

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE POLAROID ERISA  
LITIGATION

MASTER FILE: 03 CV 8335 (WHP)

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

**CLASS ACTION SETTLEMENT AGREEMENT**

This CLASS ACTION SETTLEMENT AGREEMENT (“Settlement Agreement”) is entered into by and between the Named Plaintiffs (¶ 1.25) in the above-captioned Action (¶ 1.1) for themselves, the Plan (¶ 1.32), and the Class (¶ 1.8), on the one hand, and the Defendants (¶ 1.21) and the Insurer (¶ 1.23) on the other, in consideration of the promises, covenants and agreements herein described and for other good and valuable consideration acknowledged by each of them to be satisfactory and adequate.

NOW, THEREFORE, without any admission or concession on the part of the Named Plaintiffs of any lack of merit of the Action whatsoever, and without any admission or concession on the part of the Defendants as to the merit of the Action, it is hereby STIPULATED AND AGREED, by and among the Parties (¶ 1.28) to this Settlement Agreement, through their respective attorneys, subject to approval of the Court (¶1.14) pursuant to the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the Parties hereto from the Settlement Agreement, that all Released Claims (¶¶ 1.36 and 3.1.1) as against the Released Parties (¶ 1.37) shall be compromised, settled, released, and dismissed with prejudice, upon and subject to the following terms and conditions:

1. Definitions.

As used in this Settlement Agreement, the following terms have the meanings provided below:

1.1 “*Action*” shall mean *In re Polaroid ERISA Litigation*, Civil Action No. 03 CV 8335 (WHP), United States District Court for the Southern District of New York (Hon. William H. Pauley), and any and all cases now or hereafter consolidated therewith.

1.2 “*Agreement Execution Date*” shall mean the date on which this Settlement Agreement is fully executed, as provided in ¶ 12.13 below.

1.3 “*Appointed Counsel*” shall mean Co-Lead Counsel and any other attorney or law firm that has been authorized by this Settlement Agreement and the Court to, and has, rendered services for the Class in the Action.

1.4 “*Bar Order*” shall have the meaning set forth in ¶ 11.1.

1.5 “*Barred Party*” and “*Barred Parties*” shall mean any non-party to this Settlement Agreement that seeks relief from the Defendants for conduct arising out of or related in any way to the acts, omissions, facts, matters, transactions, or occurrences that have generally been alleged or referred to in this Action.

1.6 “*Case Contribution Award*” shall mean the monetary amount awarded by the Court in recognition of the assistance provided by each Named Plaintiff in the prosecution of this Action. Co-Lead Counsel shall not ask for an amount to exceed \$10,000 per Named Plaintiff.

1.7 “*Cash Amount*” shall have the meaning set forth in ¶ 7.2.

1.8 “*Class*” shall mean the class as certified by the Court in its Memorandum and Order, rendered September 29, 2006 except as modified herein. Specifically, the *Class* includes “all persons who were participants in or beneficiaries of the Plan at any time between October 1, 1999 and January 15, 2003 (the “*Class Period*”) and whose accounts included investments in Polaroid Stock.” The *Class* shall not include any of the Individual Defendants, or any of their immediate family members, beneficiaries, alternate payees, Representatives, or Successors-In-Interest, except for spouses and immediate family members who themselves were participants in the Plan, who shall be considered members of the *Class* with respect to their own Plan accounts.

1.9 “*Class Notice*” shall mean the form of notice appended as Exhibit A to the form of Preliminary Approval Order, attached hereto as Exhibit 1.

1.10 “*Class Period*” shall mean the period from October 1, 1999 through and including January 15, 2003.

1.11 “*Co-Lead Counsel*” shall mean Schifffrin & Barroway, LLP and Keller Rohrback L.L.P.

1.12 “*Company*” shall mean Primary PDC, Inc. (formerly known as Polaroid Corporation) (“Polaroid”), and each Person that controls, is controlled by, or is under the common control of Polaroid, and their predecessors and Successors-In-Interest. For the purposes of this Settlement Agreement only, one company “controls” another company if (i) the former company directly, indirectly or acting through one or more other Persons owns or has the power to vote greater than 50 *per centum* or more of any class of voting securities of the latter company or (ii) the former company has the right to determine in any manner the election of a majority of the directors or trustees of the latter company.

1.13 “*Complaint*” shall mean the Amended Consolidated Complaint for Breach of Fiduciary Duty Under ERISA, dated September 15, 2004.

1.14 “*Court*” shall mean the United States District Court for the Southern District of New York.

1.15 “*ERISA*” shall mean the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, as amended, including all regulations promulgated thereunder, and any court decisions interpreting them.

1.16 “*Fairness Hearing*” shall have the meaning set forth in ¶ 2.1.3.

1.17 “*Final*” shall mean with respect to any judicial ruling or order, that the period for any appeals, petitions, motions for reconsideration, rehearing, or *certiorari* or any other proceedings for review (“Review Proceeding”) has expired without the initiation of a Review Proceeding, or, if a Review Proceeding has been initiated, that there has occurred a full and final disposition of any such Review Proceeding without a reversal or any material modification, including the exhaustion of proceedings in any remand and/or subsequent appeal after remand. Notwithstanding any other provision hereof, the Final Order shall be deemed Final at the time set forth in the preceding sentence even if, at that time, (i) the Court has not yet entered an order regarding the Plan of Allocation or the award of legal fees and expenses or Case Contribution Awards, (ii) an order regarding the Plan of Allocation or the award of legal fees and expenses or Case Contribution Awards has been entered but has not yet become Final, or (iii) an order regarding the Plan of Allocation or the award of legal fees and expenses or Case Contribution Awards has been entered but is modified following a Review Proceeding.

1.18 “*Final Order*” shall have the meaning set forth in ¶ 2.2.

1.19 “*Financial Institution*” shall have the meaning set forth in ¶ 7.1.1.

1.20 “*Independent Fiduciary*” shall mean the Person retained by the Individual Defendants, subject to approval by the Named Plaintiffs, and paid solely by the Insurer to evaluate this Settlement and make certain determinations as contemplated in ¶ 2.4.

1.21 “*Defendants*” shall mean collectively the *Individual Defendants* and *State Street*.

“*Individual Defendants*” shall mean the following persons: Andra Bolotin, Judith Boynton, Benjamin Byrd, Janet Cramer, Gary DiCamillo, Deirdre Evens, William Flaherty, Neal Goldman, Harvey Greenberg, Donald Halsted, William Hubert, John Jenkins, Warren Kantrowitz, Carl Lueders, Jeffrey Miller, Ralph Norwood, Philip Ruddick, and Patricia Weller.

“*State Street*” shall mean (i) State Street Bank & Trust Company and its parents, subsidiaries, affiliates, predecessors; and Successors-In-Interest, and all of their officers, directors, employees, and agents; and (ii) any person or entity that performed services related to the Plan directly or indirectly on behalf of or in conjunction with State Street, including but not limited to Citistreet, LLC, Keeper Holdings, LLC and Citigroup, and their officers, directors, employees, and agents.

1.22 “*Insurance Policies*” shall mean Employee Benefit Plan Fiduciary Liability Insurance Policy Number 280-86-96 and Excess Insurance Policy Number 214-52-39, the reinstated policy, both issued to Polaroid Corporation by National Union Fire Insurance Company of Pittsburgh, Pa.

1.23 “*Insurer*” shall mean AIG Domestic Claims, Inc., on behalf of National Union Fire Insurance Company of Pittsburgh, Pa. and all of its parents, subsidiaries, affiliates, and/or related entities.

