NO ADMISSION OF WRONGDOING

40. Neither this Stipulation (whether or not consummated), including the exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of this Stipulation, nor any proceedings taken pursuant to or in connection with this Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Settling Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Settling Defendants' Releasees with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Settling Defendants' Releasees or in any way referred to for any other reason as against any of the Settling Defendants' Releasees, 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 Stipulation;

(b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or

admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Settling Defendants' Releasees had meritorious defenses, or that damages recoverable from the Underwriter Settling Defendants under the Operative Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault, or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Plaintiffs' Releasees, 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 Stipulation; or

(c) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial against the Underwriter Settling Defendants;

provided, however, that if this Stipulation is approved by the Court, the Settling Parties and the Releasees and their respective counsel may refer to it to effectuate the protections from liability granted hereunder or otherwise to enforce the terms of the Settlement.

MISCELLANEOUS PROVISIONS

41. 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 Stipulation and the terms of any exhibit attached hereto, the terms of the Stipulation shall prevail.

42. Each Underwriting Settling Defendant warrants as to itself that, as to the payments made or to be made on behalf of it, at the time of entering into this Stipulation and at the time of such payment, it, or to the best of its knowledge, any person or entity contributing to the payment of the Settlement Amount, was not insolvent, nor will the payment required to be made by or on behalf of it render it insolvent, within the meaning of or for the purposes of the United States Bankruptcy Code, including §§ 101 and 547 thereof. This representation is made by each of the Underwriter Settling Defendants and not by their counsel.

43. In the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of any Underwriting Settling Defendant 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 deposited into the Settlement Fund by others, then, at the election of Plaintiffs, Plaintiffs and the Underwriter Settling Defendants shall jointly move the Court to vacate and set aside the Releases given and the Judgment or Alternate Judgment, if applicable, entered in favor of Underwriter Settling Defendants and the other Releasees pursuant to this Stipulation, in which event the releases and Judgment, or Alternate Judgment, if applicable, shall be null and void, and the Settling Parties shall be restored to their respective positions in the litigation as provided in ¶ 36 above and any cash amounts in the Settlement Fund (less any Taxes paid, due or owing with respect to the Settlement Fund and less any Notice and Administration Costs actually incurred, paid or payable) shall be returned as provided in ¶ 36.

44. The Underwriter Settling Defendants will take reasonable steps to retain and preserve documents collected in the Litigation (including electronically stored documents), for the shorter of four months from final judgment as to the Underwriter Settling Defendants or the conclusion of the action captioned *Cobalt v. Illinois National*, No. 4:17-cv-01450 (S.D. Tex.). For the avoidance of doubt, no Underwriter Settling Defendant shall have any obligation to produce any documents, including, but not limited to, documents: (a) protected by the attorney-client privilege, joint defense privilege, or work product doctrine in the Action, or (b) reflecting legal advice provided to the Underwriter Settling Defendants by defense counsel concerning the allegations in the Action.

45. The Settling Parties intend this Stipulation and the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Plaintiffs and any other Settlement Class Members against the Settling Defendants' Releasees with respect to the Released Plaintiffs' Claims. Accordingly, Plaintiffs and their counsel and the Underwriter Settling Defendants and their counsel agree not to assert in any forum that this Action was brought by Plaintiffs or defended by the Underwriter Settling Defendants in bad faith or without a reasonable basis. No Settling Party shall assert any claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the institution, prosecution, defense, or settlement of this Action. The Settling Parties agree that the amounts paid and the other terms of the Settlement were negotiated at arm's length and in good faith by the Settling Parties, and reflect the Settlement that was reached voluntarily after extensive negotiations and consultation with experienced legal

counsel, who were fully competent to assess the strengths and weaknesses of their respective clients' claims or defenses.

46. While retaining their right to deny that the claims asserted in the Action were meritorious, the Underwriter Settling Defendants and their counsel, in any statement made to any media representative (whether or not for attribution) will not assert that the Action was commenced or prosecuted in bad faith, nor will they deny that the Action was commenced and prosecuted in good faith and is being settled voluntarily after consultation with competent legal counsel. In all events, Plaintiffs and their counsel and Underwriter Settling Defendants and their counsel shall not make any accusations of wrongful or actionable conduct by any Settling Party concerning the prosecution, defense, and resolution of the Action, and shall not otherwise suggest that the Settlement constitutes an admission of any claim or defense alleged.

47. The terms of the Settlement, as reflected in this Stipulation, may not be modified or amended, nor may any of its provisions be waived except by a writing signed on behalf of both Plaintiffs and the Underwriter Settling Defendants (or their successors-in-interest).

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

49. 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 providing for awards of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel and enforcing the terms of this Stipulation,

including the Plan of Allocation (or such other plan of allocation as may be approved by the Court) and the distribution of the Net Settlement Fund to Settlement Class Members.

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

51. This Stipulation and its exhibits, and the Supplemental Agreement, constitute the entire agreement among Plaintiffs and the Underwriter Settling Defendants concerning the Settlement and this Stipulation and its exhibits. All Settling Parties acknowledge that no other agreements, representations, warranties, or inducements have been made by any Settling Party hereto concerning this Stipulation or its exhibits, or the Supplemental Agreement other than those contained and memorialized in such documents.

