

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

IN RE: SUNEDISON, INC. SECURITIES  
LITIGATION

Case No. 16-MD-2742 (PKC) (AJP)

DARCY CHURCH, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

Case No. 1:16-cv-07962-PKC

AHMAD R. CHATILA and BRIAN  
WUEBBELS,

Defendants.

**STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement (together with all Exhibits thereto, the “Stipulation”), dated as of September 8, 2017, which is entered into by and among (i) the Lead Plaintiff Don Harris and Named Plaintiff Kyle Tervort (collectively, “Plaintiffs”), on behalf of themselves and on behalf of the Settlement Class (as defined herein), and (ii) Defendants Ahmad Chatila (“Chatila”) and Brian Wuebbels (“Wuebbels”) (collectively, “Defendants”), by and through their undersigned attorneys, states all of the terms of the settlement and resolution of this matter by the Settling Parties (as defined herein) and is intended by the Settling Parties to fully and finally release, resolve, remise, and discharge the Released Claims (as defined herein) against the Released Parties (as defined herein), subject to the approval of the United States District Court for the Southern District of New York (the “Court”).

Throughout this Stipulation, all terms used with initial capitalization, but not immediately defined, shall have the meanings ascribed to them in Section 1 below.

**WHEREAS:**

**A. The Action**

This litigation was commenced in the United States District Court for the Eastern District of Missouri on May 3, 2016 styled as *Church v. Chatila, et al.*, 16-cv-07962 (the “Action”), alleging violations of the Securities Exchange Act of 1934 as against Defendants Chatila and Wuebbels. (Dkt. No. 1).

On October 5, 2016, a Transfer Order by the U.S. Judicial Panel on Multidistrict Litigation (the “JPML Panel”) was filed in the Action. (Dkt. No. 34). The Transfer Order directed the Action to be transferred and associated with a consolidated multi-district action, *In re: SunEdison, Inc., Securities Litigation*, 16-MD-2742 pending in the Southern District of New York (the “SunEdison MDL”).<sup>1</sup>

On October 12, 2016, the Action was transferred and associated with the SunEdison MDL before Judge P. Kevin Castel of the Southern District of New York, along with other related actions that were previously pending in the Eastern District of Missouri, the Northern District of California, and the Southern District of New York (Dkt. No. 35). The Action was then styled as *Church v. Chatila, et al.*, 1:16-cv-07962-PKC (S.D.N.Y.).

On October 26, 2016, Judge Castel issued an Order setting an Initial Conference on December 19, 2016 for all actions related to the SunEdison MDL (Dkt. No. 38). The Order also

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<sup>1</sup> In July 2015, SunEdison, Inc. (“SunEdison”) and Vivint Solar, Inc. (“Vivint”) reached an agreement for SunEdison to acquire Vivint for approximately \$2.2 billion in cash and securities. The operative Second Amended Complaint for Violations of the Federal Securities Laws (Dkt. No. 65) alleges that SunEdison’s liquidity position and corrective disclosures caused Vivint’s price to decline during the Class Period. The JPML Panel associated over twenty actions into the SunEdison MDL including securities class actions, ERISA actions, and individual shareholder actions filed against TerraForm Power, Inc., TerraForm Global, Inc., and SunEdison and their officers and directors. References to “SunEdison MDL Dkt. No. \_\_\_\_” refer to filings in the SunEdison MDL.

directed counsel for plaintiffs in any of the securities class actions, including the Action, to provide additional information such as statements of existing deadlines, a brief description of outstanding motions, a brief description of any discovery that had taken place, and a list of all prior settlement discussions.

On November 17, 2016, counsel for the plaintiffs in the five securities and ERISA class action cases pending before Judge Castel in the SunEdison MDL filed a joint letter in response to the Court's October 26, 2016 Order (SunEdison MDL Dkt No. 41). In this joint letter, Plaintiffs informed the Court that while they did not oppose early mediation, they did oppose a stay of all proceedings as in their view it would be counterproductive to the settlement process. Additionally, Plaintiffs apprised the Court that the lead plaintiff motion filed when this Action was pending in the Eastern District of Missouri was unopposed and no order had been issued. Plaintiffs also requested that fourteen days after the appointment of lead plaintiff, they be entitled to file an amended complaint.

On November 17, 2016, counsel for Defendants submitted a letter to the Court stating that they support a stay of all actions and agreed with Plaintiffs that after the appointment of the lead plaintiff, an amended complaint should be filed. (SunEdison MDL Dkt. No. 40). On December 14, 2016, Plaintiffs submitted another letter to the Court reiterating that they do not oppose early mediation, but do oppose a stay of all proceedings at this point in the litigation. (SunEdison MDL Dkt. No. 78).

On December 19, 2016, an Initial Conference was held before Judge Castel. The same day, the Court issued an order directing all parties in the actions comprising the SunEdison MDL, including the Action, to participate in private mediation as well as instituting a limited stay as to all of the actions that would expire on March 31, 2017 (Dkt. No. 54).

On December 21, 2016, the Court appointed Harris as Lead Plaintiff and appointed Pomerantz LLP as Lead Counsel and Wehrle Law LLC as Liaison Counsel, pursuant to the Private Securities Litigation Reform Act, as amended (Dkt. No. 55).

On January 16, 2017, Plaintiffs filed the Amended Complaint for Violations of the Federal Securities Laws against Defendants. (Dkt No. 56).

On February 6, 2017, Defendants filed a pre-motion letter outlining a motion to dismiss and stating that Defendants were ready to file a motion to dismiss once the limited stay was lifted on March 31, 2017. (Dkt. No. 57). On February 20, 2017, Plaintiffs filed their response to Defendants pre-motion letter. (Dkt. No. 58). On March 17, 2017, Plaintiffs filed a letter motion requesting leave to file a second amended complaint prior to the lift of the limited stay. (Dkt. No. 62). This request was so-ordered on March 20, 2017. (SunEdison MDL Dkt No. 164).

On March 31, 2017, Plaintiffs filed the operative Second Amended Securities Class Action Complaint (“SAC”) (Dkt. No. 65). On June 9, 2017, Defendants filed their motion to dismiss the SAC. (Dkt. No. 70). On July 14, 2017, Plaintiffs filed their opposition to the motion to dismiss the SAC. (Dkt. No. 73). With the motion to dismiss pending, the Settling Parties reached a settlement in principle.

## **B. The Settlement**

The Settling Parties attended multiple mediation sessions with Judge Layn Phillips (Ret.) of Phillips ADR on February 10, 2017, February 27, 2017, March 2, 2017, and March 3, 2017. A settlement was not reached at any of these mediation sessions. On June 28, 2017, a further mediation was held with Gregory Lindstrom of Phillips ADR. The Parties continued discussions after this mediation session and a settlement in principle was reached on the night of July 26, 2017.

On July 27, 2017, the Settling Parties informed the Court of the mediated resolution. (Dkt. No. 75).

This Stipulation memorializes the agreement between the parties to fully and finally settle the Action and to fully release all Released Claims against Defendants and the Released Parties with prejudice in return for specified consideration.

