

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE PUDA COAL SECURITIES INC.  
et al. LITIGATION

CASE NO: 1:11-CV-2598 (DLC)

**STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement, dated December 1, 2015 (the “Stipulation”), is made and entered into, through their counsel, by and between Lead Plaintiffs Salomón Querub, Howard Pritchard and Hotel Ventures LLC (collectively, “Lead Plaintiffs”), on behalf of themselves, the Additional Named Plaintiffs and the class of Persons defined below, and Defendants Lawrence S. Wizel and C. Mark Tang (the “U.S. Directors”).<sup>1</sup> Subject to the terms and conditions set forth herein and the Court’s approval pursuant to Rule 23 of the Federal Rules of Civil Procedure, the settlement embodied in this Stipulation is intended by the Settling Parties to: (a) be in full and final disposition of the Action with respect to the claims asserted against the U.S. Directors; and (b) fully, finally and forever resolve, discharge, dismiss and settle each and every one of the Released Claims against each and every one of the Released Persons.

**WHEREAS,**

A. Beginning on April 14, 2011, eleven putative class action lawsuits were filed in this Court against Puda as well as certain other Persons, captioned, *Goldstein v. Puda Coal, Inc.*, No. 11 Civ. 2598; *Tallant v. Puda Coal, Inc.*, No. 11 Civ. 2608; *Weissmann v. Puda Coal, Inc.*, No. 11 Civ. 2609; *Alexander v. Zhao*, No. 11 Civ. 2657; *Rosenberger v. Puda Coal, Inc.*, No. 11

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<sup>1</sup> For ease of reference, the Settling Parties have referred to the claims by “Plaintiffs” against the U.S. Directors throughout this Stipulation, but the only Plaintiff that asserts claims against the U.S. Directors in the Complaint is Trellus Management Company LLC (“Trellus”).

Civ. 2660; *Korach v. Puda Coal, Inc.*, No. 11 Civ. 2666; *Kendall v. Puda Coal, Inc.*, No. 11 Civ. 2695; *LaDuca v. Puda Coal, Inc.*, No. 11 Civ. 4266; *Burquist v. Puda Coal, Inc.*, No. 11 Civ. 5189; *Thumith v. Puda Coal, Inc.*, No. 11 Civ. 5190; and *Lin v. Puda Coal, Inc.*, No. 11 Civ. 5259 (these actions are collectively referred to herein as the “Individual Actions”). Although each of the Individual Actions was brought against Puda, they varied with respect to the other named defendants.

B. All of the Individual Actions alleged a fraudulent scheme orchestrated by Puda’s former Chairman, Ming Zhao (“Zhao”), to mislead investors as to the true ownership of Puda’s primary operating subsidiary, Shanxi Puda Coal Group Co., Ltd. (“Shanxi Coal”), which was revealed in April 2011. Although Puda represented in public filings throughout the relevant period that it owned 90% of Shanxi Coal, the complaints in the Individual Actions alleged that Zhao had secretly transferred Puda’s interest in Shanxi Coal first to himself and then to an unrelated private equity fund with no consideration to the Company. There were no allegations in any of the Individual Actions, or in the currently-operative Complaint, that the U.S. Directors were aware of Zhao’s conduct at the time it was perpetrated, or that the U.S. Directors played any role in Zhao’s actions.

C. By Memorandum and Order dated December 6, 2011, the Court consolidated the Individual Actions, captioned *In re Puda Coal Securities, Inc. et al. Litigation*, No. 11 Civ. 2598 (BSJ). The Court appointed Salomón Querub, Howard Pritchard and Hotel Ventures LLC as Lead Plaintiffs, and approved the selection of The Rosen Law Firm, P.A. and Glancy Binkow & Goldberg LLP as Co-Lead Counsel.

D. On January 27, 2012, Lead Plaintiffs filed a consolidated class action complaint, subsequently corrected on February 9, 2012, adding Steven Weissman, Thomas Rosenberger,

and Sal LaDuca as named plaintiffs. This complaint, among other things, asserted Section 11 and Section 15 claims under the Securities Act of 1933 (the “1933 Act Claims”) against the U.S. Directors arising out of a follow-on public offering of Puda common stock conducted in December 2010 (the “December Offering”), and a Section 20(a) control person claim against the U.S. Directors under the Securities Exchange Act of 1934 (“1934 Act”). Claims were also asserted against: (a) Macquarie Capital (USA) Inc. (“Macquarie”) and Brean Murray, Carret & Co. LLC (“Brean,” and together with Macquarie, the “Underwriters”); (b) Moore Stephens Hong Kong, Moore Stephens, P.C. (the “Auditor Defendants”), and Moore Stephens International Ltd.; and (c) Jianfei Ni, Zhao, Qiong Laby Wu and Liping Zhu.

E. On June 1, 2012, the U.S. Directors moved to dismiss the February 9, 2012 complaint. On August 8, 2012, Plaintiffs filed opposition papers and, on September 14, 2012, the U.S. Directors filed reply papers. On October 3, 2012, the litigation was reassigned to Judge Katherine Forrest. On March 18, 2013, the Court granted the U.S. Directors’ motion to dismiss the Section 20(a) claim, but denied their motion to dismiss the 1933 Act Claims.

F. On March 15, 2013, the clerk of the Court entered certificates as to Puda and Zhao (collectively, the “Defaulted Defendants”), certifying that the Defaulted Defendants had been served copies of the summons and complaint and had not filed an answer or otherwise moved with respect to the complaint. Plaintiffs subsequently moved for default judgment as to these two defendants.

G. On May 13, 2013, Plaintiffs and Trelus moved for Trelus to intervene as an additional named plaintiff in the Action. On May 29, 2013, certain of the defendants, including the U.S. Directors, moved for summary judgment on the ground that Mr. Rosenberger lacked

standing to bring the 1933 Act Claims against them. Discovery relating to these motions was conducted between May 15, 2013 and September 17, 2013.

H. On August 8, 2013, the U.S. Directors produced approximately 14,000 pages of documents.

I. On June 26, 2013, certain of the defendants, including the U.S. Directors, filed their papers in opposition to the motion to intervene, and Plaintiffs and Trellus filed reply papers on July 12, 2013. On September 27, 2013, the Court heard oral argument on both the summary judgment and intervention motions. The Court, in an Opinion and Order dated October 1, 2013, denied the motion to intervene and granted the motions for summary judgment, dismissing all claims against the U.S. Directors and the Underwriters, leaving the Defaulted Defendants and the Auditor Defendants as the only remaining defendants in the Action. On October 28, 2013, Trellus filed an appeal from the Court's order to the United States Court of Appeals for the Second Circuit.

J. On October 22, 2013, in connection with their claims against the remaining defendants, Plaintiffs issued a non-party subpoena to Macquarie seeking documents relating to the December Offering. Macquarie produced documents responsive to the subpoena; included in the production was a report prepared by Kroll for Macquarie in connection with the due diligence on the December Offering, that Plaintiffs subsequently alleged contained information that contradicted Puda's public statements (including those made in connection with the December Offering) that Puda owned 90% of Shanxi Coal.

K. On January 6, 2014, Plaintiffs filed a motion to amend the then-operative complaint to add a Section 10(b) claim against the Underwriters (but not against the U.S. Directors). On February 4, 2014, Trellus filed a motion pursuant to Fed. R. Civ. P. 62.1(a)(3),

seeking an indicative ruling from the Court prior to the Court of Appeals' hearing of the appeal of the October 1, 2013 decision. On February 21, 2014, the Court granted Trellus's motion, signaling that it would permit Trellus to join the litigation.

L. On April 7, 2014, the Court "deem[ed] Trellus's motion for an indicative ruling to be a motion to vacate pursuant to Rule 60(b)" and granted that motion. The Court also vacated the portion of its October 1, 2013 opinion denying Trellus's motion for intervention and granted Trellus's motion to become a party plaintiff "pursuant to several Federal Rules of Civil Procedure, including Rules 15, 17, 19, and 21."

M. On April 21, 2014, Plaintiffs filed a second consolidated amended and supplemental complaint (the "Complaint"), which remains the operative pleading in the Action. The Complaint asserts claims under Section 11 (against all Defendants, including the U.S. Directors); Section 12 (against Puda and the Underwriters); control person claims under Sections 15 against the U.S. Directors and other Puda former officers and directors; control person claims under Section 20(a) (against certain of Puda's former officers but not against the U.S. Directors); as well as claims under Section 10(b) (against Puda, Wu, Zhu, Zhao, the Auditor Defendants and the Underwriters).

N. Following the completion of fact and expert discovery pertaining to the claims asserted by Plaintiffs against the Auditor Defendants—which included the production of over 40,000 pages of documents, ten fact depositions and six expert depositions—the Auditor Defendants filed motions for summary judgment. On July 26, 2014, the Court granted the Auditor Defendants' motions for summary judgment dismissing all claims brought against them. Plaintiffs have filed an appeal of the Court's June 8, 2015 final order dismissing those claims.

O. On June 2, 2014, the U.S. Directors filed their answer to the Complaint asserting various defenses, including the statutory defenses of due diligence and reasonable reliance contained in the 1933 Act. On August 8, 2014, the U.S. Directors produced approximately 800 pages of additional documents to the Plaintiffs.

P. On November 7, 2014, Quinn Emanuel Urquhart & Sullivan, LLP (“Quinn Emanuel”) entered a formal appearance as counsel for Zhao and notified the Court of Zhao’s intent to contest the motion for a default judgment against him. By orders dated November 17, 2014, and November 20, 2014, respectively, the Court entered a default judgment against Puda, and denied Plaintiffs’ motion for a default judgment against Zhao insofar as Zhao complied with certain enumerated conditions, including various discovery obligations. Zhao subsequently produced documents relating to Puda and the allegations in the Complaint concerning his transactions involving Shanxi Coal.

Q. On January 12, 2015, the Court entered an Order Regarding Class Certification, based upon a stipulation of the parties, that, among other things: (i) certified a Section 11 class against Puda, Zhao, Brean, Macquarie, and the U.S. Directors; (ii) certified a Section 12 class against Puda, Zhao, and the Underwriters; (iii) certified a Section 10(b) class against the Underwriters, consisting of those persons or entities who purchased Puda common stock (or call options) or sellers of put options on Puda common stock between December 8, 2010 through the market close on April 7, 2011 “who did not sell those securities prior to April 8, 2011” and who “were damaged thereby”; and (iv) excluded from each class “all defendants, other officers and directors of Puda (past and present) and members of all of their immediate families, entities in which any and all such excluded persons hold any ownership interest, and all heirs, successors or

assigns of any of the foregoing.” In connection with the Settlement, the Settling Parties agree that the Settlement Class definition set forth herein should be employed in its stead.

R. On February 17, 2015, Quinn Emanuel moved to withdraw as Zhao’s attorney, and Zhao subsequently filed an affidavit indicating that that he would “not participate in or otherwise continue the defense of” the claims against him. On April 1, 2015, the Court granted Quinn Emanuel’s motion to withdraw (conditioned on its continuing to serve as agent for service) and entered a default judgment against Zhao.

S. Between January 22, 2015 and September 9, 2015 the remaining parties engaged in merits discovery. Macquarie cumulatively produced approximately 59,000 pages of documents and Brean approximately 72,000 pages, including documents relating to the due diligence conducted in connection with the December Offering. In addition, third parties who were retained in connection with the December Offering were subpoenaed by Plaintiffs and also provided documents: (i) Kroll (which had prepared the report discussed above); and (ii) Morrison & Foerster (which had served as Underwriters’ counsel in the December Offering). Several other third parties were also subpoenaed. In total, third parties produced approximately 83,000 pages of documents.

T. As part of fact discovery, Plaintiffs took the depositions of six former or current Macquarie personnel who had worked on the December Offering, including those who led the due diligence effort, as well as the deposition of the individual who led Brean’s involvement in the December Offering. In addition, Plaintiffs took the depositions of three Morrison & Foerster attorneys who had worked with the Underwriters on the December Offering as well as a representative of Kroll concerning the preparation of the report it provided Macquarie. Plaintiffs also re-took the depositions of the U.S. Directors.

U. In April 2015, Plaintiffs reached a resolution with Brean that would, if approved by the Court, resolve all claims against Brean in the Action on the terms and conditions set forth in the Stipulation of Settlement entered into by and between Plaintiffs and Brean, dated July 20, 2015, as amended on October 16, 2015 (the “Brean Settlement”).