1.24 “*Judgment Reduction Amount*” shall have the meaning set forth in ¶ 11.3.

1.25 “*Named Plaintiffs*” shall mean Robert Correia, Bradford W. Pires, and Otis D. Powers.

1.26 “*Net Loss*” shall have the meaning set forth in ¶ 8.1.6.

1.27 “*Net Proceeds*” shall have the meaning set forth in ¶ 8.1.6.

1.28 “*Parties*” shall mean the Plaintiffs, the Individual Defendants, State Street and the Insurer.

1.29 “*Person*” shall mean any natural person, individual, partnership, corporation, governmental entity, or any other form of entity or organization.

1.30 “*Plaintiff Releasees*” shall have the meaning set forth in ¶ 3.2.

1.31 “*Plaintiffs*” shall mean the Named Plaintiffs, the Plan, each member of the Class, and their respective beneficiaries, alternate payees, executors, administrators, Representatives, and Successors-In-Interest.

1.32 “*Plan*” shall mean the Polaroid Retirement Savings Plan dated December 1, 1997 and as amended and/or restated at any time up to and including January 15, 2003. For the avoidance of doubt, the Plan shall include all versions of the Polaroid Retirement Savings Plan and all employee stock ownership plans (“ESOPs”) and profit sharing or section 401k plans established and/or maintained by or for the benefit of the Company and/or its current or former employees during the Class Period.

1.33 “*Plan of Allocation*” shall mean the plan of allocation approved by the Court as contemplated by ¶ 2.1.3 and described in ¶ 8.1.6.

1.34 “*Preliminary Approval Order*” shall have the meaning set forth in ¶ 2.1.1.

1.35 “*Preliminary Motion*” shall have the meaning set forth in ¶ 2.1.1.

1.36 “*Released Claims*” shall have the meaning set forth in ¶ 3.1.1.

1.37 “*Released Parties*” shall mean (i) the Company; (ii) the Individual Defendants; (iii) State Street; and (iv) the Insurer; and each of their respective parents, subsidiaries, affiliates, predecessors, Successors-In-Interest, and current and former Representatives, beneficiaries, and heirs.

1.38 “*Releases*” shall mean the releases set forth in ¶ 3.

1.39 “*Representatives*” shall mean representatives, attorneys, agents, directors, officers, employees, fiduciaries, and consultants.

1.40 “*Securities Action*” shall mean *In re Polaroid Securities Litigation*, Civil Action No. 03-CV-6480 (SHS), United States District Court for the Southern District of New York. Securities Action specifically excludes the Action.

1.41 “*Settlement*” shall mean the settlement to be consummated under this Settlement Agreement.

1.42 “*Settlement Fund*” shall have the meaning set forth in ¶ 7.1.

1.43 “*Successor-In-Interest*” shall mean a Person’s estate, legal representatives, heirs, successors or assigns, including successors or assigns that result from corporate mergers or other structural changes.

## 2. Conditions to Finality of the Settlement.

This Settlement shall be final when each of the following conditions in ¶¶ 2.1 through 2.4 has been satisfied.

2.1 Court Approval. The Settlement must be approved by the Court in accordance with the following steps:

2.1.1 Motion for Preliminary Approval of Settlement and Notice. As soon as reasonably possible upon the full execution of this Settlement Agreement by the Parties, the Plaintiffs will file a motion (“Preliminary Motion”) with the Court for an order substantially in the

form annexed hereto as Exhibit 1, including the exhibits thereto (the “Preliminary Approval Order”) and in good faith shall take reasonable steps to (i) secure expeditious Court entry of the Preliminary Approval Order; and (ii) request a date for the Fairness Hearing, described in ¶ 2.1.3, forty-five (45) days from the mailing of the Class Notice in accordance with ¶ 2.1.2.

2.1.2 Issuance of Class Notice. On the date and in the manner set by the Court in its Preliminary Approval Order, the Plaintiffs shall cause the Class Notice to be transmitted in the form and manner approved by the Court as directed in the Preliminary Approval Order.

2.1.3 The Fairness Hearing. On or after the date set by the Court for the hearing (the “Fairness Hearing”) the Court will determine: (i) whether to enter a judgment granting Final approval of the Settlement (which judgment is referred to herein as the “Final Order”); (ii) whether the distribution of the Settlement Fund as provided in the Plan of Allocation should be approved; and (iii) what legal fees, costs, and expenses should be awarded to Co-Lead Counsel and Appointed Counsel, and Case Contribution Award should be awarded to the Named Plaintiffs as contemplated by ¶ 10. Defendants and the Insurer agree not to take any position with respect to the matters described in clauses (ii) or (iii) of this ¶ 2.1.3.

2.2 Finality of Final Order. The Court shall have entered the Order and Final Judgment (“Final Order”), and the Final Order shall have become Final, provided that the Final Order shall be deemed Final at the time set forth in ¶ 1.17 even if, at that time, (i) the Court has not yet entered an order regarding the Plan of Allocation or the award of legal fees and expenses or Case Contribution Awards, (ii) an order regarding the Plan of Allocation or the award of legal fees and expenses or Case Contribution Awards has been entered but has not yet become Final, or (iii) an order regarding the Plan of Allocation or the award of legal fees and expenses or Case Contribution Awards has been entered but is modified following a Review Proceeding.

2.2.1 Defendants' Reservation of Rights. In the event the Court provides Final approval of the Settlement, Defendants shall withdraw their Fed. R. Civ. P. 23(f) appeal. If the Court does not provide Final approval of the Settlement, Defendants specifically reserve all of their rights to oppose any and all of Plaintiffs’ claims and to assert any and all defenses in this Action or otherwise. Defendants’ reservation includes, but is not limited to the right to oppose class certification and standing in this Action, including by proceeding with their Rule 23(f) appeal. In such event, this Settlement Agreement concerning any matter, including but not limited to class certification and/or standing, shall not be used against them.

2.3 Funding of Cash Amount. The Insurer, on behalf of the Individual Defendants, shall cause the Individual Defendants’ portion of the Cash Amount to be deposited in accordance with ¶ 7.2 within thirty (30) days of the Court’s entry of the Preliminary Approval Order. Also within thirty (30) days of the Court’s entry of the Preliminary Approval Order, State Street shall cause its portion of the Cash Amount to be deposited in accordance with ¶ 7.2. Under no circumstances shall the Individual Defendants or their Representatives have any obligation to fund any portion of the Cash Amount.

2.4 Approval of Independent Fiduciary. The Settlement will be contingent upon the Independent Fiduciary: (i) giving final approval to the Settlement and giving a release in its capacity as a fiduciary of the Plan and for and on behalf of the Plan which is coextensive with the release from the Plaintiffs; (ii) authorizing the Settlement in accordance with Prohibited Transaction Class Exemption 2003-39; and/or (iii) finding that the Settlement does not constitute a prohibited transaction under ERISA § 406. The Individual Defendants shall determine whether they require any or all of (i), (ii), and/or (iii). Failure of the Independent Fiduciary to approve this Settlement shall render this Settlement Agreement null and void and the Parties shall return to their respective positions as contemplated in ¶ 9.

2.4.1 Identity of the Independent Fiduciary. The Parties hereby agree to Fiduciary Counselors Inc. serving as Independent Fiduciary with respect to ¶ 2.4.