**C. The Defendants' Denial Of Wrongdoing And Liability**

Throughout the course of the Action and in this Stipulation, Defendants have denied and continue to deny each, any and all allegations of wrongdoing, fault, liability or damage whatsoever that have or could have been asserted in the Action. Defendants have also denied and continue to deny, *inter alia*, the allegations and claims that have been or could have been asserted by Plaintiffs, as well as the allegations that Plaintiffs or the Settlement Class have suffered damages or that Plaintiffs or the Settlement Class were harmed by the conduct alleged in the Action. Defendants continue to believe the claims asserted against them in the Action are without merit and that the Action itself should not be certified as a class action for purposes of trial and adjudication of liability and damages. Defendants have not conceded or admitted any wrongdoing or liability, are not doing so by entering into this Stipulation, and disclaim any and all wrongdoing and liability whatsoever.

Defendants have agreed to enter into this Stipulation solely to avoid the uncertainties, burden and expense of further litigation and to put the Released Claims to rest finally and forever. Nothing in this Stipulation shall be construed as or deemed evidence supporting an admission by either Defendants or any of the Released Parties with respect to any of Plaintiffs' allegations or claims, or of any wrongdoing, fault, liability or damages whatsoever.

**D. Claims of Plaintiffs And Benefits of Settlement**

Plaintiffs believe that the claims asserted in the Action have merit. Plaintiffs, however, recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against Defendants through trial and appeals. Plaintiffs have also taken into account the uncertain outcome and the risk of any litigation, especially given SunEdison's bankruptcy. In particular, Plaintiffs have considered the inherent problems of proof and possible defenses to the federal securities law violations asserted in the Action, including the defenses that have been or could be asserted by Defendants during the litigation, motion for summary judgment, motion for class certification and trial. Plaintiffs have also considered whether Defendants would be able to pay any judgment entered in this Action. Plaintiffs have therefore determined that the Settlement set forth in this Stipulation is fair, adequate, reasonable, and in the best interests of the Settlement Class.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and among the Plaintiffs (on behalf of themselves and each of the Settlement Class Members) and Defendants (by and through their respective undersigned counsel) that, subject to the approval of the Court, in consideration of the benefits flowing to the Settling Parties from the Settlement set forth herein, the Action and the Released Claims as against the Released Parties shall be finally and fully compromised, settled and released, the Action shall be dismissed fully, finally and with prejudice and the Released Claims shall be finally and fully released as against the Released Parties, upon and subject to the terms and conditions of this Stipulation, as follows:

**1. Definitions**

In addition to the terms defined above, the following capitalized terms, used in this Stipulation, shall have the meanings specified below:

**1.1.** “Action” means the putative class action captioned *Church v. Chatila, et al.*, Case No. 1:16-cv-07962 (S.D.N.Y.).

**1.2.** “Additional Plaintiffs’ Counsel” means Bronstein, Gewirtz & Grossman LLC and Wehrle Law LLC.

**1.3.** “Administrative Costs” means all costs and expenses associated with providing notice of the Settlement to the Settlement Class and otherwise administering or carrying out the terms of the Settlement. Such costs may include, without limitation: escrow agent costs, the costs of publishing the summary notice, the costs of printing and mailing the Notice and Proof of Claim, as directed by the Court, and the costs of allocating and distributing the Net Settlement Fund (as defined in paragraph 7.2) to the Authorized Claimants. Such costs do not include legal fees.

**1.4.** “Authorized Claimant” means any Settlement Class Member who is a Claimant and whose claim for recovery has been allowed pursuant to the terms of this Stipulation, the exhibits hereto, and any order of the Court.

**1.5.** “Award to Plaintiffs” means the requested reimbursement to Plaintiffs for their reasonable costs and expenses (including lost wages) directly related to Plaintiffs’ representation of the Settlement Class in the Action.

**1.6.** “Business Day” means any day except Saturday or Sunday or any other day on which national banks are authorized by law or executive order to close in the State of New York.

**1.7.** “Claimant” means any Settlement Class Member who files a Proof of Claim in such form and manner, and within such time, as the Court shall prescribe.

**1.8.** “Claims” means any and all manner of claims, debts, demands, controversies, obligations, losses, costs, interest, penalties, fees, expenses, rights, duties, judgments, sums of money, suits, contracts, agreements, promises, damages, actions, causes of action and liabilities, of every nature and description in law or equity (including, but not limited to, any claims for damages, whether compensatory, special, incidental, consequential, punitive, exemplary or otherwise, injunctive relief, declaratory relief, rescission or rescissionary damages, interest, attorneys’ fees, expert or consulting fees, costs, or expenses), accrued or unaccrued, known or unknown, arising under federal, state, common, administrative, or foreign law, or any other law, rule, or regulation.

**1.9.** “Claims Administrator” means Strategic Claims Services which shall administer the Settlement.

**1.10.** “Common Stock” means the shares of common stock of Vivint Solar, Inc.

**1.11.** “Defendants” means Ahmad Chatila and Brian Wuebbels.

**1.12.** “Escrow Account” means an interest-bearing escrow account established by the Escrow Agent at The Huntington National Bank. The Escrow Account shall be managed by the Escrow Agent, subject to the Court’s supervisory authority, for the benefit of Lead Plaintiffs and the Settlement Class in accordance with the terms of the Stipulation and any order of the Court.

**1.13.** The “Escrow Agent” is The Huntington National Bank. The Escrow Agent shall perform the duties as set forth in this Stipulation and any order of the Court.

**1.14.** “Effective Date” shall have the meaning set forth in ¶ 10.3 of this Stipulation.



**1.15.** “Final” when referring to the Final Judgment means exhaustion of all possible appeals, meaning (i) if no appeal or request for review is filed, the day after the date of expiration of any time for appeal or review of the Final Judgment, and (ii) if an appeal or request for review is filed, the day after the date the last-taken appeal or request for review is dismissed, or the Final Judgment is upheld on appeal or review in all material respects, and is not subject to further review on appeal or by certiorari or otherwise; provided, however, that no order of the Court or modification or reversal on appeal or any other order relating solely to the amount, payment, or allocation of attorneys’ fees and expenses or to the Plan of Allocation shall constitute grounds for cancellation or termination of this Settlement or affect its terms, including the release in ¶ 6.1, or shall affect or delay the date on which the Final Judgment becomes Final.

**1.16.** “Final Judgment” means the order and judgment to be entered by the Court finally approving the Settlement and dismissing the Action, materially in the form attached hereto as Exhibit B.

**1.17.** “Insurers” means, collectively, the primary and excess insurers under director and officer liability policies under which SunEdison, Inc. was covered, for the period July 15, 2015 through July 15, 2016.

**1.18.** “Lead Counsel” means Pomerantz LLP.

**1.19.** “Notice” means the “Notice of Pendency and Proposed Settlement of Class Action,” which is to be sent to Settlement Class Members substantially in the form attached hereto as Exhibit A-1.

**1.20.** “Opt-Out” means any one of, and “Opt-Outs” means all of, any Persons who otherwise would be Settlement Class Members and have timely and validly requested

exclusion from the Settlement Class in accordance with the provisions of the Preliminary Approval Order and the Notice given pursuant thereto.

**1.21.** “Person” means an individual, corporation, fund, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, 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 their spouses, heirs, predecessors, successors, representatives, or assigns.

**1.22.** “Plan of Allocation” means a plan or formula for allocating the Settlement Fund to Authorized Claimants after payment of Administrative Costs, Taxes and Tax Expenses, and such attorneys’ fees, costs, and expenses as may be awarded by the Court. Any Plan of Allocation is not a condition to the effectiveness of this Stipulation, and the Released Parties shall have no responsibility or liability with respect thereto.