V. Following the close of fact discovery through September 9, 2015, the parties engaged in expert discovery. Plaintiffs proffered expert reports on: (i) underwriter due diligence; (ii) materiality, loss causation, and per share damages for purchasers of Puda common stock; and (iii) aggregate damages. The U.S. Directors submitted an expert report on due diligence, and Macquarie submitted expert reports on both underwriter due diligence and damages. The parties took a total of five expert depositions in connection with these reports.

W. On July 29, 2015, Macquarie moved for partial summary judgment on the Section 10(b) claim, arguing that no finder of fact could reasonably conclude that Macquarie was the “maker” of the allegedly false statements at issue. On August 4, 2015, the U.S. Directors moved for summary judgment on all claims against them, arguing that they had conducted adequate due diligence, they had reasonably relied on auditors’ and Chinese counsel’s representations that Puda maintained a 90% ownership interest in Shanxi Coal, they had never seen the Kroll Report, and they did not know about Zhao’s fraud until Alfred Little’s April 8, 2011 article. On September 3, 2015, Plaintiffs filed papers in opposition to both motions. The U.S. Directors filed a reply on September 9, 2015 and Macquarie filed a reply on September 23, 2015.

X. Meanwhile, the Securities and Exchange Commission (the “SEC”) engaged in its own investigation of Puda. On February 22, 2012, the SEC filed an action against Zhao and Zhu, asserting claims, among others, for violations of Sections 10(b), 14(a) and 13(b)(5) of the

1934 Act arising from Zhao's and Zhu's "fraudulent scheme to deceive public investors" that continued even after the April 2011 internet reports.

Y. As part of its investigation, the SEC subpoenaed documents from Macquarie and took depositions and/or conducted interviews of twelve current or former employees of Macquarie. Plaintiffs were provided with copies of these transcripts as well as many of the documents Macquarie provided the SEC relating to the due diligence for the December Offering.

Z. On March 27, 2015, the SEC announced that it had filed a complaint against Macquarie (and one current and one former employee of the firm) arising out of its work on the December Offering, asserting claims under the 1933 Act. In addition, the SEC announced that Macquarie had agreed to settle the SEC's charges by paying \$15,000,000 (consisting of \$10,728,525 in disgorgement and \$1,271,475 in prejudgment interest thereon, and a civil penalty in the amount of \$3,000,000) and further agreeing to cover the costs of "setting up a Fair Fund to compensate investors who suffered losses after purchasing shares in the public offering by Puda Coal" that Macquarie had underwritten in December 2010. In settling the matter, Macquarie did not admit or deny the SEC's allegations. On August 12, 2015, the Court granted the SEC's motion to establish a Fair Fund for those investors from the amounts deposited with the SEC by Macquarie and appointed a tax administrator for that fund. The SEC subsequently moved for the appointment of a distribution agent to facilitate the development and administration of a distribution plan for payments to investors.

AA. On September 30, 2015, Plaintiffs reached a resolution with Macquarie that would, if approved by the Court, resolve all claims against Macquarie in the Action on the terms and conditions set forth in the Stipulation of Settlement entered into by and between Plaintiffs

and Macquarie, dated October 16, 2015 (the “Macquarie Settlement”). On October 16, 2015, Plaintiffs moved for preliminary approval of the Brean Settlement and the Macquarie Settlement.

BB. On October 20, 2015, the Court dismissed all claims against Defendants Liping Zhu, Qiong Laby Wu, and Jianfei Ni for lack of service.

CC. Periodically during the litigation, Co-Lead Counsel and the U.S. Directors’ Counsel engaged in discussions concerning a potential resolution of the claims asserted against the U.S. Directors in the Action. In addition to numerous telephone conversations between counsel, two in-person mediation sessions were conducted before the Honorable Daniel Weinstein (Ret.), one on June 10, 2013 and one on September 10, 2014 (both of which entailed the exchange of detailed and substantive mediation statements). During these sessions, counsel engaged in extensive substantive discussions regarding the merits of the claims asserted, the defenses proffered in response thereto, the evidence adduced in discovery, potential damages theories should liability be proved as well as the likelihood of recoveries by the Plaintiffs. In addition to these two formal sessions, counsel for the Settling Parties also employed the services of the mediator to facilitate their periodic telephonic negotiations. While these efforts did not result in a settlement, the Settling Parties agreed to continue their dialogue.

DD. As a result of their ongoing arm’s-length negotiations, including the two in-person mediation sessions referenced above, on October 27, 2015, Lead Plaintiffs and the U.S. Directors agreed in principle to a resolution of Plaintiffs’ claims against the U.S. Directors in this Action, subject to Court approval and the execution of customary settlement documentation, which agreement of settlement is memorialized in this Stipulation.

EE. As former Puda directors, the U.S. Directors are named insureds under three insurance policies: (i) a primary layer through Federal Insurance Company, part of the Chubb

Group (“Chubb”); (ii) a first excess layer through the People’s Insurance Company of China (“PICC”) based in Beijing; and (iii) a second excess layer through HCC. The PICC policy states that it becomes the operative primary layer of insurance upon exhaustion of the Chubb policy, and the HCC policy states that HCC has no obligation to pay defense costs or other loss unless and until the PICC layer is exhausted. The Chubb policy was exhausted in May 2014.

FF. On or about May 5, 2011, the U.S. Directors’ Counsel caused notice of the Individual Actions to be provided to PICC. On August 6, 2014, after the Chubb policy had been exhausted, U.S. Directors’ Counsel formally demanded that PICC provide coverage for the U.S. Directors’ defense costs in this Action from June 2014 onward. On October 9, 2014, the U.S. Directors’ Counsel received an email from PICC’s Chinese counsel, the AnJie Law Firm, which attached a letter dated September 30, 2014, stating that PICC denied coverage of the claims in this Action against the U.S. Directors, despite the fact that Chubb accepted coverage of those claims on the underlying policy. The PICC letter stated that the claims “do not fall under the coverage of the Policy in accordance with PRC laws and provisions of the Policy,” without any further explanation. PICC and the AnJie Law Firm have ignored numerous attempts by the U.S. Directors’ Counsel to reach them by email or telephone about this wrongful denial of coverage.

GG. Lead Plaintiffs, through their counsel, have conducted an investigation into the merits of the claims and defenses asserted by the Settling Parties in this Action as well as the underlying events surrounding the December Offering. Co-Lead Counsel has analyzed the evidence obtained through the extensive party and non-party discovery in this Action described above, consulted with experts (both as to the merits and potential damages recovery), reviewed and assessed publicly-available records and researched the applicable law. This investigation has provided Lead Plaintiffs and Co-Lead Counsel with an informed and detailed basis upon

which to assess the relative strengths and weaknesses of the Settling Parties' respective positions in the Action. Lead Plaintiffs' understanding has been enhanced by their detailed settlement discussions with the U.S. Directors' Counsel.

HH. Based on their direct oversight of the prosecution of this Action since inception, their extensive factual investigation and their legal analysis of the claims against the U.S. Directors in the Action and the U.S. Directors' defenses to those claims, as well as their analysis of the potential damages that could be recovered from the U.S. Directors if the Settlement Class were to prevail, Lead Plaintiffs and Co-Lead Counsel have concluded that the terms and conditions of the Settlement and this Stipulation are fair, reasonable and adequate to Plaintiffs and the other Settlement Class Members, and are in each of those Person's best interests. In making this determination, Lead Plaintiffs and Co-Lead Counsel have considered, among other things, the following: (a) the substantial benefits that Settlement Class Members will receive from the resolution of the Action against the U.S. Directors; (b) the attendant risks of litigation as well as the expense and length of continued proceedings necessary to prosecute the Action through trial; (c) the uncertainty surrounding the damages that could be recovered by Plaintiffs from the U.S. Directors in light of their limited personal assets, the exhaustion of their primary layer of insurance coverage through Chubb, the difficulties in obtaining insurance coverage from PICC, and the overall limit on statutory Section 11 damages recoverable from outside directors such as the U.S. Directors; and (d) the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation. The Settlement and this Stipulation shall in no event be construed as, or deemed to be, evidence of or a concession by Plaintiffs or any other Settlement Class Member of any infirmity in the claims asserted in the Action.

II. The U.S. Directors have denied Plaintiffs' allegations and are not admitting any wrongdoing in connection with the Settlement. The U.S. Directors are entering into this Settlement and Stipulation to avoid the substantial burden, expense, inconvenience and distraction of continued litigation and to resolve each of the Released Plaintiff Claims as against each of the Released Defendant Persons. The Settlement and this Stipulation shall in no event be construed as, or deemed to be, evidence of an admission or concession on the part of the U.S. Directors with respect to any claim or factual allegation or of any fault, liability, wrongdoing, or damage whatsoever made in the Action or of any infirmity in the defenses that they have or could have asserted in the Action.

a. The Settling Parties recognize that the Action has been filed and prosecuted by Plaintiffs in good faith and defended by the U.S. Directors in good faith and further that the Settlement Amount paid and the other terms of the Settlement set forth herein were negotiated at arm's-length and in good faith and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

b. This Stipulation (together with the exhibits hereto) has been duly executed by the undersigned signatories on behalf of their respective clients and reflects the final and binding agreement between the Settling Parties.

**NOW THEREFORE**, without any concession by Plaintiffs that the claims being resolved herein lack merit, and without any concession by the U.S. Directors of any liability or wrongdoing or the lack of merit of any of their defenses as asserted in this Action, it is hereby

**STIPULATED AND AGREED** by and between Lead Plaintiffs (on behalf of themselves, the Additional Named Plaintiffs and the other Settlement Class Members) and the U.S. Directors, through their respective attorneys, that, in consideration of the benefits flowing to

the Settling Parties by the Settlement, all claims asserted in the Action by Plaintiffs and all other Settlement Class Members against the U.S. Directors shall be finally and fully settled, compromised, discharged, released and dismissed with prejudice, and further that each and every one of the Released Claims shall be finally and fully settled, compromised, discharged, released and dismissed with prejudice as to each and every one of the Released Persons, in the manner and on the terms and conditions stated below, subject to Court approval following a Settlement Hearing to be held pursuant to Rule 23 of the Federal Rules of Civil Procedure.

**1. Definitions**

The following terms shall have the following meanings for the purpose of this Stipulation, the exhibits to this Stipulation and the Supplemental Agreement (in the event of any inconsistency between the definitions set forth below and any definitions contained in any other document related to the Settlement, the definitions set forth below shall control):

1.1 “Action” means the consolidated action captioned *In re Puda Coal Sec. Inc. et al. Litig.*, No. 11 Civ. 2598 (DLC), pending in the United States District Court for the Southern District of New York.

1.2 “Additional Named Plaintiffs” means, collectively, Steven Weissmann and Trellus Management Company LLC.

1.3 “Additional Plaintiffs’ Counsel” means, collectively, Pomerantz LLP, Kaplan Fox and Kilsheimer LLP and Kirby McInerney LLP.

1.4 “Authorized Claimant” means any Settlement Class Member who submits a timely and valid Proof of Claim Form to the Claims Administrator pursuant to the terms of this Stipulation and the Notice, who is not otherwise excluded from the Settlement Class.

1.5 “CAFA Notice” means a notice of the proposed Settlement in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.* (“CAFA”), to be

served upon the appropriate State official of each State in which a Settlement Class Member resides and the Attorney General of the United States.

1.6 “Claims Administrator” means Epiq Systems, Inc., the firm to be retained by Co-Lead Counsel, subject to Court approval, which shall provide all notices approved by the Court, process Proof of Claim Forms and administer the Settlement Fund and the distribution of the Net Settlement Fund to Authorized Claimants in accordance with the terms and conditions set forth in this Stipulation, the Plan of Allocation, the Class Distribution Order and any other orders of the Court relating thereto.

1.7 “Class Distribution Order” means an order of the Court approving the Claims Administrator’s administrative determinations concerning the acceptance and rejection of the claims submitted in accordance with this Stipulation and approving any fees and expenses not previously applied for, including the fees and expenses of the Claims Administrator, and, if the Effective Date has occurred, directing payment of the Net Settlement Fund to approved Authorized Claimants.

1.8 “Co-Lead Counsel” means, collectively, The Rosen Law Firm, P.A. and Glancy Prongay & Murray LLP (the successor firm to Glancy Binkow & Goldberg LLP).

1.9 “Controlling Interest” means an interest in a Person where such interest is sufficient to allow the interest holder directly or indirectly to direct or cause the direction of the management and policies of the Person, whether through ownership of the voting shares, by contract or otherwise.

1.10 “Court” means the United States District Court for the Southern District of New York in which the Action is pending.

1.11 “Defendants” means, collectively, the U.S. Directors and the Non-Settling Defendants.