2.4.2 Expenses Associated with the Independent Fiduciary. The fees and costs associated with the services of the Independent Fiduciary shall be paid solely by the Insurer as provided in the letter agreement between the Independent Fiduciary and the Individual Defendants, dated May 26, 2006. Under no circumstances shall the Individual Defendants or their Representatives, State Street, the Plaintiffs, or Co-Lead Counsel be responsible for any such fees or costs associated with the services of the Independent Fiduciary.

### 3. Releases.

3.1 Releases of the Released Parties. Subject to ¶ 9 herein, effective upon the entry of the Final Order by the Court: the Plaintiffs absolutely and unconditionally release, relinquish, and forever discharge the Released Parties from the Released Claims that Plaintiffs directly, indirectly, derivatively, or in any other capacity ever had, now have or hereafter may have (and shall be enjoined from asserting such claims), except that the release under this ¶ 3.1 shall not include claims relating to the covenants or obligations set forth in this Settlement Agreement.

3.1.1 Released Claims. Subject to ¶ 3.4 below, the Released Claims shall be any and all actual or potential claims, actions, causes of action, demands, obligations, liabilities, attorneys' fees, and costs, whether arising under local, state, or federal law, whether by statute, contract, common law, or equity, whether brought in an individual, representative, or any other capacity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated that have been, could have been, or could be brought by any and/or all of the Plaintiffs, and arise out of or are related in any way to the acts, omissions, facts, matters, transactions, or occurrences that have been generally alleged or referred to in the Action, including but not limited to, (1) claims based on: (a) breach of any ERISA fiduciary duties to the Plaintiffs in connection with the acquisition, disposition, and/or retention of Polaroid stock by the Plan or by any and/or all of the Plaintiffs, (b) failure to appoint and/or adequately monitor Plan fiduciaries, (c) failure to provide complete and accurate information to Plan fiduciaries and/or the Plaintiffs, (d) violation of any other ERISA duties related to the acquisition, disposition,

or retention of Polaroid stock by any and/or all of the Plaintiffs; (2) claims that would be barred by principles of *res judicata* had the claims in the Action been fully litigated and resulted in a Final judgment or order; and (3) claims that pertain to the method and manner of the distribution of the Settlement Fund and/or the Plan of Allocation, including but not limited to any conduct related to the direction to calculate, the calculation of, and/or the allocation of the Cash Amount to any and/or all of the Plaintiffs, pursuant to the Plan of Allocation.

This release shall include any and all claims which the Plaintiffs do not know or suspect to exist in their favor at the time of the release of the Released Parties which, if known by them, might have affected their Settlement with and release of the Released Parties, or might have affected their decision not to object to this Settlement. With respect to any and all claims or potential claims, the Plaintiffs, upon the Agreement Execution Date shall be deemed to have, and by operation of the Final Judgment and Order shall have, expressly waived the provisions, rights and benefits of any provision of the laws of the United States or of any state which provides that a general release does not extend to claims which a party does not know or expect to exist in its favor at the time of executing the release, which if known to the party may have materially affected the Settlement. This release includes, without limitation, any claims or rights that the Plaintiffs may have under 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.

The Plaintiffs may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the claims being released, but the Plaintiffs shall be deemed to have, and by operation of the Final Judgment and Order shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiffs shall be deemed by operation of the Final Judgment and Order to have acknowledged that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

3.2 Defendants' Releases of the Plaintiffs, Co-Lead Counsel, and Appointed Counsel. Subject to ¶ 9 herein, effective upon the entry of the Final Order by the Court, the Individual Defendants, State Street, and the Insurer shall be deemed to have, and by operation of the Final Judgment and Order shall have, fully, finally, and forever released, relinquished, and discharged, and shall forever be enjoined from prosecution of the Plaintiffs, Co-Lead Counsel, and Appointed Counsel (collectively, the "Plaintiff Releasees") from any and all actual or potential claims, actions, causes of action, demands, obligations, liabilities, attorneys' fees, and costs, whether arising under

local, state, or federal law, whether by statute, contract, common law, or equity, whether brought in an individual, representative, or any other capacity (except for those claims specifically not released in ¶ 3.4 below), whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated that have been, could have been, or could be brought by the Individual Defendants, State Street, or the Insurer and arise out of or are related in any way to the acts, omissions, facts, matters, transactions, or occurrences that have been alleged or referred to in the Action, or the method and manner of the distribution of the Settlement Fund and the Plan of Allocation, except that the release under this ¶ 3.2 shall not include claims relating to the covenants or obligations set forth in this Settlement Agreement.

3.3 Claims Involving the Insurer. Subject to ¶ 9 herein, effective upon the entry of the Final Order by the Court, any and all claims by or on behalf of any of the Individual Defendants against the Insurer relating to the Released Claims shall be released, except for claims for attorneys' fees, costs, expenses, and/or any other losses that have been incurred to date or may be incurred in the future by the Individual Defendants but have not yet been paid by the Insurer. Any and all claims by or on behalf of the Insurer against the Individual Defendants or the Plan relating to the Released Claims shall be released, including, without limitation, any and all claims for contribution or indemnification for such Released Claims or any other claims relating to the payment to and distribution of the Settlement Fund.

3.4 Claims Not Released. Nothing in this Settlement Agreement shall release, bar, waive, or otherwise affect any claim that has been asserted, directly or derivatively, by any of the Plaintiffs or any of the Individual Defendants under the federal securities laws in the Securities Action, or any defense thereto; provided, however, that this ¶ 3.4 shall not be construed to permit any of the Plaintiffs to recover more than one hundred percent of their losses.

3.5 Claims Involving Individual Defendants and State Street. Subject to ¶ 9 herein, effective upon the entry of the Final Order by the Court, the Individual Defendants and State Street absolutely and unconditionally release, relinquish and forever discharge each other from any claim, liability or cause of action that they may have or have had against each other for contribution, indemnification, or otherwise relating in any way to the Released Claims.

#### 4. Covenants.

The Parties covenant and agree as follows:

4.1 Taxation of Cash Amount. Plaintiffs acknowledge that the Released Parties have no responsibility or liability for any taxes due on funds deposited in the Settlement Fund or that the Plaintiffs or Co-Lead Counsel receive from the Cash Amount, or any tax consequences of the Settlement or the Plan of Allocation, including but not limited to the manner in which it is structured and implemented. Nothing herein shall constitute an admission or representation that any such taxes will or will not be due. The Plaintiffs acknowledge and represent that they have sought and are relying on their own counsel and other professionals for such matters.

4.2 Cooperation. The Parties shall reasonably cooperate with each other to effectuate this Settlement.

4.3 Covenant Not to Sue. Plaintiffs, Defendants, and the Insurer covenant and agree: (i) not to file any Released Claim against any Released Party; and (ii) that the foregoing covenants and agreements shall be a complete defense to any such claims against any of the respective Released Parties. Any Party to this Settlement Agreement who breaches this covenant shall be liable for the Released Party's attorneys' fees and costs, and any other damages incurred as a result of such breach.

4.4 Stay of Discovery in the Action. The Parties acknowledge that all fact and expert discovery and other proceedings have been stayed with respect to the Individual Defendants since February 27, 2006. The Parties covenant and agree to continue that stay and also to stay proceedings in the Action with respect to State Street. Provided however, that if this Settlement Agreement shall terminate and become null and void for any reason this stay shall terminate five (5) days thereafter. If the stay is terminated, the Parties shall in good faith negotiate a scheduling stipulation regarding discovery and other proceedings in the Action pertaining to the Plaintiffs and Defendants for prompt submission to the Court.