**1.23.** “Plaintiffs” means Don Harris and Kyle Tervort as identified in the opening paragraph of the SAC.

**1.24.** “Plaintiffs’ Counsel” means Lead Counsel, The Rosen Law Firm, P.A., and Additional Plaintiffs’ Counsel who, at the direction and under the supervision of Lead Counsel, performed services on behalf of Plaintiffs and the Settlement Class in the Action.

**1.25.** “Preliminary Approval Order” means the proposed order preliminarily approving the Settlement and directing notice thereof to the Settlement Class substantially in the form attached hereto as Exhibit A.

**1.26.** “Proof of Claim” means the Proof of Claim and Release Form to be submitted by Claimants, substantially in the form attached hereto as Exhibit A-2.

**1.27.** “Related Parties” means, with respect to each Released Party, the immediate family members, heirs, executors, trustees, administrators, successors, assigns, present and former employees, officers, directors, attorneys, legal representatives, accountants, insurers, reinsurers, managers, and agents of each of them, and any person or entity which is or was related to or affiliated with any Released Party or in which any Released Party has a controlling interest, and the present, former and future direct and indirect parents, subsidiaries, divisions, affiliates, predecessors, successors, and the employees, officers, directors, attorneys, assigns, legal representatives, insurers, reinsurers, managers, and agents of each of them.

**1.28.** “Released Claims” means and includes any and all Claims and Unknown Claims (as defined in ¶ 1.39) that have been or could have been asserted by or on behalf of any of the Releasing Parties, in any capacity, which arise out of, are based upon, or relate in any way to the purchase or acquisition of Vivint securities during the Settlement Class Period, including but not limited to any claims alleged in the Action, and any claims related to the allegations, transactions, facts, events, matters, occurrences, acts, disclosures, representations, statements, omissions, failures to act, or any other matter whatsoever involved, set forth, referred to, or otherwise related, directly or indirectly, to the allegations in the Action or the disclosures made in connection therewith (including the adequacy and completeness or such disclosures). Notwithstanding the foregoing, “Released Claims” does not include claims to enforce the terms of this Stipulation or orders or judgments issued by the Court in connection with this Settlement.

**1.29.** “Released Parties” means Defendants and each and all of their Related Parties, including all of SunEdison, Inc.’s current and former officers, directors, employees, consultants, accountants, and auditors; provided that Released Parties does not include Vivint Solar, Inc., or any of its officers or directors.

**1.30.** “Releasing Parties” means jointly and severally, individually and collectively, Plaintiffs, each and every Settlement Class Member, each of their respective present, former and future direct and indirect parent entities, associates, affiliates, subsidiaries, predecessors, successors, and the officers, directors, attorneys, assigns, legal representatives, and agents of each of them, each of their respective officers, directors, attorneys, legal representatives, and agents, and any person or entity which is or was related to or affiliated with any Releasing Party or in which any Releasing Party has a controlling interest, and each of their respective immediate family members, heirs, representatives, administrators, executors, trustees, successors, assigns, devisees, legatees, and estates.

**1.31.** “Settlement” means the settlement contemplated by this Stipulation.

**1.32.** “Settlement Amount” means the sum of \$2,100,000 (Two Million One Hundred Thousand U.S. Dollars). The Settlement Amount includes all Administrative Costs, Plaintiffs’ Counsel’s attorneys’ fees and expenses (as allowed by the Court), Award to Plaintiffs (as allowed by the Court), Settlement Class Member benefits, as well as any other costs, expenses, or fees of any kind whatsoever associated with the Settlement.

**1.33.** “Settlement Class” means all persons who purchased or acquired the securities of Vivint Solar, Inc. during the Settlement Class Period, except that excluded from the Settlement Class are: (i) Defendants; (ii) all current and former officers and directors of SunEdison, Inc.; (iii) blood relatives and household members of any such person excluded under (i); (iv) any entities affiliated with, controlled by, or more than 5% owned by, any person excluded under (i) and (ii); (v) the legal representatives, heirs, successors or assigns of any person excluded under (i) through (iv); (vi) Opt-Outs; and (vii) Persons who have no compensable damages.

**1.34.** “Settlement Class Member” means any one of, and “Settlement Class Members” means all of, the members of the Settlement Class.

**1.35.** “Settlement Class Period” means the period from July 20, 2015 through April 1, 2016, both dates inclusive.

**1.36.** “Settlement Fund” means all funds transferred to the Escrow Account pursuant to this Stipulation and any interest or other income earned thereon.

**1.37.** “Settlement Hearing” means the hearing at or after which the Court will make a final decision pursuant to Rule 23 of the Federal Rules of Civil Procedure as to whether the Settlement contained in the Stipulation is fair, reasonable and adequate, and therefore, should receive final approval from the Court.

**1.38.** “Settling Party” means any one of, and “Settling Parties” means all of, the parties to the Stipulation, namely Defendants and Plaintiffs (on behalf of themselves and the Settlement Class).

**1.39.** “Unknown Claims” means and includes any and all claims that one or more Releasing Parties does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties. This includes claims which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Parties, or might have affected his, her, or its decision(s) with respect to the Settlement and the Released Claims, including his, her or its decision to object or not to object to this Settlement. The Settling Parties expressly acknowledge, and the Releasing Parties by operation of the Judgment—shall have, and shall be deemed to have expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or any other jurisdiction, or

principle of common law that is similar, or comparable, or equivalent to California Civil Code ¶ 1542, which provides:

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

Plaintiffs, Releasing Parties, or Released Parties may hereafter discover facts, legal theories, or authorities in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Plaintiffs and Defendants expressly, fully, finally, and forever settle and release, and each other Releasing Party and Released Party shall be deemed to have settled and released, and upon the Effective Date and by operation of the Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. The Settling Parties expressly acknowledge, and each other Releasing Party and Released Party by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims was separately bargained for and a material element of the Settlement.

## **2. The Settlement Consideration**

**2.1.** In consideration of the full and final release, settlement and discharge of all Released Claims against the Released Parties, Defendants shall, by the later of (a) ten (10) Business Days after receiving written notice that the court in *In re SunEdison, Inc., et al.* Case No. 16-10992 (SMB) (Bankruptcy Ct., S.D.N.Y.) has entered a final non-appealable order approving the relief from the bankruptcy stay requested by the Debtor on August 31, 2017, as described in the Insurance Allocation Agreement submitted to that court, or (b) twenty (20) Business Days after

this Court has entered the Preliminary Approval Order, cause the Insurers to make a payment of the Settlement Amount, by wire transfer or check, to the Escrow Account, provided that the Escrow Agent has provided Defendants' counsel with complete wire and transfer information and instructions and a completed Form W-9 at least ten (10) Business Days prior to the date of such payment.

**2.2.** Under no circumstances will Defendants or any of their Insurers be required to pay, or cause payment of, more than the Settlement Amount pursuant to this Stipulation and the Settlement for any reason whatsoever, including, without limitation, as compensation to any Settlement Class Member, as payment of attorneys' fees and expenses awarded by the Court, as payment of any fees or expenses incurred by any Settlement Class Member or Plaintiffs' Counsel, or as interest on the Settlement Amount of any kind and relating to any time period (including prior to the payment of the Settlement Amount into the Escrow Account).

**3. Handling And Disbursement Of Funds By The Escrow Co-Agents**

**3.1.** No monies will be disbursed from the Settlement Fund until after the Effective Date except:

- (a) As provided in ¶ 3.4 below;
- (b) As provided in ¶ 8.2 below;
- (c) As provided in ¶ 10.10 below, if applicable; and
- (d) To pay Taxes and Tax Expenses (as defined in ¶ 4.1 below) on the income

earned by the Settlement Fund. Taxes and Tax Expenses shall be paid out of the Settlement Fund and shall be considered to be a cost of administration of the Settlement and shall be timely paid by the Escrow Co-Agents without prior Order of the Court.