1.12 “Effective Date” with respect to the Settlement means the first date upon which all of the events and conditions specified in ¶ 8.1 of this Stipulation have occurred and been met (or have been waived in a writing signed by the party that is waiving the event and condition).

1.13 “Escrow Account” means the interest-bearing account maintained by the Escrow Agent to hold the Settlement Fund, which account, subject to the Court’s supervisory authority, shall be under the control of Co-Lead Counsel and which is to be managed consistent with the provisions of this Stipulation and any orders of the Court relating thereto.

1.14 “Escrow Agent” means The Huntington National Bank, the financial institution designated by Co-Lead Counsel to receive, hold, invest and disburse the Settlement Amount pursuant to the terms of this Stipulation and the Escrow Agreement.

1.15 “Escrow Agreement” means the agreement between Co-Lead Counsel and the Escrow Agent setting forth the terms under which the Escrow Agent shall maintain the Escrow Account in accordance with the terms and conditions of the Stipulation, the Escrow Agreement and any orders of the Court relating thereto.

1.16 “Final Order and Judgment” means the order to be entered in the Action if the Court approves the Settlement, and which shall be substantially in the form attached hereto as Exhibit B.

1.17 “Litigation Expenses” means costs and expenses incurred by Plaintiffs’ Counsel in connection with commencing, prosecuting and resolving the Action for which Co-Lead Counsel intends to apply to the Court for reimbursement and which are to be paid from the Settlement Fund, and not by any of the Released Defendant Persons.

1.18 “Net Settlement Fund” means the Settlement Fund less: (a) any Court approved attorneys’ fees and Litigation Expenses to Plaintiffs’ Counsel; (b) Notice and Administration Expenses; (c) any required Taxes; (d) any Court approved Reimbursement Award to Lead Plaintiffs; and (e) any other fees or expenses that are allowed under this Stipulation and approved by the Court incurred in connection with the administration of the Settlement.

1.19 “Non-Settling Defendants” means any Person, other than the U.S. Directors, who: (a) currently is a named defendant in the Action; and/or (b) was previously a named defendant in the Action but was dismissed, or is in the process of being dismissed, for any reason, whether by settlement, judgment or otherwise. “Non-Settling Defendants” specifically includes, without limitation, Puda, the Auditor Defendants, the Underwriters, and the Defaulted Defendants.

1.20 “Notice and Administration Expenses” means all costs, fees and expenses incurred by the Claims Administrator in connection with: (a) the preparation, printing and mailing of the Notice, publishing the Summary Notice; and (b) administering the Settlement including administering the claims process, reviewing and processing claims, managing the Escrow Account, allocating and distributing the Net Settlement Fund to Authorized Claimants, applying the Court-approved plan of allocation, corresponding with Settlement Class Members and the fees and costs of the Claims Administrator and the Escrow Agent.

1.21 “Notice” means the Notice of (a) Pendency of Class Action, (b) Proposed Settlements of Claims Against Macquarie, Brean, and U.S. Directors, and (c) Hearing on Proposed Settlements, Plan of Allocation and Motion for Attorneys’ Fees and Reimbursement of Litigation Expenses to Plaintiffs’ Counsel, that is to be sent to Settlement Class Members, and which shall be substantially in the form attached hereto as Exhibit A-1.

1.22 “Person” means a natural person, individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and all of their respective spouses, heirs, beneficiaries, executors, administrators, predecessors, successors, representatives, or assignees.

1.23 “Plaintiffs’ Counsel” means, collectively, Co-Lead Counsel and Additional Plaintiffs’ Counsel.

1.24 “Plaintiffs” means, collectively, Lead Plaintiffs and the Additional Named Plaintiffs.

1.25 “Plan of Allocation” means the proposed plan that Co-Lead Counsel will submit to the Court for approval upon notice to the Settlement Class to be utilized for distribution of the Net Settlement Fund to Authorized Claimants in a manner consistent with the terms of this Stipulation that will be contained in the Notice, or such other plan of allocation as the Court may approve.

1.26 “Preliminary Approval Order” means the proposed order to be entered by the Court preliminarily approving the Settlement and directing notice thereof to the Settlement Class, and which shall be substantially in the form attached hereto as Exhibit A.

1.27 “Proof of Claim Form” or “Claim Form” means the proof of claim form and release to be mailed to Settlement Class Members, as approved by the Court, which Settlement Class Members shall be required to complete and return to the Claims Administrator in order to substantiate their entitlement to a share of the Net Settlement Fund, and which shall be substantially in the form attached hereto as Exhibit A-2.

1.28 “Puda” means Puda Coal, Inc. and its predecessors and subsidiaries, including, but not limited to, Shanxi Puda Coal Group Co., Ltd. (“Shanxi Coal”).

1.29 “Reimbursement Award” means the reimbursement award to Lead Plaintiffs that Co-Lead Counsel intends to apply to the Court for and which is to be paid from the Settlement Fund, and not by any of the Released Defendant Persons.

1.30 “Released Claims” means, collectively, all of the Released Plaintiff Claims and all of the Released Defendant Claims.

1.31 “Released Defendant Claims” means any and all claims and causes of action of every nature and description, whether such are known or Unknown (as that term is employed and defined in ¶ 5.4 below), whether arising under federal, state, common or foreign law, that were or could have been asserted by any or all of the Releasing Defendant Persons against any or all of the Released Plaintiff Persons and that arise out of or relate in any way to the institution, prosecution or settlement of the Action, except for claims relating to the enforcement of the Settlement. Nothing in this definition of “Released Defendant Claims” is intended to, or should be construed as prohibiting or limiting the U.S. Directors from: (a) asserting against a Person other than a Released Plaintiff Person a claim relating to, or arising out of, the December Offering or Puda that is not precluded by ¶ 7.3(b) hereof, and/or (b) from taking any action to enforce or effectuate the terms and provisions of this Stipulation, the Settlement, the Preliminary Approval Order and/or the Final Order and Judgment.

1.32 “Released Defendant Persons” means each and all of the following: (a) the U.S. Directors and each of their respective past and/or present general partners, limited partners, and any Person in which any of these Persons has a Controlling Interest (the “Defendant Releasees”); and (b) each and every one of the Defendant Releasees’ respective past and/or present

employees, partners, representatives, agents, consultants, counsel, insurers, reinsurers, families, heirs, executors, trustees, personal representatives, estates, administrators, predecessors, and assigns in their capacities as such. Nothing in this definition of “Released Defendant Persons” is intended to release any claims asserted in the Action by Plaintiffs (or any other Settlement Class Member) against any Non-Settling Defendant.

1.33 “Released Persons” means, collectively, all of the Released Plaintiff Persons and all of the Released Defendant Persons.

1.34 “Released Plaintiff Claims” means: (a) any and all claims, demands, rights, liabilities, losses, duties, damages, suits, actions, causes of action, potential actions, obligations, interests, debts, judgments, penalties, sanctions, fees, decrees, matters, issues and controversies of any kind, nature and description whatsoever; (b) whether disclosed or undisclosed, accrued or unaccrued, apparent or not apparent, foreseen or unforeseen, matured or not matured, perfected or not perfected, choate or inchoate, suspected or unsuspected, liquidated or not liquidated, fixed or contingent, ripened or unripened, including both known claims and any Unknown Claims (as that term is employed and defined in ¶ 5.4 below); (c) whether direct or derivative, whether at law or in equity, based upon any legal or equitable theory, whether contractual, common law or statutory, whether arising under federal, state, common or foreign law, whether based on allegedly intentional, negligent, reckless or otherwise improper conduct; (d) that previously existed, currently exist, exist as of the date of the Court’s approval of the Settlement or that may arise in the future; (e) that are, were or could have been asserted by any of the Releasing Plaintiff Persons against any or all of the Released Defendant Persons in the Action, in any other federal or state court, tribunal, arbitration, proceeding, administrative agency or other forum in the United States or elsewhere, whether asserted as claims, cross-claims, counterclaims or third-

party claims; (f) that are, in any way, based upon, arise out of, relate to, concern, implicate or involve (in whole or in part) either: (i) any of the facts, matters, occurrences, conduct, activities, securities offerings (including the December Offering), behavior, allegations, representations, omissions, events, transactions, decisions, actions (or failures to act) or any series thereof, that were alleged, asserted, raised, set forth, referred to, made, mentioned, claimed, embraced, involved in, referred to, in whole or in part, in the Action (including, without limitation, in the Complaint or in any of the complaints filed in the Individual Actions), or (ii) the purchase, acquisition, disposition or sale of, or other transaction in, any and all publicly-traded Puda common stock (including, but not limited to, Puda call options or Puda put options) during the Settlement Class Period, including without limitation, claims that arise out of or relate to any disclosures, SEC filings, press releases, registration statements, offering memoranda, other public statements by Puda during the Settlement Class Period or otherwise made in connection with the December Offering; provided, however, that nothing in this definition or Stipulation shall prevent any Person from seeking to obtain a recovery through the Fair Fund established in connection with the separate proceeding by the SEC captioned *SEC v. Macquarie Capital (USA) Inc.*, C.A. No. 15-CV-02304 (S.D.N.Y.). For avoidance of doubt, nothing in this definition of “Released Plaintiff Claims” is intended to release any of the claims that have already been asserted against the already named defendants in the action captioned *In re Puda Coal, Inc. Stockholders Litigation*, C.A. 6476-CB, currently pending in the Delaware Court of Chancery.

1.35 “Released Plaintiff Persons” means, collectively, Plaintiffs, Plaintiffs’ Counsel, each and every Settlement Class Member, any other counsel any Settlement Class Member retained or employed in this Action (including those prior to the consolidation of the individual cases) and each of their past and/or present employees, officers, partners, directors, managing

directors, representatives, affiliates, agents, attorneys, insurers, reinsurers, principals, members, managers, families, stockholders, heirs, executors, trustees, personal representatives, estates, administrators, predecessors, divisions, successors and assigns in their capacities as such.

1.36 “Releases” means all of the releases and liability protections set forth in Section 5 of the Stipulation, as well as those set forth in ¶¶ 7.2, 7.4, 7.5 and 7.6.

1.37 “Releasing Defendant Persons” means the U.S. Directors and each of their agents, executors, and successors;

1.38 “Releasing Persons” means, collectively, all of the Releasing Plaintiff Persons and all of the Releasing Defendant Persons.

1.39 “Releasing Plaintiff Persons” means Plaintiffs and each and every Settlement Class Member, on behalf of themselves and each and all of their respective successors in interest, predecessors, representatives, trustees, counsel, executors, affiliates, subsidiaries, immediate family, administrators, agents, heirs, estates, assigns or transferees, immediate and remote, in their capacities as such, and any other Person who has the right, ability, standing or capacity to assert, prosecute or maintain on behalf of any Settlement Class Member any of the Released Plaintiff Claims (or to obtain the proceeds of any recovery therefrom), whether in whole or in part. A Person is a “Releasing Plaintiff Person” regardless of whether or not that Person: (a) actually submits a Claim Form; (b) seeks or obtains a distribution from the Net Settlement Fund; (c) is entitled to receive such a distribution or payment under the Plan of Allocation; and/or (d) has objected to the Settlement, the Plan of Allocation, the application for an award of attorneys’ fees and reimbursement of Litigation Expenses to Plaintiffs’ Counsel or the application for a Reimbursement Award to Lead Plaintiffs.

1.40 “Settlement” means the settlement between the Settling Parties contemplated by, and memorialized in, this Stipulation on the terms and conditions contained herein.

1.41 “Settlement Amount” means the sum of (1) one hundred thousand dollars (\$100,000) and (2) all funds that Lead Counsel is able to collect from PICC through the enforcement of the Stipulated Judgment and/or Assigned Claims against PICC, as set forth in paragraphs 2.1–2.2 herein.

1.42 “Settlement Class” or “Class” means those Persons who during the Settlement Class Period: (a) purchased or otherwise acquired Puda common stock, (b) purchased or otherwise acquired call options on Puda common stock, and/or (c) sold or otherwise disposed of put options on Puda common stock. Excluded from the Settlement Class are: (a) the Defendants; (b) any Person who was a partner, executive officer, director, controlling person, subsidiary, or affiliate of any Defendant during the Settlement Class Period; (c) members of the Defendants’ immediate families; (d) any Person in which any Defendant has a Controlling Interest; and (e) the legal representatives, heirs, estates, administrators, predecessors, successors or assigns of any of the foregoing excluded Persons. Also excluded from the Settlement Class is any Person who or which properly excludes himself, herself or itself by filing a valid and timely request for exclusion in accordance with the requirements set forth herein and in the Notice. The Settling Parties have agreed to request that the Court use this definition to replace the class definition contained in the January 12, 2015 Order.