## 5. Representations and Warranties.

5.1 Parties' Representations and Warranties. The Parties, and each of them, represent and warrant as follows, and each Party acknowledges that each other Party is relying on these representations and warranties in entering into this Settlement Agreement:

5.1.1 That they have conducted voluminous discovery and have diligently prepared for trial pursuant to the Court's orders; that they are voluntarily entering into this Settlement Agreement as a result of arm's length-negotiations among their counsel, with the assistance and recommendation of experienced mediators; that in executing this Settlement Agreement they are relying solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters that relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing this Settlement Agreement by any representations, statements, or omissions pertaining to any of the foregoing matters by any Party or by any Person representing any Party to this Settlement Agreement. Each Party assumes the risk of mistake as to facts or law.

5.1.2 That they have carefully read the contents of this Settlement Agreement, and this Settlement Agreement is signed freely by each Person executing this Settlement Agreement on behalf of each of the Parties. The Parties, and each of them, further represent and warrant to each other that he, she, or it has made such investigation of the facts pertaining to the Settlement, this Settlement Agreement, and all of the matters pertaining thereto, as he, she, or it deems necessary.

5.2 Signatories' Representations and Warranties. Each Person executing this Settlement Agreement on behalf of any other Person does hereby represent and warrant to the other Parties that he or she has the authority to execute this Settlement Agreement on behalf of, and fully bind, each principal whom such individual represents or purports to represent.

6. No Admission of Liability.

The Parties understand and agree that this Settlement Agreement embodies a compromised settlement of disputed claims, and that nothing in this Settlement Agreement, including the furnishing of consideration for this Settlement, shall be deemed to constitute any finding of fiduciary status or duty under ERISA or wrongdoing by any of the Defendants, or give rise to any inference of fiduciary status or duty under ERISA or wrongdoing or admission of wrongdoing or liability in this or any other proceeding. This Settlement Agreement and the payments made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. Defendants specifically deny any liability or wrongdoing. Further, the Named Plaintiffs, while believing that all claims brought in the Action have merit, have concluded that the terms of this Settlement Agreement are fair, reasonable and more than adequate to the Plan, themselves and members of the Class given, among other things, the inherent risks, difficulties, delays and costs in complex ERISA litigation such as this. Neither the fact nor the terms of this Settlement Agreement shall be offered or received in evidence in any action or proceeding for any purpose, except in an action or proceeding to enforce this Settlement Agreement or arising out of or relating to the Final Order.

7. Creation of and Obligations with Respect to the Settlement Fund.

7.1 The Settlement Fund.

7.1.1 Within five (5) days after the Agreement Execution Date, Co-Lead Counsel shall establish at a federally insured financial institution (the "Financial Institution") a settlement fund account (the "Settlement Fund") which shall be considered a common fund created as a result of the Action. Each Co-Lead Counsel firm shall designate at least one person with signature authority over this account (the "Signers"), and shall direct the Financial Institution to make distributions from the Settlement Fund only in accordance with this Settlement Agreement upon written direction from each Signer after written notice to all Parties. Co-Lead Counsel shall promptly notify the other Parties of the date of the establishment of the Settlement Fund. In no event shall Defendants or the Insurer be liable for any taxes or related expenses as may become due from the Settlement Fund and/or any of the Plaintiffs, or for the management of the Settlement Fund or distributions therefrom.

7.1.2 The Settlement Fund shall bear interest and shall be invested only in United States Treasury securities and/or securities of United States agencies backed by the full faith and credit of the United States Treasury with a maturity date not to exceed thirty (30) days, repurchase agreements collateralized by such securities, and mutual funds or money market accounts that invest

exclusively in the foregoing securities. The Settlement Fund shall be structured and managed to qualify as a Qualified Settlement Fund under Section 468B of the Internal Revenue Code and Treasury regulations promulgated thereunder and shall make tax filings and provide reports to Co-Lead Counsel for tax purposes. The Parties shall not take a position in any filing or before any tax authority inconsistent with such treatment. The Settlement Fund will pay any federal, state, and local taxes that may apply to the income of the Settlement Fund. The Financial Institution shall arrange for the preparation and filing of all tax reports and tax returns required to be filed by the Settlement Fund and for the payment from the Settlement Fund of any taxes owed, and will send Co-Lead Counsel copies of all such filings and receipts of payment in a timely manner. The Financial Institution shall be authorized to retain a certified public accounting firm for those purposes. All taxes on the income of the Settlement Fund and tax-related expenses incurred in connection with the taxation of the Settlement Fund shall be paid solely out of the Settlement Fund, shall be considered a cost of administration of the Settlement, and shall be timely paid without further order of the Court. The Financial Institution shall arrange for the preparation and issuance of any required Forms 1099 to the Named Plaintiffs receiving payments from the Settlement Fund, and costs incurred in connection therewith also shall be paid solely out of the Settlement Fund, shall be considered a cost of administration of the Settlement, and shall be timely paid by the Settlement Fund without further order of the Court. All fees and expenses of the Financial Institution, and of professional advisors engaged by the Financial Institution in connection with the Settlement Fund, shall be funded solely from the Settlement Fund. Co-Lead Counsel shall have exclusive responsibility to ensure compliance with the provisions of this ¶ 7.1.2. In no event shall Defendants or the Insurer be responsible for the administration or management of the Settlement Fund.

7.2 The Cash Amount. In consideration of all of the promises and agreements set forth in this Settlement Agreement, Defendants hereby agree to deposit into the Settlement Fund the sum of fifteen million dollars in United States currency (\$15,000,000) (the “Cash Amount”) to be paid by the Individual Defendants and State Street as described herein. The Insurer, on behalf of the Individual Defendants, will cause to be deposited into the Settlement Fund not later than thirty (30) days following the entry of the Preliminary Approval Order, the aggregate sum of twelve million dollars in United States currency (\$12,000,000). State Street will cause to be deposited into the Settlement Fund not later than thirty (30) days following the entry of the Preliminary Approval Order, the aggregate sum of three million dollars in United States currency (\$3,000,000). Under no circumstances shall the Individual Defendants be responsible for the Cash Amount or any other payments, taxes, costs, or fees whatsoever under this paragraph or under the Settlement Agreement, nor shall the Insurer or State Street be responsible for any such payments, taxes, costs, or fees beyond their respective obligations detailed above. Neither the Insurer nor State Street shall be responsible for the payment of the other’s portion of the “Cash Amount.”

8. Payments from the Settlement Fund.

8.1 Disbursements from Settlement Fund. Co-Lead Counsel shall direct the Financial Institution to disburse money from the Settlement Fund as follows:

8.1.1 For Expenses of Class Notice. After the entry of the Preliminary Approval Order, Co-Lead Counsel shall direct the Financial Institution in writing to disburse from the Settlement Fund an amount for the payment of reasonable costs of the Class Notice. If the Settlement Agreement is terminated for any reason, Co-Lead Counsel shall have no obligation to reimburse to the Settlement Fund the costs of the Class Notice, or other costs or expenses of the Settlement Fund charged to the Settlement Fund under this Settlement Agreement.

8.1.2 For Attorneys' Fees and Expenses as provided in ¶¶ 10.2 and 10.3.

8.1.3 For Case Contribution Awards as provided in ¶ 10.4.

8.1.4 For taxes and expenses of the Settlement Fund as provided in ¶ 7.1.

8.1.5 For reasonable fees and expenses of the trustee or administrator appointed to implement and/or administer the Plan of Allocation as provided in ¶¶ 8.2 and 8.3.