**3.2.** The Escrow Agent shall invest the Settlement Fund in short term 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, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. The Escrow Agent shall bear all responsibility and liability for managing the Escrow Account and cannot assign or delegate its responsibilities without approval of the Settling Parties and the Insurers. Defendants, their counsel, their Insurers and the other Released Parties shall have no responsibility for, interest in, or any liability whatsoever with respect to any investment or management decisions executed by the Escrow Agent. The Settlement Fund shall bear all risks related to the investments of the Settlement Amount in accordance with the guidelines set forth in this ¶ 3.2.

**3.3.** The Escrow Agent shall not disburse the Settlement Fund except as provided in this Stipulation, by an order of the Court, or with the written agreement of counsel for Defendants.

**3.4.** At any time after funding pursuant to paragraph 2.1, the Escrow Agent may, without further approval from Defendants or the Court, disburse at the direction of Plaintiffs' Counsel up to \$250,000 (Two Hundred Fifty Thousand U.S. Dollars) from the Settlement Fund prior to the Effective Date to pay Administrative Costs.

#### **4. Taxes**

**4.1.** The Settling Parties agree to treat the Settlement Fund as being at all times a "qualified settlement fund" within the meaning of Treasury Regulation § 1.468B-1. In addition, Plaintiffs' Counsel or their designee shall timely make such elections as necessary or advisable to carry out the provisions of this ¶ 4.1, including the "relation-back election" (as defined in Treasury Regulation § 1.468B-1) back to the earliest permitted date. Such elections shall be



made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Plaintiffs' Counsel or their designee to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(a) For purposes of § 1.468B of the Internal Revenue Code of 1986, as amended, and Treasury Regulation § 1.468B-2(k)(3) promulgated thereunder, the "administrator" shall be Plaintiffs' Counsel or their designee. Plaintiffs' Counsel or their designee shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treasury Regulation § 1.468B-2(k)). Such returns (as well as the election described in this ¶ 4.1) shall be consistent with this ¶ 4.1 and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund.

(b) All Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon Defendants or their counsel or their Insurers with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a "qualified settlement fund" for federal or state income tax purposes ("Taxes"), and all expenses and costs incurred in connection with the operation and implementation of this ¶ 4.1 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses or penalties relating to filing (or failing to file) the returns described in this ¶ 4.1) ("Tax Expenses"), shall be paid out of the Settlement Fund, as appropriate. Defendants, their counsel, their Insurers and the other Released Parties shall have no liability or responsibility for the Taxes or the Tax Expenses. Taxes and Tax Expenses shall be treated as, and

considered to be, a cost of administration of the Settlement and shall be timely paid out of the Settlement Fund without prior order from the Court. The Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be withheld under Treasury Regulation § 1.468B-2(1)(2)). Defendants, their counsel, their Insurers and the other Released Parties shall have no responsibility for, interest in, or any liability whatsoever with respect to the foregoing provided in this ¶ 4.1. The Settling Parties agree to cooperate with each other, and their tax attorneys and accountants, to the extent reasonably necessary to carry out the provisions of this ¶ 4.1.

**5. Preliminary Approval Order, Notice Order, And Settlement Hearing**

**5.1.** As soon as practicable after execution of this Stipulation, Plaintiffs' Counsel shall submit this Stipulation and its exhibits to the Court and shall apply for preliminary approval of the Settlement set forth in this Stipulation, entry of a preliminary approval order, and approval for the mailing and dissemination of notice, substantially in the form of Exhibits A, A-1, A-2, and A-3. The mailed Notice (Exhibit A-1) shall include the general terms of the Settlement and the provisions of the Plan of Allocation, and shall set forth the procedure by which recipients of the Notice may object to the Settlement or the Plan of Allocation or request to be excluded from the Settlement Class. The date and time of the Settlement Hearing shall be added to the Notice before it is mailed or otherwise provided to Settlement Class Members. Defendants shall not object to, or have any responsibility for, Plaintiffs' Counsel's proposed Plan of Allocation.

**5.2.** At the time of the submission described in ¶ 5.1 hereof, the Settling Parties, through their counsel, shall jointly request that, after the Notice is provided, the Court hold

the Settlement Hearing and (i) approve the Settlement as set forth herein and (ii) enter a final order and judgment substantially in the form of Exhibit B hereto, as promptly after the Settlement Hearing as possible.

**6. Releases And Covenants Not To Sue**

**6.1.** Upon the Effective Date, the Releasing Parties, on behalf of themselves, their successors and assigns, and any other Person claiming (now or in the future) through or on behalf of them, regardless of whether any such Releasing Party ever seeks or obtains by any means, including without limitation by submitting a Proof of Claim, any disbursement from the Settlement Fund, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties and shall have covenanted not to sue the Released Parties with respect to all such Released Claims, and shall be permanently barred and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating, or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any Released Claim, in any capacity, against any of the Released Parties. Nothing contained herein shall, however, bar the Releasing Parties from bringing any action or claim to enforce the terms of this Stipulation or the Final Judgment.

**7. Administration And Calculation Of Claims, Final Awards And Supervision And Distribution Of The Settlement Fund**

**7.1.** Under the supervision of Plaintiffs' Counsel, acting on behalf of the Settlement Class, and subject to such supervision and direction of the Court as may be necessary or as circumstances may require, the Claims Administrator shall administer and calculate the claims submitted by Settlement Class Members and shall oversee distribution of the Net Settlement Fund (as defined below) to Authorized Claimants.

**7.2.** The Settlement Fund shall be applied as follows:

- (a)** To pay the Taxes and Tax Expenses described in ¶ 4.1 above;
- (b)** To pay Administrative Costs;
- (c)** To pay Plaintiffs' Counsel attorneys' fees with interest and expenses

and payments to the Plaintiffs for reimbursement of their time and expenses (the "Fee and Expense Award"), to the extent allowed by the Court; and

**(d)** To distribute the balance of the Settlement Fund, that is, the Settlement Fund less the items set forth in ¶ 7.2(a), (b), and (c) hereof (the "Net Settlement Fund"), plus all accrued interest, to the Authorized Claimants as allowed by this Stipulation, the Plan of Allocation, or the Court.

**7.3.** Upon and after the Effective Date, the Net Settlement Fund shall be distributed to Authorized Claimants in accordance with the terms of the Plan of Allocation set forth in the Notice and any orders of the Court.

**7.4.** This is not a claims-made settlement, and if all conditions of the Stipulation are satisfied and the Final Judgment becomes Final, no portion of the Settlement Fund will be returned to any of the Defendants or the Insurers. Defendants, their counsel, their Insurers and the other Released Parties shall have no responsibility for, involvement in, interest in, or liability whatsoever with respect to the investment or distribution of the Net Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of claims, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith. No Person shall have any claims against Plaintiffs' Counsel, the Claims Administrator or any other agent designated by Plaintiffs' Counsel based on distribution determinations or claim rejections made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of

Allocation, or orders of the Court. Plaintiffs' Counsel shall have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Proofs of Claim filed, where doing so is in the interest of achieving substantial justice.

**7.5.** It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a condition of this Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation. Any order or proceedings relating to the Plan of Allocation, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to modify, terminate or cancel this Stipulation, or affect or delay the finality of the Final Judgment and the releases contained therein, or any other orders entered pursuant to this Stipulation.