1.43 “Settlement Class Member” or “Class Member” means any Person that falls within the definition of the Settlement Class as defined in ¶ 1.42 and who or which is not excluded therefrom.

1.44 “Settlement Class Period” or “Class Period” means the period beginning on December 8, 2010 through and including April 11, 2011.

1.45 “Settlement Fund” means the Settlement Amount (together with all interest earned thereon) to be held in the Escrow Account pursuant to, and in accordance with, the provisions of this Stipulation and any orders of the Court relating thereto.

1.46 “Settlement Hearing” means the final hearing to be held by the Court to determine, among other things, whether the Settlement is fair, reasonable and adequate and in the best interests of the Settlement Class and should be approved as described in the Notice and the Preliminary Approval Order.

1.47 “Settling Parties” means, collectively, the U.S. Directors and the Plaintiffs on behalf of themselves and each of the other Settlement Class Members.

1.48 “Summary Notice” means the summary notice of the proposed Settlement, the proposed Brean Settlement, and the proposed Macquarie Settlement to be published as set forth in the Preliminary Approval Order and which shall be substantially in the form attached hereto as Exhibit A-3.

1.49 “Supplemental Agreement” is defined in ¶ 9.3 of this Stipulation.

1.50 “Taxes” means all taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund. For purposes of ¶ 2.8, Taxes includes the expenses and costs incurred in connection with the calculation and payment of taxes or the preparation of tax returns and related documents including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs relating to filing (or failing to file) the returns described therein.

1.51 “Unknown Claims” shall have the meaning as set forth in ¶ 5.4 of this Stipulation.

1.52 “U.S. Directors’ Counsel” means Goodwin Procter LLP.

**2. Payment Of The Settlement Amount And The Obligations Of The Released Defendant Persons**

2.1 In consideration of the full and complete settlement of all claims asserted against them in this Action and in consideration of the Releases provided for herein, the U.S. Directors shall:

(a) consent to the entry of a stipulated judgment for settlement purposes only (the “Stipulated Judgment”), in the total amount of \$1.2 million USD, on the Section 11 and 15 claims against the U.S. Directors in Counts I and III of the currently-operative Complaint, which shall be substantially in the form attached hereto as Exhibit C, subject to the following conditions: (i) the Stipulated Judgment is solely for settlement purposes, and the U.S. Directors have denied Plaintiffs’ allegations, have defended this Action vigorously, and have not admitted any wrongdoing in connection with the Settlement; (ii) the Stipulated Judgment shall not take effect until after the Court enters the Final Order and Judgment, and after the Effective Date as set forth in ¶ 8.1 of the Stipulation; (iii) Plaintiffs shall not attempt to enforce or execute on the Stipulated Judgment against the U.S. Directors, and shall attempt to enforce or execute on the Stipulated Judgment only against PICC; and (iv) the Stipulated Judgment may not be satisfied from attaching, executing on, or otherwise acquiring any assets or property of the U.S. Directors or their families, heirs, estates, agents, executors, successors or assigns;

(b) assign to the Class all of the U.S. Directors' claims and rights to payments from PICC in this Action (the "Assigned Claims") and agree to provide limited cooperation to Lead Plaintiffs in pursuing the Assigned Claims, as set forth in detail in the Assignment of Claims Agreement which shall not take effect until after the Effective Date, and which shall not be filed with the Court and its terms shall not be disclosed in any other manner (other than the statements herein and those in the Notice attached hereto as Exhibit A-1) unless and until the Court requires the Settling Parties to do so, in which case the Assignment of Claims Agreement shall be filed and maintained by the Court under seal; and

(c) pay one hundred thousand dollars (\$100,000) by check or wire transfer into the Escrow Account no later than ten (10) business days after the later of: (i) the entry of the Preliminary Approval Order and (ii) Co-Lead Counsel's provision to the U.S. Directors' Counsel of wire transfer, check mailing instructions and such other account information necessary for this payment to be made.

2.2 Lead Plaintiffs and Lead Counsel, on behalf of the Class and at their sole expense, shall pursue and attempt to enforce the Stipulated Judgment and Assigned Claims against PICC and shall use their best efforts to obtain the maximum allowable recovery for the Class from PICC. The U.S. Directors and U.S. Directors' Counsel make no representations about the assignability or enforceability of any claims against PICC, and Lead Plaintiffs and Lead Counsel recognize and acknowledge that it is possible that no recovery may be obtained from PICC. Regardless of whether any recovery has been obtained from PICC, Lead Plaintiffs, Lead Counsel, and the Class expressly agree not to seek to execute on, attach, or otherwise acquire any of the property or assets of the U.S. Directors and/or their families, heirs, estates, agents,

executors, successors or assigns of any kind other than by pursuing claims against PICC to satisfy or recover on the Stipulated Judgment and/or the Assigned Claims.

2.3 Other than the obligations of the U.S. Directors set forth in paragraphs 2.1–2.2 and as otherwise expressly set forth in this Stipulation, the Released Defendant Persons shall have no further or other responsibility, liability or obligations to Plaintiffs or any other Released Plaintiff Person (including any of their counsel) with respect to the Released Plaintiff Claims. Except as otherwise expressly provided herein, the Released Defendant Persons shall have no obligation to pay for, responsibility of any kind for, or any liability whatsoever to any Person in connection with, any of the following: (a) the administration of the Settlement; (b) the Plan of Allocation and its interpretation, administration and implementation; (c) the allocation, disbursement, administration or distribution of the Net Settlement Fund; (d) the dissemination of the Notice, Proof of Claim Form, and Summary Notice to the Settlement Class Members; (e) the processing, reviewing, challenging or determination of claims; (f) any payment of attorneys' fees or Litigation Expenses to Plaintiffs' Counsel that may be awarded by the Court; (g) any fee and/or expense allocation among Plaintiffs' Counsel and/or any other Person who may assert a claim thereto; (h) paying any Taxes due; (i) investing the Settlement Amount; (j) the Settlement Fund, including its management and administration; (k) establishing, administering or maintaining the Escrow Account; (l) filing elections or other required statements or tax returns (or paying or withholding the costs associated herewith) with respect to any Taxes; (m) any tax liability that a Settlement Class Member may incur as a result of the Settlement; (n) any Reimbursement Award that may be ordered by the Court; and/or (o) the Brean Settlement or Macquarie Settlement.

2.4 The Settlement Fund shall be applied as follows and only as follows and then only in accordance with the provisions of this Stipulation and any orders of the Court:

(a) to pay the Notice and Administration Expenses pursuant to, and in accordance with, the terms and conditions of this Stipulation and any orders of the Court relating thereto;

(b) to pay any attorneys' fees and Litigation Expenses awarded by the Court to Plaintiffs' Counsel pursuant to, and in accordance with, the terms and conditions set forth in Section 6 herein;

(c) to pay any Reimbursement Award that may be approved by the Court to Lead Plaintiffs;

(d) to pay any other fees, costs and expenses approved by the Court;

(e) to pay the Taxes pursuant to, and in accordance with, the terms and conditions set forth in ¶ 2.8 herein; and

(f) to distribute the balance of the Settlement Fund (the "Net Settlement Fund") to Authorized Claimants following the Effective Date pursuant to, and in accordance with, the terms and conditions set forth in this Stipulation (as provided in the Court-approved Plan of Allocation) and the Class Distribution Order.

2.5 Except as otherwise provided, the Settlement Fund and Net Settlement Fund shall remain in the Escrow Account until the Effective Date unless the Stipulation is terminated pursuant to Section 9 herein, the Settlement is not approved and/or the Effective Date otherwise does not occur. After the Effective Date, the Net Settlement Fund shall be distributed to Authorized Claimants by the Claims Administrator pursuant to, and in accordance with, the Class Distribution Order after all claims have been processed and all claimants whose claims

have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to communicate with the Claims Administrator concerning such rejection or disallowance as provided for herein.

2.6 After the Effective Date, Co-Lead Counsel may pay from the Settlement Fund, at the appropriate time and only as expressly permitted herein, all reasonable costs and expenses associated with the administration of the Settlement, including, without limitation, the actual costs of identifying and notifying Settlement Class Members, printing and mailing the Notice, publishing the Summary Notice, reimbursing nominee owners for forwarding the Notice to their beneficial owners, the administration expenses incurred and fees charged by the Claims Administrator and any other Notice and Administration Expenses. Notwithstanding the fact that the Effective Date has not yet occurred, Co-Lead Counsel may pay from the Escrow Account the Notice and Administration Expenses reasonably necessary and actually incurred, up to \$100,000 as well as Taxes without further order of the Court. No other amounts shall be disbursed from the Escrow Fund prior to the Effective Date, except upon written order of the Court following notice to U.S. Directors' Counsel.

2.7 All funds held by the Escrow Agent shall be deemed and considered to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds are distributed or returned pursuant to this Stipulation and/or further orders of the Court. Subject to the Court's jurisdiction, the Settlement Fund shall be maintained by the Escrow Agent in a manner consistent with the provisions of this Stipulation and the Escrow Agreement. All interest earned on the Settlement Fund shall be for the benefit of the Settlement Class if the Effective Date occurs.

2.8 The following provisions shall govern the administration of the Escrow Account:

(a) The Escrow Agent shall maintain the Settlement Fund in a segregated escrow account not available to creditors of the Escrow Agent or with respect to residual amounts of less than \$100,000 in an account as set forth in subparagraph (b) below and shall not disburse any amounts therefrom except as authorized by this Stipulation and/or any orders of the Court;

(b) The Escrow Agent will invest the Settlement Fund only in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof. The Escrow Agent shall collect and reinvest all interest and proceeds accrued thereon and will reinvest the proceeds as they mature in similar instruments at their then-current market rates. Any interest that accrues on the amount held in escrow will become part of the Settlement Fund. Any residual cash balances of less than \$100,000 may be invested, without further approval from Lead Plaintiffs and Co-Lead Counsel, in an interest-bearing account insured by the FDIC or money market mutual funds comprised exclusively of investments secured by the full faith and credit of the United States Government or fully insured by the United States Government;

(c) all payments for Notice and Administration Expenses, Taxes, the Reimbursement Award and any attorneys' fees and Litigation Expenses awarded by the Court shall be paid, only at the appropriate time and as permitted herein and/or by Order of the Court, from the Settlement Fund and not by Plaintiffs, Plaintiffs' Counsel, the Settlement Class Members, the U.S. Directors, the other Released Defendant Persons or U.S. Directors' Counsel. There shall be no liability on the part of any Settlement Class Member or Released Defendant Persons (or any of their counsel) for any such fees, costs and/or expenses;

(d) Lead Plaintiffs intend to structure the Escrow Account so that it will qualify as a “Qualified Settlement Fund” within the meaning of Section 468B of the Internal Revenue Code and the Regulations promulgated thereunder, including Treasury Regulation § 1.468B-1. Co-Lead Counsel shall act as administrators of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3). Co-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 subparagraph, including the relation-back election (as defined in Treasury Regulation § 1.468B-1(j)) to cause the Qualified Settlement Fund to come into existence at the earliest permitted date.

(e) All Taxes shall be paid out of the Settlement Fund. Co-Lead Counsel or its agents, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be responsible for timely filing tax returns and any relevant tax filings and documentation relating thereto for the Settlement Fund and timely paying from the Settlement Fund any Taxes owed with respect to the Settlement Fund. Notwithstanding anything in this Stipulation to the contrary, the Claims Administrator is to withhold from distribution to Settlement Class Members any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes, and any amounts required to be withheld under Treasury Regulation § 1.468B-2(1)(2);

(f) Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous subparagraph, and in all events shall reflect that all Taxes (including any interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The U.S. Directors (and the other Released Defendant Persons) shall have no liability or responsibility for any Taxes. The

U.S. Directors (and the other Released Defendant Persons) shall notify Co-Lead Counsel promptly if they receive any notice of any claim for Taxes relating to the Settlement Fund; and

(g) The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Paragraph.