8.1.6 For the Plan of Allocation. The Parties will propose the following Plan of Allocation to the Court, which the Court shall approve in its discretion, and which shall provide for the allocation of the Settlement Fund net of the disbursements called for in ¶¶ 8.1.1, 8.1.2, 8.1.3, 8.1.4, and 8.1.5 ("Net Proceeds"). The Plan of Allocation will provide that each Class member's share of the Settlement Fund will be calculated as a general manner as follows:

(i) The Net Proceeds shall be distributed among the Class members in accordance with their alleged Net Losses. Each Class member's "Net Loss" will be the sum of the Class member's "Polaroid Common Stock Fund Net Loss" and "Employee Stock Ownership Plan Net Loss." If data is not available for the beginning date of the Class Period, then data from the nearest available date will be used.

(ii) "Polaroid Common Stock Fund Net Loss" will be, for each Class member, the greater of (a) zero, or (b) the result obtained by taking (i) the dollar amount of the Class member's Plan account balance invested in the Polaroid Common Stock Fund at the beginning of the Class Period; adding (ii) the dollar amount added to the Class member's Plan account balance invested in the Polaroid Common Stock Fund during the Class Period (including the value of Polaroid common stock received as a dividend); and subtracting (iii) the dollar amount credited to the Class member's Plan account balance resulting from dispositions from the Polaroid Common Stock Fund.

(iii) "Employee Stock Ownership Plan Net Loss" will be, for each Class member, the greater of (a) zero, or (b) the result obtained by taking (i) the dollar amount of the Class member's Plan account balance invested in the Polaroid ESOP Stock Fund at the beginning of the Class Period; adding (ii) the dollar amount added to the Class member's Plan account balance invested in the Polaroid ESOP Stock Fund during the Class Period (including the value of Polaroid common stock received as a dividend);

and subtracting (iii) the dollar amount credited to the Class member's Plan account balance resulting from dispositions from the Polaroid ESOP Stock Fund.

(iv) The Net Losses of the Class members will be aggregated. Each Class member will be assigned a Net Loss Percentage, reflecting the percentage of the Class member's Net Loss in relation to all Class members' Net Losses. Each Class member's share of the Net Proceeds will be equal to the Net Proceeds multiplied by the Class member's Net Loss Percentage.

8.2 Disbursement of Net Proceeds. Upon the Final Order becoming Final as provided in ¶ 2.2, Co-Lead Counsel shall direct the Financial Institution to disburse the Net Proceeds to the accounts created for distribution to or for the benefit of each of the Class members. Generally, the Plan of Allocation will allocate the Net Proceeds, less expenses reasonably and necessarily incurred in implementing the Plan of Allocation, among the Class members in proportion to their Net Loss as directed by the Court. Reasonable fees and expenses of the trustee or administrator appointed to implement the Plan of Allocation shall be paid solely out of the Settlement Fund as provided in ¶ 8.1.5 without further order of the Court, provided such fees and expenses are approved by Co-Lead Counsel. The Plan of Allocation is a matter separate and apart from the Settlement between the Parties, and no decision by the Court concerning the Plan of Allocation shall affect the validity of the Settlement Agreement or finality of the Settlement in any manner.

8.3 Fees, Costs and Expenses. Neither the Defendants nor the Insurer shall have any obligation whatsoever to pay any fees, costs, expenses, or other amounts incurred in connection with the Plan of Allocation or otherwise relating to ¶ 8 and related sub-paragraphs of this Settlement Agreement. Such fees and expenses are to be paid solely from the Settlement Fund. Plaintiffs shall in their sole discretion retain a settlement administrator for the purpose of performing the calculation set forth in ¶ 8, the cost of which shall be paid solely out of the Settlement Fund as per ¶¶ 8.1.5 and 8.2. State Street agrees that it shall disburse the Net Proceeds to Class members as directed by the settlement administrator, together with any accompanying statement from Co-Lead Counsel (which shall not exceed two pages and shall be uniform) containing appropriate descriptive information and instructions regarding tax treatment, *provided* (i) that State Street is furnished by the settlement administrator with a uniform Excel spreadsheet containing the first name, middle initial, last name, Social Security number, street address, city, zip code and check amount for each Class member receiving payment; (ii) that State Street shall in no way be responsible for the content of any descriptive information or instructions supplied to State Street for transmission with the disbursement, and shall have no responsibility for tax withholding or tax reporting; and (iii) that State Street shall be paid from the Settlement Fund the sum of \$1.40 per check to be distributed (State Street's actual cost without profit), plus reimbursement for out-of-pocket costs including but not limited to postage.

## 9. Termination of the Settlement Agreement.

9.1 Termination. This Settlement Agreement may terminate if (a) the Court declines to enter the Final Order, (b) the Final Order entered by the Court is reversed or modified in any material respect on appeal, or (c) the Independent Fiduciary does not approve the Settlement as set forth in ¶ 2.4 or determines that it constitutes a prohibited transaction under ERISA § 406, and such condition is not waived in writing by Individual Defendants and the Insurer, but this Settlement Agreement shall not terminate if a court of competent jurisdiction modifies, reverses, or refuses to enter any order relating to the Plan of Allocation or the award of legal fees and expenses, or Case Contribution Award. If within thirty-one (31) days after the date when any reversal or modification that would cause this Settlement Agreement to terminate becomes Final, the Parties have not agreed in writing to proceed with all or part of the Settlement Agreement in light of such ruling, then this Settlement Agreement shall automatically terminate and thereupon become null and void.

9.2 Consequences of Termination of the Settlement Agreement. If the Settlement Agreement is terminated, the following shall occur:

9.2.1 Co-Lead Counsel and Defendants' Counsel shall within ten (10) days after the date of termination of the Settlement Agreement jointly notify the Financial Institution in writing to return to the Insurer and State Street the amount each contributed to the Settlement Fund in the same proportion as those amounts were deposited pursuant to ¶ 7.2, with all net income earned thereon, after deduction of the amount earlier disbursed for the Class Notice and the expenses charged by the Financial Institution, directing the Financial Institution to effect such return within fourteen (14) days. Prior to the return of amounts contemplated by this ¶ 9.2.1, the Financial Institution shall fully and finally fulfill all tax obligations of the Settlement Fund as set forth in ¶ 7.1.2 and the Insurer, State Street, and the Individual Defendants shall not have any past, present, or future liability whatsoever for any such tax obligations.

9.2.2 The Action shall for all purposes with respect to the Parties revert to its status as of the day prior to the Agreement Execution Date, and as of February 27, 2006 with respect to fact and expert discovery and other proceedings with respect to the Individual Defendants. Any and all statutes of limitations, statutes of repose and/or other defenses or objections based upon the passage of time applicable to the claims and/or defenses asserted in this Action shall be tolled from February 27, 2006 to the termination of this Settlement Agreement.

9.2.3 All provisions of this Settlement Agreement shall be null and void except as otherwise provided herein, and except for ¶¶ 2.2.1, 2.4.2, 4.1, 4.4, 6, 8.3, 9, 12.1, 12.2, 12.5, 12.6, 12.7, 12.9, 12.10, 12.11, 12.12, 12.13, 12.14, and 12.15, which shall be deemed continuing and shall survive the termination of this Settlement Agreement. If the Settlement Agreement is terminated, Defendants will retain all rights to oppose Plaintiffs' claims, including, among other things, class certification, class definition, and standing. In addition, Defendants shall bear no liability whatsoever for any costs, fees, expenses, damages, taxes, or other amounts that may arise in connection with this Settlement Agreement. The Insurer shall also bear no liability whatsoever for any costs, fees, expenses, damages, taxes, or other amounts that may arise in connection with this Settlement Agreement, except as set forth in ¶ 2.4.2.