**7.6.** To assist in dissemination of notice, the Preliminary Approval Order shall provide that information from Vivint's transfer records, including information concerning the identity of Settlement Class Members, including any names and addresses of Settlement Class Members and nominees or custodians that exists in such transfer records ("Settlement Class Information"), shall be provided to Plaintiffs' Counsel, at no cost to Plaintiffs or Defendants, within fourteen (14) calendar days after the Court signs an order preliminarily approving the Settlement. Such transfer records shall be in electronic searchable form, such as Excel, containing the Settlement Class Information. The Settling Parties acknowledge that any information provided to Plaintiffs' Counsel by Vivint or its transfer agent pursuant to this Paragraph shall be treated as confidential and will be used by Plaintiffs' Counsel solely to deliver the Notice and/or implement the Settlement, including the Plan of Allocation.

7.7. If any funds remain in the Net Settlement Fund by reason of uncashed 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 distribution checks, any balance remaining in the Net Settlement Fund six (6) months after the initial distribution of such funds shall be re-distributed, after payment of any unpaid costs or fees incurred in administering the Net Settlement Fund for such redistribution, to Settlement Class Members who have cashed their checks and who would receive at least \$10.00 from such re-distribution. If any funds shall remain in the Net Settlement Fund six months after such re-distribution, then such balance shall be contributed to a non-sectarian charity or any not-for-profit successor of it chosen by Plaintiffs' Counsel, with the approval of the Court.

## **8. Plaintiffs' Counsel's Attorneys' Fees And Reimbursement Of Expenses**

8.1. Plaintiffs' Counsel may submit an application or applications (the "Fee and Expense Application") for distributions from the Settlement Fund to Plaintiffs' Counsel for: (i) an award of attorneys' fees with interest from the Settlement Fund; (ii) reimbursement of actual costs and expenses, including the fees and expenses of any experts or consultants, incurred in connection with prosecuting the Action; and (iii) the Award to Plaintiffs. Defendants shall take no position with respect to the Fee and Expense Application(s).

8.2. Except as otherwise provided in this paragraph, the attorneys' fees and expenses awarded by the District Court shall be paid to Plaintiffs' Counsel from the Settlement Fund immediately after the date the Court enters the Final Judgment and an order awarding such fees and expenses, notwithstanding any objections to or appeals of such order or of the Final Judgment. In the event that the Effective Date does not occur, or the Final Judgment is reversed or modified in any way that affects the award of attorneys' fees and expenses, or the Stipulation is

terminated for any other reason, then Plaintiffs' Counsel shall be jointly and severally obligated to refund to the Escrow Account, within ten (10) Business Days from receiving notice from Defendants' counsel or from a court of appropriate jurisdiction, either the full amount of the fees and expenses or an amount consistent with any modification of the Final Judgment with respect to the fee and expense award, including accrued interest at the same rate as is earned by the Settlement Fund. Plaintiffs' Counsel agree that the law firms and its partners and/or shareholders are subject to jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph, and shall be jointly and severally liable for repayment of all attorneys' fees and expenses awarded by the Court. Furthermore, without limitation, Plaintiffs' Counsel agree that the Court may, upon application of Defendants, summarily issue orders, including, without limitation, judgments and attachment orders and may make appropriate findings of or sanctions for contempt against the firms should they fail timely to repay fees and expenses pursuant to this paragraph. Any Award to Plaintiffs shall not be paid from the Settlement Fund until after the Effective Date.

**8.3.** The procedure for, and allowance or disallowance by the Court of, the Fee and Expense Application are not a condition of the Settlement set forth in this Stipulation and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation. Any order or proceeding relating to the Fee and Expense Application, or any objection to, motion regarding, or appeal from any order or proceeding relating thereto or reversal or modification thereof, shall not operate to modify, terminate or cancel this Stipulation, or affect or delay the finality of the Final Judgment or the releases contained therein or any other orders entered pursuant to this Stipulation.

**8.4.** Any award of attorneys' fees and interest and/or expenses to Plaintiffs' Counsel or Award to Plaintiffs shall be paid solely from the Settlement Fund and shall reduce the

settlement consideration paid to the Settlement Class accordingly. No Defendant shall have any responsibility for payment of Plaintiffs' Counsel's attorneys' fees and interest, expenses or other awards to Lead Plaintiffs beyond the obligation to cause the funding of the Settlement Amount as set forth in ¶ 2.1 above. The Released Parties shall have no responsibility for, and no liability whatsoever with respect to, any payments to Plaintiffs' Counsel, Plaintiffs, the Settlement Class and/or any other Person who receives payment from the Settlement Fund.

**9. Class Certification**

**9.1.** In the Final Judgment, the Settlement Class shall be certified for purposes of this Settlement, but in the event that the Final Judgment does not become Final or the Settlement fails to become effective for any reason, all Settling Parties reserve all their rights on all issues, including class certification. For purposes of this settlement only, in connection with the Final Judgment, Defendants shall consent to (i) the appointment of Plaintiffs as the class representatives, (ii) the appointment of Plaintiffs' Counsel as class counsel, and (iii) the certification of the Settlement Class pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure.

**10. Conditions Of Settlement, Effect of Disapproval, Cancellation Or Termination**

**10.1.** Plaintiffs, on behalf of the Settlement Class, and Defendants shall each have the right to terminate the Settlement and Stipulation by providing written notice of his or its election to do so ("Termination Notice") to all other Settling Parties within seven (7) Business Days of:

(i) entry of a Court order declining to enter the Preliminary Approval Order in any material respect;

(ii) entry of a Court order refusing to approve this Stipulation in any material respect;



(iii) entry of a Court order declining to enter the Final Judgment in any material respect;

(iv) entry of a Court order refusing to dismiss the Action with prejudice;

(v) entry of an order by which the Final Judgment is modified or reversed in any material respect by any appeal or review;

(vi) failure on the part of any Settling Party to abide, in material respect, with the terms of this Stipulation. In the absence of any of the events enumerated in the preceding sentence, ¶ 10.2, ¶ 10.6 or ¶ 10.7, no Party shall have the right to terminate the Stipulation for any reason.

**10.2.** If Defendants' Insurers, for any reason do not pay into the Escrow Account \$2,100,000 as describe in ¶ 2.1 above, then Defendants in their sole option shall have the right to terminate the Stipulation.

**10.3.** If the Settlement Amount is not paid into the Escrow Account in accordance with ¶ 2.1 of this Stipulation, then Plaintiffs, on behalf of the Settlement Class, and not Defendants (other than in accordance with ¶ 10.2), shall have the right to (a) terminate the Settlement and Stipulation by providing written notice to Defendants at any time prior to the Court's entry of the Final Judgment; or (b) enforce the terms of the Settlement and this Stipulation and seek a judgment effecting the terms herein. In addition, if the Settlement Amount is not paid into the Escrow Account within ninety (90) days of entry of the date of this Stipulation, then Plaintiffs, on behalf of the Settlement Class, shall have the right to terminate the Settlement and Stipulation by providing written notice to Defendants at any time prior to the Court's entry of the Final Judgment.