**3. Preliminary Court Approval And Notice To Settlement Class Members**

3.1 As soon as practicable following execution of this Stipulation, Lead Plaintiffs shall apply to the Court for entry of the Preliminary Approval Order (which shall be substantially in the form attached as Exhibit A to this Stipulation), *inter alia*: (a) requesting preliminary approval of the Settlement as set forth in this Stipulation; (b) requesting approval for the mailing of the Notice and publication of the Summary Notice; (d) setting forth the procedures by which Settlement Class Members may object to the Settlement, seek exclusion therefrom or file a Proof of Claim Form to obtain a distribution from the Net Settlement Fund; (e) setting a date for the Settlement Hearing, to be held after the Notice is mailed and the Summary Notice is published, to consider whether to approve the Settlement and whether the Final Order and Judgment (substantially in the form of Exhibit B attached hereto) should be entered into, *inter alia*, dismissing the Action with prejudice as against the U.S. Directors and containing the Releases set forth herein. U.S. Directors' Counsel shall not oppose the application, provided it is otherwise consistent with the terms of this Stipulation, and shall cooperate in good faith with the Lead Plaintiffs in connection therewith (Co-Lead Counsel shall provide drafts of the Notice, Summary Notice and Proof of Claim Form to U.S. Directors' Counsel for its review two (2) business days prior to their dissemination).

3.2 If the Preliminary Approval Order is granted by the Court, Co-Lead Counsel will cause the Claims Administrator, on a schedule to be set by the Court, to: (a) mail the Notice to

those members of the Settlement Class whose addresses may be identified through reasonable effort; (b) publish the Summary Notice on one occasion in the national edition of *Investors' Business Daily* and via PR Newswire within ten (10) days of the mailing of the Notice; and (c) otherwise provide such notice in the form or manner as may be ordered by the Court.

3.3 From the date of this Stipulation through and including final approval of the Settlement by the Court, including the final dismissal of the Action, Plaintiffs and their counsel agree that, other than for those matters necessary to implement and effectuate the Settlement itself: (a) to stay the Action as it relates to their claims against the U.S. Directors; (b) not to take any steps to prosecute any of the Released Plaintiff Claims against any of the Released Defendant Persons; and/or (c) not to initiate or participate in any proceedings arising out of, based upon or concerning any of the Released Plaintiff Claims against any of the Released Defendant Persons. Lead Plaintiffs, and their counsel, shall also cooperate, to the extent reasonably necessary, with any efforts by the U.S. Directors to prevent, stay, seek dismissal of, or oppose entry of any interim or final relief in favor of any Settlement Class Member in any litigation or proceeding that asserts any of the Released Plaintiff Claims against any of the Released Defendant Persons or which challenges the Settlement (whether or not such matter has previously been filed). If any action is filed or prosecuted in any court asserting any of the Released Plaintiff Claims against any of the Released Defendant Person, Plaintiffs and their counsel shall cooperate, to the extent reasonably necessary, with the U.S. Directors' efforts to obtain the dismissal or withdrawal of such litigation, including where appropriate joining in any motion to dismiss or demurrer to such litigation; provided, however, that Plaintiffs' obligations under this Paragraph shall end if the Court does not approve the Settlement or if the Effective Date otherwise does not occur.

4. **Administration Of The Settlement Fund And Distribution Of The Settlement Fund To Authorized Claimants**

4.1 Co-Lead Counsel is responsible for disseminating Notice of the Settlement and supervising the administration of the Settlement and the distribution of the Net Settlement Fund, subject to the jurisdiction of the Court and in the manner provided for herein. The Claims Administrator shall assist Co-Lead Counsel in connection with the administration of the Settlement, including: (a) the printing, labeling and mailing of the Notice and the publication of the Summary Notice; (b) the administration, processing and determination of claims; (c) the distribution of the Net Settlement Fund; and (d) all other appropriate tasks to be performed to effectuate the Settlement as directed by Co-Lead Counsel.

4.2 The distribution of the Net Settlement Fund to Settlement Class Members shall be subject to the Plan of Allocation, which Lead Plaintiffs shall propose, subject to approval by the Court following notice to the Settlement Class Members. The U.S. Directors shall not take any position on the Plan of Allocation, provided it is not inconsistent with the terms of this Stipulation.

4.3 The Plan of Allocation is not a necessary term or part of the Settlement or this Stipulation and it is not a condition of this Stipulation (or to entry of the Final Order and Judgment) that any particular plan of allocation be approved by the Court. The Court is to consider the Plan of Allocation separately from, and independently of, the Court's consideration of the question of whether the proposed Settlement is fair, reasonable and adequate and in the best interests of the Settlement Class. Any orders or proceedings relating to the Plan of Allocation (or any other such plan of allocation as may be approved by the Court) as well as any appeal therefrom (or appellate ruling) shall not: (a) operate to modify, terminate or cancel this Settlement; (b) affect or delay the validity or finality of the Final Order and Judgment or any

other orders entered by the Court giving effect to this Stipulation; (c) affect or delay the Effective Date; (d) provide any ground or otherwise permit any Person (including Plaintiffs and the other Settlement Class Members), or any of their counsel, to cancel, terminate or withdraw from the Stipulation or the Settlement; and/or (e) affect or delay the validity of the Settlement.

4.4 Each Settlement Class Member who desires to share in the Net Settlement Fund is a “Claimant” and must submit a fully completed and signed Proof of Claim Form together with the documentation required thereby to the Claims Administrator in the manner, at the address and by the deadline stated on the Proof of Claim Form and the Notice unless otherwise ordered by the Court. Each Settlement Class Member who submits a valid, timely Proof of Claim Form that is accepted in whole or in part is an “Authorized Claimant.” Each Authorized Claimant that is determined to have a “Recognized Loss” (as that term will be defined in the Plan of Allocation) shall be allocated a *pro rata* share of the Net Settlement Fund based on the amount of his, her or its “Recognized Loss” in accordance with the Court-approved Plan of Allocation if their claim is accepted for payment by the Court.

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

(n) each Settlement Class Member shall be required to submit a Proof of Claim Form signed under penalty of perjury and supported by such documents as are designated therein, including proof of the Claimant’s loss or such other documents or proof as Co-Lead Counsel at their discretion may deem acceptable subject to the approval of the Court;

(o) all Proof of Claim Forms must be submitted by the date specified thereon unless such period is extended by the Court. Any Settlement Class Member who fails to do so

will not be entitled to receive any of the proceeds of the Settlement Fund (unless, by order of the Court, a later submitted Proof of Claim Form by such Settlement Class Member is approved), but shall in all other respects be bound by the terms of this Stipulation and the Final Order and Judgment. A Proof of Claim Form shall be deemed to have been submitted when posted, if received with a postmark indicated on the envelope and if mailed first-class postage prepaid and addressed in accordance with the instructions thereon, provided that it is received before the motion for the Class Distribution Order is filed. In all other cases, the Proof of Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator;

(p) each Proof of Claim Form shall be submitted to and reviewed by the Claims Administrator who shall determine in accordance with this Stipulation and under the supervision of Co-Lead Counsel the extent, if any, to which each claim shall be allowed subject to review by the Court pursuant to ¶ 4.6 below;

(q) a Proof of Claim Form that does not meet the submission requirements may be rejected. Prior to rejection of a Proof of Claim Form, the Claims Administrator shall communicate with the Claimant in order to afford the Claimant the opportunity to remedy any curable deficiencies contained therein. The Claims Administrator under Co-Lead Counsel's supervision shall notify in a timely fashion and in writing all Claimants whose claim they propose to reject in whole or in part, setting forth the reasons therefor and indicating that such Person has the right to judicial review by the Court if such Claimant so desires and if such Claimant complies with the requirements of ¶ 4.5 (e) below; and

(r) if any Claimant who is notified by the Claims Administrator that the Claims Administrator intends to reject his, her or its claim in whole or in part desires to contest such rejection, such Claimant must within twenty (20) calendar days after the date of mailing of

the Notice required in ¶ 3.2 above serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation and specifically requesting a review thereof by the Court. If the dispute cannot be resolved to the satisfaction of the Claimant, then Co-Lead Counsel shall present the claim for review to the Court.

4.6 Co-Lead Counsel will apply to the Court, on notice to U.S. Directors' Counsel, for a Class Distribution Order approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the claims submitted and approving any fees and expenses not previously applied for (including the fees and expenses of the Claims Administrator) and, if the Effective Date has occurred, directing distribution of the Net Settlement Fund to Authorized Claimants. If any funds remain in the Net Settlement Fund by reason of uncashed distribution checks or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Settlement Class Members who are entitled to participate in the distribution of the Net Settlement Fund cash their distributions, any balance remaining in the Net Settlement Fund shall be distributed as set forth in the Plan of Allocation.

4.7 This is not a claims-made settlement. As of the Effective Date, the U.S. Directors shall not have any right to the return of the Settlement Fund or any portion thereof irrespective of the number of Proof of Claim Forms filed, and/or the amounts to be paid to Authorized Claimants from the Net Settlement Fund.

4.8 By submitting a Proof of Claim Form, each Settlement Class Member shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its claim and this Settlement, and the claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that

Claimant's status as a Settlement Class Member and the validity and amount of the claim. In connection with the processing of the Proof of Claim Forms, no discovery shall be allowed on the merits of the Action or of the Settlement.

4.9 Payment pursuant to the terms of this Stipulation shall be deemed final and conclusive against Plaintiffs and all other Settlement Class Members. Regardless of whether such person submits a Proof of Claim Form, seeks or obtains a payment or distribution from the Settlement Fund or is entitled to a payment under the Plan of Allocation): any Settlement Class Member: (a) who does not timely submit a valid Proof of Claim Form or has its claim rejected or not otherwise approved by the Court, (b) shall be deemed to have waived its right to share in the Settlement Fund, and shall forever be barred from participating in distributions therefrom, but (c) otherwise shall be bound by all of the terms of the Settlement and this Stipulation and all determinations, judgments and orders in the Action relating thereto, including the terms of the Final Order and Judgment to be entered in the Action (including the Releases provided for therein, whether favorable or unfavorable to the Settlement Class), and will be barred from bringing any action against the Released Defendant Persons concerning the Released Plaintiff Claims. Any Person that is not a Settlement Class Member (including, without limitation, those who validly exclude themselves from the Settlement Class) shall not have any right to any share of the Net Settlement Fund or to receive distributions therefrom.

4.10 A Settlement Class Member seeking exclusion from the Settlement Class shall be requested to provide the information identified in the Notice to the Claims Administrator (in the manner and on the schedule set forth therein and in the Preliminary Approval Order), including, without limitation, the following: (a) name, address, telephone number; (b) Social Security Number or Taxpayer Identification Number; and (c) a list stating the number of shares of Puda

common stock purchased and sold during the Settlement Class Period, and the dates and prices of each such purchase and sale. Any request for exclusion must also be signed by the Person requesting exclusion. All Persons who submit valid and timely requests for exclusion in the manner forth in the Notice shall have no rights under the Stipulation or the Settlement and shall not be bound by the Final Order and Judgment. Unless otherwise ordered by the Court, any Settlement Class Member who does not submit a timely written request for exclusion shall be bound by the terms of this Stipulation, including without limitation, the Releases provided for herein.

4.11 No Person shall have any claim against Plaintiffs, Plaintiffs' Counsel, the U.S. Directors, the other Released Defendant Persons, or U.S. Directors' Counsel based on the administration of the Settlement, including without limitation the processing of claims and distributions made in accordance with this Stipulation, the Settlement, the Plan of Allocation and/or the implementation of the Class Distribution Order.

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

## **5. The Releases**

5.1 The obligations incurred pursuant to this Stipulation shall be in full and final dismissal, discharge, settlement and disposition of: (a) the Action with respect to the U.S. Directors; and (b) each and every one of the Released Claims by each and every one of the Releasing Persons against each and every one of the Released Persons.

5.2 As of the Effective Date, each and every one of the Releasing Plaintiff Persons (regardless of whether or not that Person actually submits a Claim Form, seeks or obtains a

distribution from the Net Settlement Fund, is entitled to receive such a distribution under the Plan of Allocation or has objected to the Settlement, the Plan of Allocation, the application for an award of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel and/or the application for a Reimbursement Award to Lead Plaintiffs) shall: (a) have, and by operation of law and the Final Order and Judgment be deemed to have, completely, fully, finally, and forever dismissed, released, relinquished and discharged with prejudice each and every one of the Released Defendant Persons from each and every one of the Released Plaintiff Claims; (b) forever and permanently be barred and enjoined by operation of law and the Final Order and Judgment from filing, commencing, intervening in, participating in (as a class member or otherwise), instituting, maintaining, prosecuting, seeking relief in (including filing an application or motion for preliminary or permanent injunctive relief) or receiving any recovery, remedy, benefits or other relief from any other lawsuit, action, arbitration, other proceeding or order in any jurisdiction that asserts, is based on, arises from or relates in any way to any or all of the Released Plaintiff Claims against any or all of the Released Defendant Persons; and (c) have, and by operation of law and the Final Order and Judgment be deemed to have, covenanted not to sue any or all of the Released Defendant Persons with respect to each and every one of the Released Plaintiff Claims. Nothing in this Paragraph (or any other provision of this Stipulation) however: (a) is intended to release any claims asserted by Plaintiffs (or any other Settlement Class Member) against any of the Non-Settling Defendants in the Action; (b) is intended to release any claims asserted by Plaintiffs (or any other Settlement Class Member) in the action captioned *In re Puda Coal, Inc. Stockholders Litigation*, C.A. 6476-CB, currently pending in the Delaware Court of Chancery; or (c) shall prohibit an eligible Settlement Class Member from seeking to obtain a recovery through

the Fair Fund established in connection with the separate proceeding by the SEC captioned *SEC v. Macquarie Capital (USA) Inc.*, C.A. No. 15-CV-02304 (S.D.N.Y.).