10. Attorneys' Fees, Costs and Expenses and Case Contribution Awards.

10.1 Attorneys' Fees, Costs and Expenses. As provided in ¶ 2.2 and pursuant to the common fund doctrine and/or any applicable statutory fee provision under ERISA, Co-Lead Counsel may apply to the Court for an award to Co-Lead Counsel and Appointed Counsel, of attorneys' fees, and for reimbursement of costs and expenses to be paid solely from the Settlement Fund. Defendants and the Insurer agree to take no position with respect to any application regarding attorneys' fees, costs or expenses provided that Co-Lead Counsel do not seek attorneys' fees in excess of 30% of the Settlement Fund. Neither Defendants nor the Insurer agree or concede that the amount of attorneys' fees, costs, and expenses that may be sought by Co-Lead Counsel is appropriate or reasonable, but simply take no position; moreover, nothing in this Settlement Agreement shall be construed otherwise. Such fees, costs, and expenses shall be paid exclusively from the Settlement Fund. The amount of such fees, costs, and expenses payable to Appointed Counsel shall be at the discretion of Co-Lead Counsel. Neither Defendants nor the Insurer shall be liable for or obligated to pay any fees, expenses, costs, or disbursements to, or incur any expense on behalf of any person, either directly or indirectly, in connection with this ¶ 10 or this Settlement Agreement generally, other than State Street and the Insurer's obligation to pay the Cash Amount in accordance with ¶¶ 2.3 and 7.2, and the Insurer's obligation to pay the expenses associated with the Independent Fiduciary in accordance with ¶ 2.4.2.

10.2 Application for Attorneys' Fees, Costs, and Expenses and Disbursement Thereof. Following entry of the Preliminary Approval Order, Co-Lead Counsel shall submit an application to the Court for an award of attorneys' fees for legal services rendered up to an amount of thirty percent (30%) of the Settlement Fund plus reimbursement of the costs and expenses incurred in connection with the Action. Interest on such an award shall accrue at the same rate as interest accrues on the Settlement Fund, unless otherwise provided by the Court. Such attorneys' fees and costs as are awarded by the Court shall be payable to Co-Lead Counsel out of the Settlement Fund within ten (10) business days after the Court's entry of a Judgment awarding such attorneys' fees and costs, regardless of the existence of any objection to or appeal of the Settlement or the award of attorneys' fees and costs. However, expenses related to Class Notice shall be disbursed in accordance with ¶ 8.1.1. Defendants and the Insurer shall bear no liability whatsoever for any costs, fees, expenses, damages, taxes, or other amounts that may arise in connection with this ¶ 10.2.

10.3 Payment of Attorneys' Fees and Costs Prior To The Order Becoming Final. In the event that attorneys' fees and costs are paid before the Final Order becoming Final, Co-Lead Counsel shall provide to the escrow agent a surety bond in the amount of such attorneys' fees and costs plus accrued interest, to be held pending the Settlement becoming Final. In the further event that the Settlement fails to become Final for any reason, or the award of attorneys' fees and costs fails to become Final or does not become Final as originally awarded for any reason, Co-Lead Counsel shall redeposit into the Settlement Fund the attorneys' fees and costs originally paid out of the Settlement Fund, plus interest accrued thereon for the period from payment from the Settlement Fund to Co-Lead Counsel at a rate equal to the compounded rate of interest earned by the Settlement Fund during

the same period. Such a repayment will be due within ten (10) business days of the Individual Defendants and/or State Street requesting such repayment. If Co-Lead Counsel fails to redeposit the attorneys' fees and costs and compounded interest upon such request, the escrow agent shall immediately order the surety bond forfeited and shall deposit the forfeited amount in the Settlement Fund. Co-Lead Counsel shall remain obligated for any shortfall in the amount of attorneys' fees and costs and compounded interest after the proceeds from the surety bond have been applied.

10.4 Application for Case Contribution Award and Disbursement Thereof. Following entry of the Preliminary Approval Order, Co-Lead Counsel shall submit an application to the Court for Case Contribution Awards in an amount not to exceed \$10,000 for each Named Plaintiff. Such application shall be ruled upon at the Fairness Hearing, or at an earlier time, as the Court deems appropriate. Case Contribution Awards, if granted by the Court, shall be disbursed from the Settlement Fund within seven (7) days of the Final Order becoming Final. Defendants and the Insurer agree to take no position with respect to any application regarding Case Contribution Awards provided that Co-Lead Counsel do not seek Case Contribution Awards in excess of \$10,000 for each Named Plaintiff. Defendants and the Insurer shall bear no liability whatsoever for any Case Contribution Award or other amounts that may arise in connection with this ¶ 10.4.

11. Bar Order and Judgment Reduction Amount.

11.1 Bar Order. The Court shall include in the Final Order a Bar Order that meets all of the following requirements of this ¶ 11.1. Such Bar Order shall:

11.1.1 Be approved by the Court as fair to the Parties and the Barred Parties.

11.1.2 Bar all claims against the Released Parties for indemnity and/or contribution arising out of this Action and for any other claims relating to and/or arising out of the Released Claims, including any claims relating to and/or arising out of the payment of the Cash Amount or the administration or distribution of the Settlement Fund, or any of the other obligations under the Settlement Agreement (the "Barred Claims") other than the funding of the Cash Amount by the Insurer and State Street pursuant to ¶¶ 2.3 and 7.2 and enjoin any Person from bringing, either derivatively or on behalf of themselves, or through any Person purporting to act on their behalf or purporting to assert a claim by, under or through them, any Barred Claims against the Released Parties in any forum, action or proceeding of any kind;

11.1.3 Provide that from and after the date of its entry, the Bar Order shall bar all claims by any Barred Party or Plaintiffs against the Insurer (i) under or in any way involving the Insurance Policies, or (ii) upon any Released Claim or for coverage under the Insurance Policies for any Released Claim (such claims are referred to herein as "Barred Insurance Claims");

- 11.1.4 Provide that because the Barred Parties are barred from asserting any Barred Claims against the Released Parties, any judgment entered against a Barred Party arising out of or related to the facts alleged in the Complaint, will be reduced by the Judgment Reduction Amount as defined in ¶ 11.3.
- 11.1.5 Provide that nothing in this Settlement Agreement or in the Bar Order shall in any manner limit any joint and several liability applicable to any Barred Party under ERISA as to the portion of any judgment against such Barred Party in this Action remaining after application of any Judgment Reduction Amount provided for in this Settlement Agreement;
- 11.1.6 Permanently enjoin the members of the Class from bringing any Released Claim against any Individual Defendant, State Street, or the Insurer either derivatively or on behalf of themselves, or through any Person purporting to act on their behalf or purporting to assert a Released Claim under or through them, in any forum, action or proceeding of any kind; and
- 11.1.7 Provide that the Court shall retain exclusive jurisdiction to resolve any disputes or challenges that may arise as to the performance of this Settlement Agreement or any challenges as to the performance, validity, interpretation, administration, enforcement, or enforceability of the Class Notice, the Bar Order, this Settlement Agreement, or the termination of this Settlement Agreement.

11.2 Notice Regarding Bar Order. After the Bar Order, if entered, has become Final, Co-Lead Counsel shall post the Bar Order on its or their website(s), and shall provide notice thereof in such other form as the Court requires.