**10.4.** The Effective Date of this Stipulation (“Effective Date”) shall not occur unless and until each of the following events occurs, and it shall be the date upon which the last in time of the following events occurs:

(a) The Parties have not exercised their options to terminate the Settlement pursuant to ¶¶ 10.2, 10.3 and 10.6;

(b) The Court has entered the Preliminary Approval Order attached hereto as Exhibit A or an order containing materially the same terms;

(c) The sum of \$2,100,000 (Two Million One Hundred Fifty Thousand U.S. Dollars) has been paid into the Escrow Account, as set forth in ¶ 2.1;

(d) The Court has approved the Settlement, following notice to the Settlement Class and the Settlement Hearing, and has entered the Final Judgment;

(e) The Final Judgment has become Final as defined in ¶ 1.15; and

(f) The Action has been dismissed with prejudice.

**10.5.** Upon the occurrence of the Effective Date, any and all interest or right of Defendants or the Insurers in or to the Settlement Fund, if any, shall be absolutely and forever extinguished, except as set forth in this Stipulation.

**10.6.** If prior to Final Judgment, Persons who otherwise would be Settlement Class Members have filed with the Court valid and timely requests for exclusion from the Settlement Class in accordance with the provisions of the Preliminary Approval Order and the notice given pursuant thereto (“Opt-Outs”), and such Persons in the aggregate purchased securities during the Settlement Class Period in an amount greater than the amount specified in a separate Supplemental Agreement between the Settling Parties (the “Supplemental Agreement”), then Defendants shall have, each in his, her or its sole and absolute discretion, the option to terminate

this Stipulation and Settlement in strict accordance with the requirements and procedures set forth in the Supplemental Agreement (hereinafter the “Supplemental Termination Option”). The Supplemental Agreement shall not be filed with the Court unless and until a dispute among the Settling Parties concerning its interpretation or application arises.

**10.7.** Defendants shall not have the right to terminate the Stipulation if the Settlement Amount is not paid pursuant to ¶ 2.1 (other than in accordance with ¶ 10.2). None of the Settling Parties, or any of them, shall have any obligation whatsoever to proceed under any terms other than those provided for and agreed herein. If any Settling Party engages in a material breach of the terms hereof, any other Settling Party, provided that it is in substantial compliance with the terms of this Stipulation, may terminate this Stipulation on notice to all the Settling Parties.

**10.8.** In the event the Stipulation shall terminate, or be canceled, or shall not become effective for any reason, the Settling Parties shall be restored to their respective positions in the Action immediately prior to July 26, 2017, and they shall proceed in all respects as if the Stipulation had not been executed and the related orders had not been entered, and in that event all of their respective claims and defenses as to any issue in the Action shall be preserved without prejudice.

**10.9.** In the event that the Stipulation is not approved by the Court or the Settlement set forth in this Stipulation is terminated or fails to become effective in accordance with its terms, the terms and provisions of this Stipulation, except as otherwise provided herein, shall have no further force and effect with respect to the Settling Parties and shall not be used in the Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*.

**10.10.** In the event the Stipulation shall be terminated, or be canceled, or shall not become effective for any reason, within seven (7) Business Days (except as otherwise provided in the Supplemental Agreement) after the occurrence of such event, the Settlement Fund (less taxes already paid and any Administrative Costs which have either been disbursed or are determined to be chargeable) shall be refunded by the Escrow Agent to the Insurers, plus accrued interest attributable to that amount by check or wire transfer pursuant to written instructions from the Insurers. At the request of the Insurers, the Escrow Agent or their designee shall apply for any tax refund owed on the Settlement Fund and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund, to the Insurers pursuant to written direction from the Insurers.

**10.11.** No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or the Fee and Expense Application shall constitute grounds for cancellation or termination of the Stipulation.

**11. No Admission Of Liability Or Wrongdoing**

**11.1.** The Settling Parties covenant and agree that neither this Stipulation, nor the fact nor any terms of the Settlement, nor any communication relating thereto, nor the Supplemental Agreement, is evidence, or an admission, presumption or concession by any Settling Party or their counsel, any Settlement Class Member, or any of the Released Parties, of any fault, liability or wrongdoing whatsoever, as to any facts or claims alleged or that have been or could have been asserted in the Action, or in any other actions or proceedings, or as to the validity or merit of any of the claims or defenses alleged or that have been or could have been asserted in any such action or proceeding. This Stipulation is not a finding or evidence of the validity or invalidity of any claims or defenses in the Action, any wrongdoing by any Settling Party, Settlement Class

Member, or any of the Released Parties, or any damages or injury to any Settling Party, Settlement Class Member, or any Released Parties. Neither this Stipulation, nor the Supplemental Agreement, nor any of the terms and provisions of this Stipulation or the Supplemental Agreement, nor any of the negotiations or proceedings in connection therewith, nor any of the documents or statements referred to herein or therein, nor the Settlement, nor the fact of the Settlement, nor the Settlement proceedings, nor any statement in connection therewith, (a) shall (i) be argued to be, used or construed as, offered or received in evidence as, or otherwise constitute an admission, concession, presumption, proof, evidence, or a finding of any liability, fault, wrongdoing, injury or damages, or of any wrongful conduct, acts or omissions on the part of any Released Party, or of any infirmity of any defense, or of any damages to the Plaintiffs or any other Settlement Class Member, or (ii) otherwise be used to create or give rise to any inference or presumption against any of the Released Parties concerning any fact or any purported liability, fault, or wrongdoing of the Released Parties or any injury or damages to any person or entity, or (b) shall otherwise be admissible, referred to or used in any proceeding of any nature, for any purpose whatsoever; provided, however, that the Stipulation or the Supplemental Agreement or the Final Judgment may be introduced in any proceeding, whether in the Court or otherwise, as may be necessary to enforce the Settlement or Supplemental Agreement or Final Judgment, or as otherwise required by law.

## **12. Miscellaneous Provisions**

**12.1.** Except in the event of the filing of a Termination Notice pursuant to ¶¶ 10.1, 10.2, 10.6 or 10.7 of this Stipulation or termination notice in accordance with the Settling Parties' Supplemental Agreement, the Settling Parties shall take all actions necessary to consummate this agreement; and agree to cooperate with each other to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation.

**12.2.** The Settling Parties and their counsel represent that they will not encourage or otherwise influence (or seek to influence) any Settlement Class Members to request exclusion from, or object to, the Settlement.

**12.3.** Each of the attorneys executing this Stipulation, any of its exhibits, or any related settlement documents on behalf of any Settling Party hereto hereby warrants and represents that he or she has been duly empowered and authorized to do so by the Settling Party he or she represents.

**12.4.** Plaintiffs and Plaintiffs' Counsel represent and warrant that the Plaintiffs are Settlement Class Members and none of Plaintiffs' claims or causes of action against one or more Defendants in the Action, or referred to in this Stipulation, or that could have been alleged against one or more Defendants in the Action have been assigned, encumbered or in any manner transferred in whole or in part.

**12.5.** This Stipulation, together with the Supplemental Agreement, constitutes the entire agreement between the Settling Parties related to the Settlement and supersedes any prior agreements. No representations, warranties, promises, inducements or other statements have been made to or relied upon by any Settling Party concerning this Stipulation, other than the representations, warranties and covenants expressly set forth herein and in the Supplemental Agreement. Plaintiffs, on behalf of themselves and the Settlement Class, acknowledge and agree that any and all other representations and warranties of any kind or nature, express or implied, are specifically disclaimed and were not relied upon in connection with this Stipulation. In entering this Stipulation, the Settling Parties relied solely upon their own knowledge and investigation. Except as otherwise provided herein, each Settling Party shall bear its own costs.

**12.6.** This Stipulation may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all Settling Parties or their counsel or their respective successors in interest.