5.3 As of the Effective Date, each and every one of the Releasing Defendant Persons shall: (a) have, and by operation of law and the Final Order and Judgment be deemed to have, completely, fully, finally, and forever dismissed, released, relinquished and discharged with prejudice each and every one of the Released Plaintiff Persons from each and every one of the Released Defendant Claims; (b) forever and permanently be barred and enjoined by operation of law and the Final Order and Judgment from filing, commencing, intervening in, participating in (as a class member or otherwise), instituting, maintaining, prosecuting, seeking relief in (including filing an application or motion for preliminary or permanent injunctive relief) or receiving any recovery, remedy, benefits or other relief from any other lawsuit, action, arbitration, other proceeding or order in any jurisdiction that asserts, is based on, arises from or relates in any way to any or all of the Released Defendant Claims against any or all of the Released Plaintiff Persons; and (c) have, and by operation of law and the Final Order and Judgment be deemed to have, covenanted not to sue any or all of the Released Plaintiff Persons with respect to each and every one of the Released Defendant Claims.

5.4 With respect of the use of the term “Unknown” in connection with the Released Claims:

(a) Plaintiffs specifically acknowledge (and the other Releasing Plaintiff Persons shall be deemed by operation of law and the Final Order and Judgment to have acknowledged) that the term “Unknown Claims” in the definition of Released Plaintiff Claims shall mean all claims that each of the Releasing Plaintiff Persons does not know or suspect to exist at the time of the release of the Released Plaintiff Claims against the Released Defendant

Persons, but which, if known by it/her/him, might affect its/her/his decision with respect to the Settlement (including the decision to object or not to object to the Settlement); and (ii) the U.S. Directors specifically acknowledge (and the other Releasing Defendant Persons shall be deemed by operation of law and the Final Order and Judgment to have acknowledged) that the term “Unknown Claims” in the definition of Released Defendant Claims shall mean all claims that each of the Releasing Defendant Persons does not know or suspect to exist at the time of the release of the Released Defendant Claims against the Released Plaintiff Persons, but which, if known by it/her/him, might affect its/her/his decision with respect to the Settlement;

(b) Plaintiffs expressly acknowledge (and the other Releasing Plaintiff Persons shall be deemed by operation of law and the Final Order and Judgment to have acknowledged) that they may hereafter discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Released Plaintiff Claims but that it is nevertheless their intention to fully, finally and forever settle and release the Released Plaintiff Claims without regard to the subsequent discovery of any such additional or different facts; and (ii) the U.S. Directors expressly acknowledge (and the other Releasing Defendant Persons shall be deemed by operation of law and the Final Order and Judgment to have acknowledged) that they may hereafter discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Released Defendant Claims but that it is nevertheless their intention to fully, finally and forever settle and release the Released Defendant Claims without regard to the subsequent discovery of any such additional or different facts; and

(c) the Settling Parties expressly acknowledge (and the other Releasing Persons shall be deemed by operation of law and the Final Order and Judgment to have

acknowledged) that the inclusion of “Unknown Claims” in the definition of the Released Claims was separately bargained for and was a key element of the Settlement, and with respect to the Released Claims the Settling Parties expressly waive and relinquish, and the other Releasing Persons shall be deemed to have waived and relinquished, and by operation of law and the Final Order and Judgment shall have specifically waived and relinquished: (i) any and all provisions, rights and benefits conferred under Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

and (ii) any and all provisions or rights conferred by any law of any state or territory of the United States or principle of common law, which is similar, comparable or equivalent to Section 1542 of the California Civil Code.

5.5 All Settlement Class Members shall be bound by the terms of the Releases set forth in this Stipulation whether or not any individual such Person actually submits a Claim Form, seeks or obtains a distribution from the Net Settlement Fund, is entitled to receive such a distribution under the Plan of Allocation or has objected to the Settlement, the Plan of Allocation and/or any application for an award of attorneys’ fees and Litigation Expenses to Plaintiffs’ Counsel.

5.6 Notwithstanding the foregoing, the Released Claims do not include claims to enforce the Final Order and Judgment, the Stipulation, the Settlement or any other orders or judgments the Court may enter during the Action in connection with the Settlement, and any or all of its terms, including, but not limited to, the Releases.

**6. Attorneys' Fees And Litigation Expenses Incurred By Plaintiffs**

6.1 Co-Lead Counsel intends to apply to the Court for an award of attorneys' fees and reimbursement of Litigation Expenses to Plaintiffs' Counsel as well as a Reimbursement Award to Lead Plaintiffs in connection with the Settlement, which shall be paid out of the Settlement Fund and only out of the Settlement Fund. The U.S. Directors will take no position on Co-Lead Counsel's applications, provided that they are not inconsistent with the terms of this Stipulation. Notwithstanding any other provision of this Stipulation, no attorneys' fees or Litigation Expenses shall be paid to Plaintiffs' Counsel and no Reimbursement Award shall be paid to Lead Plaintiffs in the absence of entry of the Final Order and Judgment by the Court.

6.2 Any attorneys' fees and Litigation Expenses awarded by the Court (as well as any Reimbursement Award to Lead Plaintiffs) shall be paid from the Settlement Fund and not by the U.S. Directors (or the other Released Defendant Persons). The Settlement Fund shall be the sole source of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel (as well as the Reimbursement Award to Lead Plaintiffs) in connection with the Settlement. No Settlement Class Member, or their counsel, shall have any recourse against the U.S. Directors (or any of the other Released Defendant Persons) for any such attorneys' fees, Litigation Expenses or the Reimbursement Award. The U.S. Directors (and the other Released Defendant Persons) shall have no responsibility for and no liability whatsoever with respect to any payment of attorneys' fees and Litigation Expenses made to Plaintiffs' Counsel or for any Reimbursement Award paid to Lead Plaintiffs.

6.3 Subject to Court approval, any attorneys' fees or Litigation Expenses awarded by the Court: (a) shall be paid to Plaintiffs' Counsel within five (5) business days of the later of the: (i) Court order awarding the attorneys' fees and reimbursement of Litigation Expenses; and (ii) entry of the Final Order and Judgment (provided it contains the Releases described in this

Stipulation), notwithstanding the existence of any timely filed objections thereto, potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, (b) subject to Plaintiffs' Counsel's obligation to make refunds or repayments to the Settlement Fund (plus accrued interest thereon at the same net rate as is earned by the Settlement Fund in the Escrow Account) if and when: (i) as the result of any appeal and/or further proceedings on remand or successful collateral attack, the attorneys' fee or Litigation Expense award is reduced, vacated or reversed; (ii) the Effective Date does not occur; (iii) the Stipulation is terminated or cancelled for any reason; (iv) the Settlement is voided by any party; (v) the award order does not become final; and/or (vi) the Settlement is not approved or is reversed or modified by any court. Any Reimbursement Award to Lead Plaintiffs shall be paid at the time the Net Settlement Fund is paid to Authorized Claimants.

6.4 Plaintiffs' Counsel shall refund and repay the full amount of any award of attorneys' fees or Litigation Expenses that is reversed, or the amount by which any such award is reduced or modified, within fifteen (15) business days of the date of the event requiring the refund and repayment as set forth in ¶ 6.3 herein. The refund and repayment shall include interest at the same net rate earned by the Settlement Fund. As a condition of receiving attorneys' fees and Litigation Expenses, on behalf of itself of and each shareholder, each of Plaintiffs' Counsel agrees that it and its partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the refund and repayment obligations set forth in this Stipulation. Without limitation, each of Plaintiffs' Counsel (and its partners and/or shareholders) agrees that the Court may, upon application of the U.S. Directors and notice to Co-Lead Counsel, summarily issue orders enforcing this provision.

6.5 Plaintiffs' Counsel's refund and repayment obligations under this Stipulation shall be joint and several among the various law firms and any Person who was an equity partner of the various law firms representing Plaintiffs at the time the attorneys' fees or Litigation Expenses are paid. Co-Lead Counsel shall notify U.S. Directors' Counsel at least three (3) business days before the release of any monies from the Escrow Account to Plaintiffs' Counsel for attorneys' fees and Litigation Expenses. In the event that Plaintiffs' Counsel does not comply with the obligation to repay those funds within the specified time period, Plaintiffs' Counsel shall pay any expenses or fees (including attorneys' fees) incurred by the U.S. Directors in connection with enforcing this obligation. The obligations in ¶¶ 6.3 – 6.5 shall survive, and remain in full force and effect and be binding in all respects on the Settling Parties and their counsel, even if the Stipulation is terminated, the Settlement is not approved and/or the Effective Date does not occur. Co-Lead Counsel shall be responsible for ensuring the compliance of Plaintiffs' Counsels with respect to the obligations in ¶ 6.5 hereof.

6.6 The procedures for, and the Court's decision regarding, the applications for attorneys' fees and Litigation Expenses to be paid Plaintiffs' Counsel and a Reimbursement Award to Lead Plaintiffs are not conditions of the Settlement or to entry of the Final Order and Judgment. The request for attorneys' fees and Litigation Expenses (as well as any Reimbursement Award to Lead Plaintiffs) are to be considered by the Court separately from and independently of the Court's consideration of the question whether the Settlement is fair, reasonable, adequate and in the best interests of the Settlement Class. Any orders or proceedings relating to any request for attorneys' fees and Litigation Expenses (as well as any Reimbursement Award to Lead Plaintiffs) or any appeal from any order or proceedings relating thereto shall not: (a) operate to modify, terminate or cancel this Settlement; (b) affect or delay

the validity or finality of the Final Order and Judgment or any other orders entered by the Court giving effect to this Stipulation; (c) affect or delay the Effective Date; (d) provide any ground or otherwise permit any Person (including Plaintiffs and the other Settlement Class Members), or any of their counsel, to cancel, terminate or withdraw from the Stipulation or the Settlement; and/or (e) affect or delay the validity of the Settlement.

6.7 Co-Lead Counsel shall be responsible for allocating the attorneys' fees and Litigation Expenses awarded by the Court among all counsel representing Plaintiffs and any other Settlement Class Member in a manner in which they in good faith believe reflects the contribution of each such counsel to the prosecution and resolution of the Action. The U.S. Directors (and the other Released Defendant Persons) shall have no responsibility for or liability whatsoever with respect to the allocation of attorneys' fees and Litigation Expenses among Plaintiffs' Counsel and/or any other Person who may assert some claim thereto.

6.8 Co-Lead Counsel shall be responsible for allocating any Reimbursement Award granted by the Court among the Lead Plaintiffs in a manner in which they in good faith believe reflects the contribution of each such Person to the prosecution and resolution of the Action. The U.S. Directors (and the other Released Defendant Persons) shall have no responsibility for or liability whatsoever with respect to the allocation of the Reimbursement Award among the Lead Plaintiffs and/or any other Person who may assert some claim thereto.

## **7. Terms Of The Judgment**

7.1 If the Settlement contemplated by this Stipulation is approved by the Court, Co-Lead Counsel and U.S. Directors' Counsel shall jointly request that the Court enter a Final Order and Judgment which shall be substantially in the form attached hereto as Exhibit B. The proposed Final Order and Judgment shall contain, *inter alia*, each of the provisions set forth in this Paragraph.

7.2 **Releases.** The Proposed Final Order and Judgment shall contain, and the Settling Parties agree to the entry by the Court of, the Releases provided for in Section 5 of this Stipulation.