11.3 Judgment Reduction Amount. At the time of entry of any judgment against a Barred Party, the Court shall determine an amount equal to the greater of either the Settlement Credit on the one hand or the Contribution Credit and/or the Indemnity Credit, as the Court determines to be appropriate, on the other hand.

11.3.1 Settlement Credit. The “Settlement Credit” shall mean (a) the Net Proceeds, less (b) the portion of the Cash Amount determined by the Court at the time of entry of any judgment against the Barred Party to have been paid with respect to damages claims against the Individual Defendants that are different from the claims as to which judgment is to be rendered against the Barred Party, less (c) the amount of any indemnification obligation owing by the Barred Party to the Individual Defendants or their assignees.

11.3.2 Contribution Credit. The “Contribution Credit” shall mean an amount equal to (a) the value of the contribution or equitable indemnification claim, if any, that the Court determines such Barred Party would be entitled to assert against one or more of the Released Parties

but for operation of the Bar Order, which shall be equal to the aggregate proportionate shares of liability, if any, of the Released Parties as determined by the Court at the time of entry of any judgment against the Barred Party, adjusted, as the Court determines is appropriate, to reflect any limitation on the financial capability of the Released Parties to pay their respective proportionate shares of liability to the Barred Party had the Barred Party obtained a contribution or equitable indemnification judgment against them in such amount; less (b) the amount of any indemnification obligation owing by the Barred Party to the Released Parties or their assignees. (In any such proceedings, reasonable steps shall be taken to protect the Released Parties' privacy and the confidentiality of their personal financial information.) With respect to the Company, in determining the Contribution Credit, the Court shall determine the amount, if any, the Barred Party would have been entitled to receive with respect to any claim for contribution or equitable indemnification against the Company, taking into account the effect of the bankruptcy proceedings and the operation of the Company's plan of reorganization.

11.3.3 Indemnity Credit. The "Indemnity Credit" shall mean an amount equal to the value of the contractual indemnity claim, if any, that the Court shall determine such Barred Party would be entitled to assert against the Released Parties but for operation of the Bar Order, adjusted, as the Court determines is appropriate, to reflect any limitation on the financial capability of the Released Parties to pay any contractual indemnity judgment against them, and provided that in determining the Indemnity Credit with respect to the Company as a settling Defendant, the Court shall determine the amount, if any, the Barred Party would have been entitled to receive with respect to any claim for contractual indemnity against the Company, taking into account the effect of the bankruptcy proceedings and the operation of the Company's plan of reorganization. (In any such proceedings, reasonable steps shall be taken to protect the Released Parties' privacy and the confidentiality of their personal financial information.)

## 12. Miscellaneous Provisions.

12.1 No Effect on the Individual Defendants. Except as otherwise provided herein, this Settlement Agreement shall not be used against the Individual Defendants in the Action, the Securities Litigation or any other litigation, arbitration, or proceeding, including with respect to class certification, standing, liability, damages or otherwise. The Individual Defendants continue to deny all of the claims asserted by the Plaintiffs and specifically reserve all of their rights with respect to such matters.

12.2 Governing Law. This Settlement Agreement shall be governed by the laws of the State of New York without giving effect to the conflict of laws or choice of law provisions thereof, except to the extent that the law of the United States governs any matter set forth herein, in which case such federal law shall govern.

12.3 Severability. If any court with original or appellate jurisdiction over this Action issues a Final determination that any portion of ¶ 3 is not enforceable, the Parties may (but shall not be required to) jointly agree in writing to modify ¶ 3 to conform with such determination. If the

Parties cannot agree, then the Settlement Agreement shall be null and void. With the sole exception set forth in the preceding sentence, the provisions of this Settlement Agreement are not severable.

12.4 Amendment. Before entry of the Final Order, the Settlement Agreement may be modified or amended only by written agreement signed by or on behalf of all Parties. Following entry of the Final Order, the Settlement Agreement may be modified or amended only by written agreement signed on behalf of all Parties and approved by the Court.

12.5 Waiver. The provisions of this Settlement Agreement may be waived only by an instrument in writing executed by the waiving Party. The waiver by any Party of any breach of this Settlement Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

12.6 Construction. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

12.7 Principles of Interpretation. The following principles of interpretation apply to this Settlement Agreement:

12.7.1 Headings. The headings of this Settlement Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Settlement Agreement.

12.7.2 Singular and Plural. Definitions apply to the singular and plural forms of each term defined.

12.7.3 Gender. Definitions apply to the masculine, feminine, and neuter genders of each term defined.

12.7.4 References to a Person. References to a Person are also to the Person's permitted successors and assigns.

12.7.5 Terms of Inclusion. Whenever the words "include," "includes," or "including" are used in this Settlement Agreement, they shall not be limiting but rather shall be deemed to be followed by the words "without limitation."

12.7.6 Cross References. All references in this Agreement to specific sections of the Agreement also include all subparts, unless otherwise indicated.

12.8 Further Assurances. Each of the Parties agrees, without further consideration, and as part of finalizing the Settlement hereunder, that they will in good faith execute and deliver such other

documents and take such other actions as may be necessary to consummate and effectuate this Settlement Agreement.

12.9 Notices. Any notice, demand, or other communication under this Settlement Agreement (other than the Class Notice, or other notices given at the direction of the Court) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail (postage prepaid), sent by confirmed facsimile, or delivered by reputable express overnight courier:

IF TO NAMED PLAINTIFFS:

SCHIFFRIN BARROWAY TOPAZ & KESSLER, LLP

Joseph H. Meltzer  
Gerald D. Wells, III  
280 King of Prussia Road  
Radnor, PA 19087  
Telephone: (610) 667-7706  
Facsimile: (610) 667-7056

KELLER ROHRBACK L.L.P.

Lynn Lincoln Sarko  
Derek Loeser  
1201 Third Avenue, Suite 3200  
Seattle, WA 98101  
Telephone: (206) 623-1900  
Facsimile: (206) 623-3384

IF TO INDIVIDUAL DEFENDANTS:

WILMER CUTLER PICKERING HALE & DORR LLP

Steven F. Cherry  
Joseph E. Killory  
Daniel Levin  
1875 Pennsylvania Avenue, N.W.  
Washington, DC 20006  
Telephone: (202) 663-6000  
Facsimile: (202) 663-6363

IF TO STATE STREET:

McDERMOTT WILL & EMERY LLP

Wilber H. Boies, P.C.  
227 West Monroe Street

Chicago, IL 60606  
Telephone: (312) 984-7686

IF TO INSURER:

D'AMATO & LYNCH  
Robert S. Fraser, Esq.  
70 Pine Street  
New York, NY 10270-0110  
Telephone: (212) 909-2164  
Facsimile: (212) 269-3559

Any Party may change the address at which it is to receive the written notice required by this Settlement Agreement and delivered to the other Parties in the manner described above.

12.10 Entire Agreement. This Settlement Agreement contains the entire agreement among the Parties relating to this Settlement. It specifically supersedes any settlement terms or settlement agreements previously agreed upon orally or in writing by any of the Parties including the Class Action Settlement Agreement between the Plaintiffs and Individual Defendants, dated June 16, 2006.

12.11 Counterparts. This Settlement Agreement may be executed by exchange of faxed executed signature pages, and any signature transmitted by facsimile for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

12.12 Binding Effect. This Settlement Agreement binds and inures to the benefit of the Parties, including but not limited to the Plan and the Class, their assigns, heirs, administrators, executors, and successors.

12.13 Agreement Execution Date. The date on which the final signature is affixed below shall be the Agreement Execution Date.