**12.7.** This Stipulation shall be binding upon, and shall inure to the benefit of, the Settling Parties and their respective agents, successors, executors, heirs, and assigns.

**12.8.** The Released Parties who do not appear on the signature lines below, are acknowledged and agreed to be third party beneficiaries of this Stipulation and Settlement.

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

**12.10.** This Stipulation may be executed in any number of counterparts by any of the signatories hereto and the transmission of an original signature page electronically (including by facsimile or portable document format) shall constitute valid execution of the Stipulation as if all signatories hereto had executed the same document. Copies of this Stipulation executed in counterpart shall constitute one agreement.

**12.11.** This Stipulation, the Settlement, the Supplemental Agreement and any and all disputes arising out of or relating in any way to this Stipulation, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of the State of New York without regard to conflict of laws principles.

**12.12.** The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of this Stipulation, and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Stipulation.

**12.13.** The Stipulation shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel

for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties, and all Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

**12.14.** Plaintiffs, Plaintiffs' Counsel, and the attorneys, staff, experts, and consultants assisting them in this Action agree that (a) they will not intentionally assist or cooperate with any person or entity in the pursuit of legal action related to the subject matter of this Action against the Released Parties, except in the action styled as *Chamblee v. TerraForm Power, Inc.*, 16-cv-08039-PKC (S.D.N.Y.), (b) they will not intentionally assist or cooperate with any person or entity seeking to publicly disparage or economically harm the Released Parties with respect to any matter relating to the subject matter of this Action, and (c) they will not discuss any confidential matters related to this Action or the Settlement with anyone.

**12.15.** All agreements by, between or among the Settling Parties, their counsel and their other advisors as to the confidentiality of information exchanged between or among them shall remain in full force and effect, and shall survive the execution and any termination of this Stipulation and the final consummation of the Settlement, if finally consummated, without regard to any of the conditions of the Settlement.

**12.16.** The Settling Parties shall not assert or pursue any action, claim or rights that any party violated any provision of Rule 11 of the Federal Rules of Civil Procedure and/or the Private Securities Litigation Reform Act of 1995 in connection with this Action, the Settlement, the Stipulation or the Supplemental Agreement. The Settling Parties agree that this Action was resolved in good faith following arm's-length bargaining, in full compliance with applicable requirements of good faith litigation under the Securities Exchange Act of 1934, Rule 11 of the Federal Rules of Civil Procedure and/or the Private Securities Litigation Reform Act of 1995.



**12.17.** Any failure by any of the Settling Parties to insist upon the strict performance by any other Settling Party of any of the provisions of the Stipulation shall not be deemed a waiver of any of the provisions hereof, and such Settling 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 the other Settling Parties to this Stipulation.

**12.18.** The waiver, express or implied, by any Settling Party of any breach or default by any other Settling Party in the performance of such Settling Party of its obligations under the Stipulation shall not be deemed or construed to be a waiver of any other breach, whether prior, subsequent, or contemporaneous, under this Stipulation.

**12.19.** The Settling Parties reserve the right, subject to the Court's approval, to make any reasonable extensions of time that might be necessary to carry out any of the provisions of this Stipulation.

**IN WITNESS WHEREOF**, the Settling Parties have executed this Stipulation by their undersigned counsel effective as of the date set forth below.

Dated: September 8, 2017

**POMERANTZ LLP**

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

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*Attorneys for Defendants Ahmad Chatila and Brian Wuebbels*

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

IN RE: SUNEDISON, INC. SECURITIES  
LITIGATION

Case No. 16-MD-2742 (PKC) (AJP)

DARCY CHURCH, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

Case No. 1:16-cv-07962-PKC

AHMAD R. CHATILA and BRIAN  
WUEBBELS,

Defendants.

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

WHEREAS, Lead Plaintiff Don Harris and Named Plaintiff Kyle Tervort (collectively, “Plaintiffs”), on behalf of themselves and the Settlement Class, and Defendants Ahmad Chatila (“Chatila”) and Brian Wuebbels (“Wuebbels”) (collectively, “Defendants”), have entered into the Stipulation and Agreement of Settlement, dated September 8, 2017 (the “Settlement Stipulation”), which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits annexed thereto, sets forth the terms and conditions for the proposed settlement and dismissal of the class action pending before the Court entitled *Church v. Chatila, et al.*, Case No. 1:16-cv-07962-PKC (S.D.N.Y.) (the “Action”); and the Court having read and considered the Settlement Stipulation and the exhibits thereto and submissions made relating thereto, and finding that substantial and sufficient grounds exist for entering this Order; and the Settling Parties having consented to the entry of this Order;

NOW, THEREFORE, IT IS HEREBY ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2017, that:

1. Capitalized terms used herein have the meanings defined in the Settlement Stipulation.
2. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure and for the purposes of the Settlement only, the Action is hereby preliminarily certified as a class action on behalf of all Persons (including, without limitation, their beneficiaries) who purchased Vivint Solar, Inc. (“Vivint”) securities during the period from July 20, 2015 through April 1, 2016, both dates inclusive, and excluded from the Settlement Class are: (i) Defendants; (ii) all current and former officers and directors of SunEdison, Inc.; (iii) blood relatives and household members of any such person excluded under (i); (iv) any entities affiliated with, controlled by, or more than 5% owned by, any person excluded under (i) and (ii); (v) the legal representatives, heirs, successors

or assigns of any person excluded under (i) through (iv); (vi) Opt-Outs; and (vii) Persons who have no compensable damages.

3. This Court finds, preliminarily and for purposes of this Settlement only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Settlement Class Members is so numerous that joinder of all members of the Settlement Class is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of Plaintiffs are typical of the claims of the Settlement Class they seek to represent; (d) Plaintiffs fairly and adequately represent the interests of the Settlement Class; (e) questions of law and fact common to the Settlement Class predominate over any questions affecting only individual members of the Settlement Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the Action.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, preliminarily and for the purposes of this Settlement only, Plaintiffs are certified as the class representatives on behalf of the Settlement Class (“Class Representatives”) and Plaintiffs’ Counsel, previously selected by Plaintiffs and appointed by the Court, are hereby appointed as Lead Counsel for the Settlement Class (“Class Counsel”).

5. The Court finds that (a) the Settlement Stipulation resulted from good faith, arm’s length negotiations, and (b) the Settlement Stipulation is sufficiently fair, reasonable and adequate to the Settlement Class Members to warrant providing notice of the Settlement to Settlement Class Members and holding a Settlement Hearing.

6. The Court hereby preliminarily approves the Settlement, subject to further consideration at a hearing (the “Settlement Hearing”) pursuant to Federal Rule of Civil Procedure

23(e), which is hereby scheduled to be held before the Court on \_\_\_\_\_ 2018 at \_\_: \_\_  
\_\_m. for the following purposes:

(a) to determine finally whether the applicable prerequisites for class action treatment under Federal Rules of Civil Procedure 23(a) and (b) are satisfied;

(b) to determine finally whether the Settlement is fair, reasonable, and adequate, and should be approved by the Court;

(c) to determine finally whether the Order and Final Judgment as provided under the Settlement Stipulation should be entered, dismissing the Action on the merits and with prejudice, and to determine whether the release by the Releasing Parties of the Released Claims against the Released Parties, as set forth in the Settlement Stipulation, should be ordered, along with a permanent injunction barring efforts to prosecute or attempt to prosecute any Released Claims extinguished by the release against any of the Released Parties, as also set forth in the Settlement Stipulation;

(d) to determine finally whether the proposed Plan of Allocation for the distribution of the Net Settlement Fund is fair and reasonable and should be approved by the Court;

(e) to consider the application of Class Counsel for an award of attorneys' fees and expenses and an award to the Class Representatives;

(f) to consider Settlement Class Members' objections to the Settlement, if any, whether submitted previously in writing or presented orally at the Settlement Hearing by Settlement Class Members (or by counsel on their behalf) provided that they gave proper notice that they intend to appear at the Settlement Hearing; and

(g) to rule upon such other matters as the Court may deem appropriate.