7.3 **Bar Order.** The proposed Final Order and Judgment shall contain, and the Settling Parties agree to the entry by the Court of, a Bar Order that contains the following provisions:

(a) except as provided in subparagraphs (c) and (d), permanently barring and enjoining any and all Persons from commencing, prosecuting or asserting against any of the Releasing Defendant Persons any claim for contribution arising out of the Action;

(b) except as provided in subparagraphs (c) and (d), permanently barring and enjoining the Releasing Defendant Persons from commencing, prosecuting or asserting against any Person a claim for contribution arising out of the Action, other than a Person whose liability has been extinguished by this Settlement through a Release or otherwise;

(c) for the avoidance of doubt, nothing in subparagraphs (a) and (b) above, and, nothing in the Stipulation or the Final Order and Judgment, shall bar, preclude, release, prevent, limit, impact and/or otherwise affect in any respect any action by any of the Released Persons to enforce or effectuate the terms and provisions of this Stipulation, the Settlement, the Preliminary Approval Order and/or the Final Order and Judgment, including, without limitation, the Releases provided for herein;

(d) in accordance with 15 U.S.C. § 78u-4(f)(7)(B), a judgment reduction provision to the effect 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 of the Non-Settling Defendants shall be reduced by the greater of: (i) an amount that corresponds to the percentage of

responsibility of the U.S. Directors for common damages; or (ii) the amount paid by or on behalf of the U.S. Directors to the Settlement Class for common damages; and

(e) notwithstanding the foregoing, nothing in this provision shall apply to claims that may be asserted by any Persons who timely and validly opt out of this Settlement and do not revoke their request for exclusion within the applicable time period.

**7.4 Permanent Injunction.** The proposed Final Order and Judgment shall contain, and the Settling Parties agree to the entry by the Court of, a provision that forever and permanently bars and enjoins: (a) each of the Releasing Plaintiff Persons from filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), instituting, maintaining, prosecuting, seeking relief in (including filing an application or motion for preliminary or permanent injunctive relief) or receiving any recovery, remedy, benefits or other relief from, any other lawsuit, arbitration or other proceeding or order in any jurisdiction that asserts, is based upon, arises out of, or relates in way to any or all of the Released Plaintiff Claims against any or all of the Released Defendant Persons; and (b) the Releasing Defendant Persons from filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), instituting, maintaining, prosecuting, seeking relief in (including filing an application or motion for preliminary or permanent injunctive relief) or receiving any recovery, remedy, benefits or other relief from, any other lawsuit, arbitration or other proceeding or order in any jurisdiction that asserts, is based upon, arises out of, or relates in any way to the Released Defendant Claims against any or all of the Released Plaintiff Persons.

**7.5** The proposed Final Order and Judgment shall contain, and the Settling Parties agree to the entry by the Court of, language providing that nothing in ¶ 7.4 or otherwise in the Final Order and Judgment shall bar, prohibit or limit: (a) a Settlement Class Member from

proceeding with any of the claims that have already been asserted against the already named defendants in *In re Puda Coal, Inc. Stockholders Litigation*, C.A. 6476-CB, currently pending in the Delaware Court of Chancery; (b) an eligible Settlement Class Member from seeking to obtain a recovery through the SEC Fair Fund process established in connection with the proceeding captioned *SEC v. Macquarie Capital (USA) Inc.*, C.A. No. 15-CV-02304 (S.D.N.Y.); and/or (c) bar any action by any of the Released Persons to enforce or effectuate the terms and provisions of this Stipulation, the Settlement, the Preliminary Approval Order and/or the Final Order and Judgment, including, without limitation, the Releases provided for herein.

7.6 The proposed Final Order and Judgment shall contain, and the Settling Parties agree to the entry by the Court of, a provision requiring that any final verdict or judgment that may be obtained by or on behalf of the Settlement Class or a Settlement Class Member against a Non-Settling Defendant(s) shall be reduced by the greater of: (a) an amount that corresponds to the percentage of responsibility of the U.S. Directors for common damages; or (b) the amount paid by or on behalf of the U.S. Directors to the Settlement Class for common damages.

7.7 The proposed Final Order and Judgment shall contain, and the Settling Parties agree to the entry by the Court of, a provision as to the Settling Parties' Rule 11 compliance pursuant to Section 21D(c)(1) of the Exchange Act, as amended by the PSLRA, 15 U.S.C. § 78u-4(c)(1).

## **8. The Effective Date**

8.1 The Effective Date of the Settlement shall be the first date by which all of the following events and conditions have occurred and been met (or have been waived in a writing signed by the Person that is waiving the event and condition):

(a) this Stipulation and such other documentation as may be required to obtain final Court approval of this Stipulation, in a form satisfactory to the Settling Parties, have been duly executed;

(b) the Court has entered the Preliminary Approval Order (substantially in the form annexed hereto as Exhibit A);

(c) the Settlement Amount has been deposited in the Escrow Account in accordance with the provisions of this Stipulation;

(d) approval by the Court of the Settlement, following notice to the Settlement Class and a hearing;

(e) expiration of the time for the U.S. Directors to exercise their option to terminate the Stipulation under the Supplemental Agreement described in ¶ 9.3 herein without the exercise of that option;

(f) entry of the Final Order and Judgment substantially in the form attached hereto as Exhibit B (and without removing or making any modifications or changes to the Releases);

(g) expiration of the time for the filing or noticing of any Appeal from the Final Order and Judgment (and including any extensions of time) without any Appeal having been filed, other than those appeals and proceedings set forth in ¶ 4.3 or ¶ 6.3 herein;

(i) if there is an Appeal or Appeals with respect to the Final Order and Judgment (other than those appeals and proceedings specified in ¶ 4.3 or ¶ 6.3), the date of dismissal of the Appeal or final affirmance on Appeal of the Final Order and Judgment (such that the order represents a final and binding determination of all issues within its scope) and the expiration of all deadlines for any further judicial review thereof (whether by motions for

reconsideration, petitions for *certiorari* or other mechanism), and the conclusion of all proceedings ordered on remand and all proceedings arising out of any subsequent Appeal or Appeals following a decision on remand (and, if *certiorari* is granted, the date of final affirmance of the Final Order and Judgment pursuant to the writ); and

(j) no Person has given notice of its election to terminate this Stipulation and the Settlement pursuant to ¶¶ 9.1, 9.3 or 9.5 herein, and the time for doing so has expired.

8.2 Notwithstanding anything in this Stipulation, the Effective Date (and the effectiveness of the Settlement) does not depend in any way upon the resolution of any orders, proceedings, rulings, consideration, appeals or other matters solely concerning, relating to, based upon or arising out of: (a) Court approval of the Plan of Allocation; (b) any application for an award of attorneys' fees or reimbursement of Litigation Expenses to Plaintiffs' Counsel (including the allocation of such fees among counsel); (c) the Court's findings and conclusions pursuant to Section 21D(c)(1) of the Exchange Act, 15 U.S.C. § 78u-4(c)(1); (d) the separate Brean Settlement and/or Macquarie Settlement; and/or (e) any Reimbursement Award.

8.3 Upon the Effective Date, any and all interests and rights of the U.S. Directors in or to the Settlement Fund shall be absolutely and forever extinguished. Without limiting any of the foregoing, the U.S. Directors shall have, in their sole discretion, the option to terminate the Settlement in its entirety in the event that the Final Order and Judgment does not provide for the dismissal with prejudice of the Action against them.

8.4 The Settling Parties have agreed that the Brean Settlement and/or the Macquarie Settlement are not a condition to this Settlement or to entry of the Final Order and Judgment and is to be considered by the Court separately from and independently of the Court's consideration of the question whether the Settlement is fair, reasonable, adequate and in the best interests of the

Settlement Class. Any orders or proceedings relating to the Brean Settlement and/or Macquarie Settlement, or any appeal from any order or proceedings relating thereto, shall not: (a) operate to modify, terminate or cancel this Settlement; (b) affect or delay the validity or finality of the Final Order and Judgment or any other orders entered by the Court giving effect to this Stipulation; (c) affect or delay the Effective Date; (d) provide any ground or otherwise permit any Person (including Plaintiffs and the other Settlement Class Members), or any of their counsel, to cancel, terminate or withdraw from the Stipulation or the Settlement; and/or (e) affect or delay the validity of the Settlement.

**9. Termination**

9.1 No Settling Party shall have any obligation whatsoever to proceed under any terms or conditions other than substantially in the form provided and agreed to herein. The U.S. Directors and Lead Plaintiffs shall each have the unilateral right to terminate the Settlement and this Stipulation by providing written notice of their election to do so to counsel to the other within ten (10) business days of any of the following events (“Termination Notice”):

- (a) the Court’s declining to enter the Preliminary Approval Order substantially in the form attached hereto as Exhibit A or modifying it in any material respect;
- (b) the Court’s declining to enter the Stipulated Judgment substantially in the form attached hereto as Exhibit C or the Court’s modification of it in any material respect;
- (c) the Court’s refusal to approve the Settlement as set forth in this Stipulation or the Court’s modification of it in any material respect (including, without limitation, by removing or making any modifications or changes to the Releases);
- (d) the Court’s modification of the Settlement as set forth in the Stipulation in any material respects (including, without limitation, by removing or making any modifications or changes to the Releases);

(e) the Court's declining to enter the Final Order and Judgment substantially in the form attached hereto as Exhibit B or the Court's modification of the Final Order and Judgment in any material respect (including, without limitation, by removing or making any modifications or changes to the Releases); and/or

(f) the date upon which the Final Order and Judgment is vacated, modified reversed or revised in any material respect by any level of appellate court (including, without limitation, by removing or making any modifications or changes to the Releases).

9.2 Notwithstanding any other provision or paragraph of this Stipulation: (a) no ruling, consideration, decision, action or inaction by the Court or any appellate court relating solely to (i) an award of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel pursuant to Section 6 herein, (ii) the Plan of Allocation (iii) Court approval of the separate Brean Settlement, (iv) Court approval of the separate Macquarie Settlement, and/or (v) the Reimbursement Award; shall (b) entitle Lead Plaintiffs, the Additional Named Plaintiffs or any other Settlement Class Member (or their counsel) to withdraw from, cancel or terminate the Settlement or this Stipulation.

9.3 In addition to the grounds set forth in ¶ 9.1 above, the U.S. Directors shall have the unilateral unconditional option to withdraw from the Settlement and terminate the Stipulation if the Persons requesting exclusion from the Settlement Class meet or exceed the conditions set forth in a confidential supplemental agreement that accompanies this Stipulation (the "Supplemental Agreement"). The Supplemental Agreement shall not be filed with the Court and its terms shall not be disclosed in any other manner (other than the statements herein and those in the Notice attached hereto as Exhibit A-1) unless and until the Court requires the Settling Parties to file the Supplemental Agreement or disclose its terms or a dispute arises between Lead

Plaintiffs and the U.S. Directors concerning its interpretation or application. In either of those events, the Supplemental Agreement shall be filed and maintained by the Court under seal. In the event of an objection to the Settlement based upon the confidentiality of the conditions stated in the Supplemental Agreement, and notwithstanding anything to the contrary in this Paragraph or the Supplemental Agreement, Lead Plaintiffs and U.S. Directors can agree to jointly waive confidentiality.

9.4 In the event that the U.S. Directors elect to terminate the Stipulation in accordance with the Supplemental Agreement pursuant to ¶ 9.3 herein and such termination is not nullified in accordance with the terms of the Supplemental Agreement, the Stipulation shall be terminated and deemed null and void and the provisions of ¶ 9.6 shall apply. Notwithstanding the foregoing, the Stipulation shall not become null and void as a result of the election by the U.S. Directors to exercise their option to withdraw from the Stipulation pursuant to the Supplemental Agreement until the conditions set forth in the Supplemental Agreement have been fully satisfied.

9.5 In addition to the grounds set forth in ¶ 9.1 above, Lead Plaintiffs shall have the right to terminate the Settlement, and thereby this Stipulation, if the Settlement Amount is not paid in accordance with ¶ 2.1 herein; provided, however, that Co-Lead Counsel shall have first provided notice to U.S. Directors' Counsel of such failure to make payment and the failure shall not have been cured within three (3) business days of receipt of such notice. Notwithstanding the foregoing, Plaintiffs shall have the right to collect interest from the U.S. Directors to compensate the Settlement Class for any delay in payment of the Settlement Amount into the Escrow Account.

9.6 If the Stipulation is terminated in accordance with this provisions of this Paragraph, the Settlement is not approved by the Court, the Effective Date otherwise does not occur and/or the Settlement otherwise fails for any reason:

(a) the Settlement Amount (including any net interest earned thereon), but less any Notice and Administration Expenses actually incurred or paid in connection with the Settlement permitted by this Stipulation up to \$100,000 and less all Taxes paid or owing, shall be refunded to the U.S. Directors no later than ten (10) business days after written notification of such event by U.S. Directors' Counsel;

(b) the Settlement and this Stipulation shall be null, void and without prejudice and none of its terms shall have any further force or effect or be enforceable;

(c) the Action shall proceed in all respects as if this Stipulation had not been entered and all negotiations, discussions, acts, Court orders and other proceedings in connection therewith treated as if they never existed;

(d) the Settling Parties shall be deemed to have reverted to their respective status in the Action as of October 27, 2015;

(e) any judgment(s) or order(s) entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*; and

(f) the facts and terms of this Stipulation shall not be admissible in any trial of this Action or any other proceeding.