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

53. This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the Settling Parties, including any and all Releasees and any corporation, partnership, or other entity into or with which any Settling Party may merge, consolidate or reorganize.

54. The construction, interpretation, operation, effect and validity of this Stipulation, the Supplemental Agreement, and all documents necessary to effectuate it

shall be governed by the internal laws of the State of Texas without regard to conflicts of laws, except to the extent that federal law requires that federal law govern.

55. Any action arising under or to enforce this Stipulation or any portion thereof, shall be commenced and maintained only in the Court.

56. This Stipulation shall not be construed more strictly against one Settling 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 Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties and all Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

57. All counsel and any 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.

58. Lead Counsel and Settling Defendants' Counsel agree to cooperate with one another in seeking Court approval of the Preliminary Approval Order and the Settlement, as embodied in this Stipulation, and to use best efforts 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.

59. In the event that any dispute arises among the Settling Parties over the interpretation of this Stipulation or the actual or alleged failure of any Settling Party to comply with the terms of this Stipulation, including in the event that the Settlement Amount has not been fully and timely paid as provided for in ¶ 8 above, the Settling

Parties shall endeavor to engage former United States District Judge Layn Phillips, or another mediator mutually acceptable to the Settling Parties in the event that Judge Phillips cannot be engaged, to mediate the issue.

60. If any Settling Party is required to give notice to another Settling Party under this Stipulation, such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery or facsimile or email transmission, with confirmation of receipt. Notice shall be provided as follows:

If to Plaintiffs or Lead Counsel: Entwistle & Cappucci LLP
Attn: Andrew J. Entwistle, Esq.
299 Park Avenue, 20th Floor
New York, NY 10171
Telephone: (212) 894-7200
Facsimile: (212) 894-7272
Email: aentwistle@entwistle-law.com

-and-

Bernstein Litowitz Berger & Grossmann LLP
Attn: David R. Stickney, Esq.
12481 High Bluff Drive, Suite 300
San Diego, CA 92130-3582
Telephone: (858) 793-0070
Facsimile: (858) 793-0323
Email: davids@blbglaw.com

If to the Underwriter Settling Defendants: Skadden, Arp, Slate, Meagher & Flom LLP
Attn: Noelle M. Reed, Esq.
1000 Louisiana Street, Suite 6800
Houston, Texas 77002
Tel: (713) 655-5122
Fax: (713) 483-9122
Email: noelle.reed@skadden.com

61. Except as otherwise provided herein, each Settling Party shall bear its own costs.

62. Whether or not the Stipulation is approved by the Court and whether or not the Stipulation is consummated, or the Effective Date occurs, the Settling Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents signed, and proceedings in connection with the Stipulation confidential; *provided*, however, that nothing herein shall prohibit disclosure of the foregoing to the Underwriter Settling Defendants' respective (i) limited partners; (ii) liability insurance carriers; (iii) reinsurers, and (iv) to any regulatory, self-regulatory or governmental entity or agency, *provided, however*, that to the extent disclosure is made pursuant to this sub-section, nothing in this Stipulation prohibits or restricts a Party or its attorney from initiating communications directly with, responding to any inquiry from, or otherwise cooperating in any criminal or other investigative proceeding by any such regulatory, self-regulatory or governmental entity or agency without notice to the other Party.

63. All agreements made and orders entered during the course of this Action relating to the confidentiality of information shall survive this Settlement.

64. No opinion or advice concerning the tax consequences of the proposed Settlement to individual Settlement Class Members is being given or will be given by the Settling Parties or their counsel; nor is any representation or warranty in this regard made by virtue of this Stipulation. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it

is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.

IN WITNESS WHEREOF, the Settling Parties have caused this Stipulation to be executed, by their duly authorized attorneys, as of November 28, 2018.

ENTWISTLE & CAPPUCCI LLP

By:  _____

Andrew J. Entwistle
Vincent R. Cappucci
299 Park Avenue, 20th Floor
New York, NY 10171
Telephone: (212) 894-7200
Facsimile: (212) 894-7272

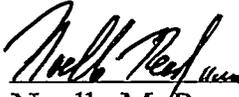
**BERNSTEIN LITOWITZ BERGER &
GROSSMANN LLP**

By:  (NR) _____
David R. Stickney

Jonathan D. Uslaner
12481 High Bluff Drive, Suite 300
San Diego, CA 92130-3582
Telephone: (858) 793-0070
Facsimile: (858) 793-0323

*Lead Counsel for Plaintiffs and the
Settlement Class*

**SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP**

By: 

Noelle M. Reed

1000 Louisiana Street, Suite 6800
Houston, Texas 77002
Tel: (713) 655-5122
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Deutsche Bank Securities Inc., RBC
Capital Markets, LLC, UBS Securities
LLC, Howard Weil Incorporated, Stifel,
Nicolaus & Company, Incorporated,
Capital One Southcoast, Inc., and Lazard
Capital Markets LLC*