12.14 Communications Regarding Settlement and this Action. The Parties agree not to issue any press releases or respond to press inquiries concerning the Settlement and this Action, except as follows: (a) After preliminary approval of the Settlement by the Court, Co-Lead Counsel shall be authorized to publish the Settlement Agreement, Class Notices, or other court orders in the Action on their internet website and otherwise shall be entitled to make copies of such documents available directly to Class members upon request or in any manner specified by this Settlement Agreement or any Court order in the Action.; (b) The Parties may respond to press inquiries and issue press releases and other public statements in response to press reports about them relating to this Action, but in doing so shall not denigrate any other Party. Under no circumstances shall any of

the Parties communicate any non-public information concerning the Settlement without the express written approval of the other Parties to the Settlement.

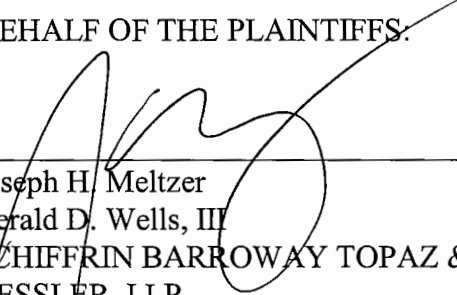
12.15 Confidentiality of Settlement Agreement. This Settlement Agreement and its terms shall be held confidential by the Plaintiffs, Defendants and the Insurer, as well as their agents and assigns, until the filing of the Motion for Preliminary Approval, except as may be necessary to comply with the laws or regulations concerning disclosure or to the extent that disclosure is required to comply with other provisions of this Settlement Agreement (and only after notice is given to the other Parties in accordance with ¶ 12.9).

12.16 Return of Documents. In accordance with paragraph III.I of the Confidentiality Stipulation and Protective Order dated June 21, 2005, within thirty (30) days after final termination of this Action, all persons or entities in possession of Confidential Material shall either destroy the Material and all copies thereof or return the Material and all copies thereof to the Designator.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the dates set forth below.

ON BEHALF OF THE PLAINTIFFS:

Dated: March 15, 2007

By:   
Joseph H. Meltzer  
Gerald D. Wells, III  
SCHIFFRIN BARROWAY TOPAZ &  
KESSLER, LLP  
280 King of Prussia Road  
Radnor, PA 19087  
Telephone: (610) 667-7706

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Lynn Lincoln Sarko  
Derek Loeser  
KELLER ROHRBACK L.L.P.  
1201 Third Avenue, Suite 3200  
Seattle, WA 98101  
Telephone: (206) 623-1900

*Co-Lead Counsel for the Plaintiffs*

the Parties communicate any non-public information concerning the Settlement without the express written approval of the other Parties to the Settlement.

12.15 Confidentiality of Settlement Agreement. This Settlement Agreement and its terms shall be held confidential by the Plaintiffs, Defendants and the Insurer, as well as their agents and assigns, until the filing of the Motion for Preliminary Approval, except as may be necessary to comply with the laws or regulations concerning disclosure or to the extent that disclosure is required to comply with other provisions of this Settlement Agreement (and only after notice is given to the other Parties in accordance with ¶ 12.9).

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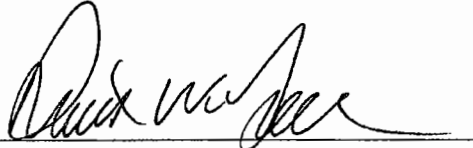
ON BEHALF OF THE PLAINTIFFS:

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Joseph H. Meltzer  
Gerald D. Wells, III  
SCHIFFRIN BARROWAY TOPAZ &  
KESSLER, LLP  
280 King of Prussia Road  
Radnor, PA 19087  
Telephone: (610) 667-7706

Dated: \_\_\_\_\_

By:  \_\_\_\_\_

Lynn Lincoln Sarko  
Derek Loeser  
KELLER ROHRBACK L.L.P.  
1201 Third Avenue, Suite 3200  
Seattle, WA 98101  
Telephone: (206) 623-1900

*Co-Lead Counsel for the Plaintiffs*

ON BEHALF OF THE INDIVIDUAL  
DEFENDANTS:

Dated: March 15, 2007

By: Steven F. Cherry

Steven F. Cherry  
Joseph E. Killory  
Daniel Levin  
WILMER CUTLER PICKERING HALE &  
DORR LLP  
1875 Pennsylvania Avenue, N.W.  
Washington, DC 20006  
Telephone: (703) 663-6000

*Counsel for Defendants Bolotin, Boynton,  
Byrd, Cramer, DiCamillo, Evens, Flaherty,  
Goldman, Greenberg, Halsted, Hubert,  
Jenkins, Kantrowitz, Lueders, Miller,  
Norwood, Ruddick, and Weller*

ON BEHALF OF STATE STREET

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Wilber H. Boies, P.C.  
McDERMOTT WILL & EMERY LLP  
227 West Monroe Street  
Chicago, IL 60606  
Telephone: (312) 984-7686

ON BEHALF OF INSURER:

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Lawrence Fine  
Vice President  
AIG Domestic Claims, Inc.  
175 Water Street, 5th Floor  
New York, NY 10038  
Telephone: (212) 458-1065

ON BEHALF OF THE INDIVIDUAL  
DEFENDANTS:

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Steven F. Cherry  
Joseph E. Killory  
Daniel Levin  
WILMER CUTLER PICKERING HALE &  
DORR LLP  
1875 Pennsylvania Avenue, N.W.  
Washington, DC 20006  
Telephone: (703) 663-6000

*Counsel for Defendants Bolotin, Boynton,  
Byrd, Cramer, DiCamillo, Evens, Flaherty,  
Goldman, Greenberg, Halsted, Hubert,  
Jenkins, Kantrowitz, Lueders, Miller,  
Norwood, Ruddick, and Weller*

ON BEHALF OF STATE STREET

Dated: March 15, 2007

By: 

Wilber H. Boies, P.C.  
McDERMOTT WILL & EMERY LLP  
227 West Monroe Street  
Chicago, IL 60606  
Telephone: (312) 984-7686

ON BEHALF OF INSURER:

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Lawrence Fine  
Vice President  
AIG Domestic Claims, Inc.  
175 Water Street, 5th Floor  
New York, NY 10038  
Telephone: (212) 458-1065

ON BEHALF OF THE INDIVIDUAL  
DEFENDANTS:

Dated: \_\_\_\_\_

By: \_\_\_\_\_

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Joseph E. Killory  
Daniel Levin  
WILMER CUTLER PICKERING HALE &  
DORR LLP  
1875 Pennsylvania Avenue, N.W.  
Washington, DC 20006  
Telephone: (703) 663-6000

*Counsel for Defendants Bolotin, Boynton,  
Byrd, Cramer, DiCamillo, Evens, Flaherty,  
Goldman, Greenberg, Halsted, Hubert,  
Jenkins, Kantrowitz, Lueders, Miller,  
Norwood, Ruddick, and Weller*

ON BEHALF OF STATE STREET

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Wilber H. Boies, P.C.  
McDERMOTT WILL & EMERY LLP  
227 West Monroe Street  
Chicago, IL 60606  
Telephone: (312) 984-7686

ON BEHALF OF INSURER:

Dated: 3/15/07

By: Lawrence Fine

Lawrence Fine  
Vice President  
AIG Domestic Claims, Inc.  
175 Water Street, 5th Floor  
New York, NY 10038  
Telephone: (212) 458-1065