9.7 The Settling Parties agree that any disputes concerning the termination of the Settlement pursuant to the Stipulation shall be presented to the Court, which shall have exclusive jurisdiction to resolve and rule as to whether the Settlement and this Stipulation has been properly terminated.

9.8 Notwithstanding the foregoing, the provisions of and obligations in ¶¶ 2.3, 4.11, 6.3, 6.4, 6.5, 9.6, 10.1, 10.2, 10.3, 12.13, and 12.14 above shall survive and remain in full force and effect and be binding in all respects on the Settling Parties even if the Stipulation is terminated, the Settlement is not approved and/or the Effective Date does not occur.

**10. No Admissions**

10.1 Whether or not the Settlement is approved by the Court and whether or not the Settlement is consummated, the facts and terms of the Settlement and this Stipulation (including all exhibits hereto), as well as all negotiations, discussions, acts performed, agreements, drafts, documents signed and proceedings in connection with the Settlement:

(a) shall not be described as, construed as, interpreted as, or offered or received against any of the Released Defendant Persons as evidence of and/or deemed to be evidence of any presumption, concession or admission by them as to: (i) the truth of any fact alleged in the Complaint; (ii) the validity of any claim that has been or could have been asserted in the Action or in any other litigation; (iii) the deficiency of any defense that has been or could have been asserted in the Action or in any other litigation; and/or (iv) any liability, negligence, misconduct, inaction, fault, or wrongdoing of any sort on their part as alleged in the Complaint;

(b) shall not be described as, construed as, interpreted as or offered or received against Plaintiffs or any other Settlement Class Member as evidence of any infirmity in the claims of said Person or that damages recoverable from the U.S. Directors would not have exceeded the Settlement Amount;

(c) shall not be described as, construed as, interpreted as, offered or received against any of the Settling Parties as an admission or concession that the consideration to be given in the Settlement represents the amount which could be or would have been awarded to any Settlement Class Member after trial;

(d) shall not be construed, offered, interpreted, deemed or received against any of the Released Persons in any other civil, criminal, regulatory or administrative action, litigation or proceeding, except in connection with any action, litigation or proceeding to enforce the terms of this Stipulation, the Settlement and/or the Final Order and Judgment; and

(e) shall not be deemed or construed to create any inferences of any damages, or lack of damages, suffered by Plaintiffs or any of the other Settlement Class Members.

10.2 Notwithstanding the foregoing, any of the Released Persons may file, offer, cite, refer to or otherwise employ the Stipulation, the Settlement, the Final Order and Judgment (if entered) and any other orders of the Court: (a) to enforce their terms; (b) to enforce the Releases upon the Effective Date; and/or (c) to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release and discharge, good faith settlement, judgment bar or reduction, any theory of claim preclusion or issue preclusion or any similar defense or counterclaim, upon the Effective Date.

10.3 The provisions of, and obligations in Section 10 shall survive and remain in full force and effect and be binding in all respects on the Settling Parties even if the Stipulation is terminated, the Settlement is not approved and/or the Effective Date does not occur.

## **11. Representations And Warranties**

11.1 Plaintiffs represent and warrant that, at all times relevant to this Action, they were each a Settlement Class Member, and that, to their knowledge, none of their Released Plaintiff Claims has been assigned, encumbered, or in any manner transferred in whole or in part.

Plaintiffs represent and warrant that they will not attempt, and have not attempted, to assign, encumber, or in any manner transfer in whole or in part any of the Released Plaintiff Claims.

11.2 Plaintiffs and the U.S. Directors represent and warrant that: (a) they have made such investigation of the facts pertaining to the Settlement provided for in this Stipulation, and all of the matters pertaining thereto, as such Party deems necessary and advisable; and (b) they, or a responsible officer, partner, fiduciary, counsel (including Plaintiffs' Counsel, and U.S. Directors' Counsel) or other such similar Person thereof, have read this Stipulation and understands the contents hereof.

11.3 All counsel executing this Stipulation, the Supplemental Agreement, or any related Settlement documents, represent and warrant that she/he/it has the authority to do so and that she/he/it has the authority to take appropriate action required or permitted to be taken pursuant to this Stipulation to effectuate its terms.

11.4 If a case is commenced in respect of the U.S. Directors under title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any similar law, and 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 the U.S. Directors 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 to the Settlement Fund by others, then at the election of Lead Plaintiffs, the Settling Parties shall jointly move the Court to vacate and set aside the Releases and the Final Order and Judgment entered in favor of the U.S. Directors pursuant to this Stipulation, which Releases and Final Order and Judgment shall be null and void, the Settling Parties shall be restored to their respective positions as of October 27, 2015, and any cash amounts in the Settlement Fund shall be returned as provided above.

**12. Miscellaneous Provisions**

12.1 The Stipulation shall be binding when signed by all parties hereto but the Settlement shall be effective and final only upon occurrence of the Effective Date.

12.2 Plaintiffs' Counsel and U.S. Directors' Counsel agree to: (a) cooperate fully with each other in seeking Court approval of the Settlement; (b) promptly execute all additional documentation that may reasonably be required to obtain Court approval; and (c) use their reasonable best efforts, and to take all such other steps as may be necessary and required, to effect the consummation of this Stipulation and the Settlement. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation.

12.3 Plaintiffs and the U.S. Directors, and their respective attorneys, agree not to assert in any forum that this Action was brought by Plaintiffs or Plaintiffs' Counsel (or defended by the U.S. Directors or their counsel), in bad faith or without a reasonable basis. For the purpose of the Court's findings and conclusions pursuant to Section 21D(c)(1) of the Exchange Act, as amended by the PSLRA, the Settling Parties shall assert no claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense or settlement of this Action. The Settling Parties agree that the amount paid and the other terms of this Settlement were negotiated at arm's length and in good faith, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

12.4 This Stipulation, the exhibits hereto and the Supplemental Agreement constitute the entire agreement and understanding of the Settling Parties, and supersede any prior agreements or understandings between them with respect to the Settlement. In entering into this Stipulation, none of the Settling Parties is relying on any promise, warranty, inducement or representation other than those set forth in this Stipulation and the Settling Parties disclaim the

existence of any such promise, warranty, inducement or representation. The Settling Parties intend this Stipulation to be final and complete resolution of all disputes asserted or which could have been asserted by the Settling Parties against one another as well as all of the Released Claims by any of the Releasing Parties against the Released Persons.

12.5 All agreements made and orders entered during the course of this Action relating to the confidentiality of documents and information shall survive this Stipulation and the Effective Date pursuant to their terms unless otherwise modified by the Court.

12.6 All of the exhibits attached to this Stipulation as well as the Supplemental Agreement are material and integral parts hereof and are hereby incorporated by reference as though fully set forth herein. This Stipulation, including the exhibits to this Stipulation and the Supplemental Agreement referred to in ¶ 9.3, may not be amended or modified except in a writing signed by all counsel who has executed this Stipulation. Any condition contained in this Stipulation may be waived by the party entitled to enforce the condition in a writing signed by that party or his, her or its counsel. The waiver by any party of any breach of this Stipulation by any other party shall not be deemed a waiver of the breach by any other party (or a waiver of any other prior or subsequent breach of this Stipulation by that party or any other party).

12.7 Any failure by a party to insist upon strict performance by any other party of any of the provisions of this Stipulation shall not be deemed a waiver of any of the other provisions hereof, and such a party, notwithstanding such failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Stipulation to be performed by such other party.

12.8 If any party is required to give notice to another 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:

<p>If to Plaintiffs or Plaintiffs' Counsel:</p> <p>The Rosen Law Firm PA  275 Madison Avenue, 34th Floor  New York, NY 10016  Tel: (212) 686-1060  Fax: (212) 202-3827  ATTN: Laurence Rosen  Sara Fuks  lrosen@rosenlegal.com  sfuks@rosenlegal.com</p>	<p>If to the U.S. Directors or U.S. Directors' Counsel:</p> <p>Goodwin Procter LLP  Mary K. Dulka, Esq.  The New York Times Building  620 Eighth Avenue  New York, NY 10018  Tel: (212) 813-8800  Fax: (212) 355-3333  mdulka@goodwinprocter.com</p>
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12.9 The construction, interpretation, operation, effect and validity of this Stipulation (and all documents necessary to effectuate it) shall be governed by and construed according to the internal laws of the State of New York without regard to the conflict of law rules, except to the extent that federal law requires that federal law governs.

12.10 This Stipulation is the result of arm's-length negotiations between the Settling Parties. The Settling Parties have contributed substantially and materially to the preparation of this Stipulation and this Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that the Stipulation or a particular provision or paragraph of the Stipulation may have been prepared by counsel for a particular party.

12.11 The section headings used throughout this Stipulation (and the exhibits) are for convenience only and shall not affect the interpretation or construction of this Stipulation. This Stipulation may be executed in one or more counterparts.

12.12 This Stipulation shall be binding upon and inure to the benefit of the heirs, successors and assigns of the Settling Parties. All Released Persons who are not parties to this Stipulation are intended third-party beneficiaries of the Settlement and, upon the occurrence of

the Effective Date, are entitled to enforce the terms of the Releases provided under the Final Order and Judgment.

12.13 The administration and consummation of the Settlement shall be under the authority of the Court, which shall retain jurisdiction with respect to the implementation and enforcement of its terms. Any disputes arising out of this Stipulation or the Settlement shall be filed and litigated exclusively in this Court.

12.14 The Settling Parties agree that the terms of this Stipulation and the fact that it has been executed are strictly confidential until this Stipulation has been filed with the Court, except to the extent required by law or as mutually agreed to by the Settling Parties hereto in writing. While maintaining their own positions as to the merits of claims and defenses asserted in the Action, the Settling Parties and their counsel agree not to make any public statements, statements to the media (whether or not for attribution), or any statement published on a public website that: (a) disparages the business, conduct or reputation of the others; (b) makes any accusations of wrongful or actionable conduct by the other concerning the prosecution, defense and/or resolution of the Action; and/or (c) suggests that the Settlement constitutes an admission as to any claim or defense alleged. The obligations in this Paragraph shall survive and remain in full force and effect and be binding on the Settling Parties even if the Stipulation is terminated, the Settlement is not approved and/or the Effective Date does not occur.

12.15 The U.S. Directors shall be responsible for the CAFA Notice and shall take steps to comply with the CAFA requirements in as expeditious a manner as possible so as to not cause delay in the scheduling of the Settlement Hearing. Any fees or costs incurred in connection with the preparation and service of the CAFA Notice shall be borne by the U.S. Directors and under

no circumstances will be borne by the Settlement Class Members (or their counsel), or payable from the Settlement Fund.

12.16 It is understood by the Settling Parties that, except for the matters expressly represented herein, the facts or law with respect to which this Stipulation is entered into may turn out to be other than or different from the facts and law now known to each Settling Party or believed by such party to be true; each party therefore expressly assumes the risk of the facts or law turning out to be different, and agrees that this Stipulation shall be in all respects effective and not subject to termination by reason of any such different facts or law.

12.17 This Stipulation may be executed in one or more original, e-mailed and/or faxed counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for each of the Settling Parties will maintain their own respective signature pages. No Settling Party shall raise the use of e-mail to deliver or transmit a signature as a defense to the formation or enforceability of this Stipulation, and each Settling Party forever waives any such defense. A complete set of executed counterparts shall be filed with the Court.

IN WITNESS THEREOF, the parties hereto have caused the Stipulation to be executed by their duly authorized attorneys as of December 1, 2015.

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*Co-Lead Counsel for Plaintiffs*

**PROOF OF SERVICE BY ELECTRONIC POSTING PURSUANT TO SOUTHERN  
DISTRICT OF NEW YORK ECF AND LOCAL RULES AND BY MAIL  
ON ALL KNOWN NON-REGISTERED PARTIES**

I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On December 1, 2015, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Southern District of New York, for receipt electronically by the parties listed on the Court's Service List.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 1st day of December, 2015, at Los Angeles, California.

*s/ Joshua L. Crowell* \_\_\_\_\_  
Joshua L. Crowell

## Mailing Information for a Case 1:11-cv-02598-DLC-HBP

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### Manual Notice List

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