7. The Court reserves the right to adjourn the Settlement Hearing to a later date and to approve the Settlement without modification, or with such modifications as may be agreed to by the Settling Parties, and with or without further notice of any kind. The Court further reserves the right to enter its Order and Final Judgment approving the Settlement and dismissing the Action, on the merits and with prejudice, regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and expenses.

8. The Court approves the form, substance and requirements of (a) the Notice, (b) the Summary Notice and (c) the Proof of Claim and Release Form, all of which are exhibits to the Settlement Stipulation.

9. Class Counsel have the authority to enter into the Settlement on behalf of the Settlement Class and have the authority to act on behalf of the Settlement Class with respect to all acts or consents required by or that may be given pursuant to the Settlement Stipulation or such other acts that are reasonably necessary to consummate the Settlement.

10. For settlement purposes only, Strategic Claims Services is appointed and approved as the Claims Administrator to supervise and administer the notice procedure as well as the processing of claims.

11. Class Counsel, through the Claims Administrator, shall cause the Notice and the Proof of Claim and Release Form, substantially in the forms annexed to the Settlement Stipulation, to be mailed, by first class mail, postage prepaid, within twelve (12) Business Days of the later of (a) receiving written notice that the court in *In re SunEdison, Inc., et al.* Case No. 16-10992 (SMB) (Bankruptcy Ct., S.D.N.Y.) has entered a final non-appealable order approving the relief from the bankruptcy stay requested by the Debtor on August 31, 2017, as described in the Insurance Allocation Agreement submitted to that court, or (b) entry of this Order, to all Settlement Class

Members who can be identified with reasonable effort by Class Counsel, through the Claims Administrator.

12. Escrow Agent may, at any time after the funding of the Settlement Fund as provided for in Settlement Stipulation and the entry of this Order and without further approval from Defendants or the Court, disburse at the direction of Class Counsel up to \$250,000 (Two Hundred Fifty Thousand Dollars) from the Settlement Fund prior to the Effective Date to pay Administrative Costs.

13. No later than seven (7) calendar days after the date of this Order, Vivint shall provide and/or cause its transfer agent to provide to Class Counsel a list of the record owners of Vivint securities during the Settlement Class Period in a usable electronic format, such as an excel spreadsheet. This information will be kept confidential and not used for any purpose other than to provide the notice contemplated by this Order.

14. Class Counsel, through the Claims Administrator, shall make all reasonable efforts to give notice to nominees or custodians who held Vivint securities during the Settlement Class Period as record owners but not as beneficial owners. Such nominees or custodians shall, within ten (10) calendar days of receipt of the Notice and Proof of Claim and Release Form, either (i) request additional copies of the Notice and Proof of Claim and Release Form sufficient to send the Notice and Proof of Claim and Release Form to all beneficial owners for whom they are nominee or custodian, and within ten (10) calendar days after receipt thereof send copies to such beneficial owners; or (ii) provide the Claims Administrator with lists of the names, last known addresses and email addresses (to the extent known) of such beneficial owners, in which event the Claims Administrator shall promptly deliver the Notice and Proof of Claim and Release Form to such beneficial owners. Nominees or custodians who elect to send the Notice and Proof of Claim and



Release Form to their beneficial owners shall send a written certification to the Claims Administrator confirming that the mailing has been made as directed. Additional copies of the Notice and Proof of Claim shall be made available to any nominee or custodian requesting same for the purpose of distribution to beneficial owners. The Claims Administrator shall, if requested, reimburse nominees or custodians out of the Settlement Fund solely for their reasonable out-of-pocket expenses, up to \$0.75 per unit, incurred in providing notice to beneficial owners, which expenses would not have been incurred except for the sending of such notice, and subject to further order of this Court with respect to any dispute concerning such reimbursement.

15. Class Counsel shall, at least seven (7) calendar days before the Settlement Hearing, serve upon counsel for Defendants and file with the Court proof of the mailing of the Notice and Proof of Claim and Release Form as required by this Order.

16. Class Counsel, through the Claims Administrator, shall cause the Settlement Stipulation and its exhibits, this Order, and a copy of the Notice to be posted on the Claims Administrator's website within twelve (12) Business Days of the later of (a) receiving written notice that the court in *In re SunEdison, Inc., et al.* Case No. 16-10992 (SMB) (Bankruptcy Ct., S.D.N.Y.) has entered a final non-appealable order approving the relief from the bankruptcy stay requested by the Debtor on August 31, 2017, as described in the Insurance Allocation Agreement submitted to that court, or (b) entry of this Order.

17. Class Counsel, through the Claims Administrator, shall cause the Summary Notice to be published electronically once on the *GlobeNewswire* and in print once in the *Investor's Business Daily* within twelve (12) Business Days of the later of (a) receiving written notice that the court in *In re SunEdison, Inc., et al.* Case No. 16-10992 (SMB) (Bankruptcy Ct., S.D.N.Y.) has entered a final non-appealable order approving the relief from the bankruptcy stay requested

by the Debtor on August 31, 2017, as described in the Insurance Allocation Agreement submitted to that court, or (b) entry of this Order. Class Counsel shall, at least seven (7) calendar days before the Settlement Hearing, serve upon counsel for Defendants and file with the Court proof of publication of the Summary Notice.

18. The forms and methods set forth herein of notifying the Settlement Class Members of the Settlement and its terms and conditions meet the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and Section 21D(a)(7) of the Exchange Act, 15 U.S.C. 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995; constitute the best notice practicable under the circumstances; and constitute due and sufficient notice to all persons and entities entitled thereto. No Settlement Class Member will be relieved from the terms and conditions of the Settlement, including the releases provided for therein, based upon the contention or proof that such Settlement Class Member failed to receive actual or adequate notice.

19. In order to be entitled to participate in recovery from the Net Settlement Fund after the Effective Date, each Settlement Class Member shall take the following action and be subject to the following conditions:

(a) A properly completed and executed Proof of Claim and Release Form must be submitted to the Claims Administrator, at the Post Office Box indicated in the Notice, postmarked no later than \_\_\_\_\_, 2017 (twenty-one (21) calendar days prior to the Settlement Hearing). Such deadline may be further extended by Order of the Court. Each Proof of Claim and Release Form shall be deemed to have been submitted when legibly postmarked (if properly addressed and mailed by first class mail) provided such Proof of Claim and Release Form is actually received before the filing of a motion for an Order of the Court approving distribution of the Net Settlement Fund. Any Proof of Claim and Release Form submitted in any other manner

shall be deemed to have been submitted when it was actually received by the Claims Administrator at the address designated in the Notice.

(b) The Proof of Claim and Release Form submitted by each Settlement Class Member must satisfy the following conditions: (i) it must be properly completed, signed and submitted in a timely manner in accordance with the provisions of the preceding subparagraph; (ii) it must be accompanied by adequate supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Claims Administrator or Class Counsel; (iii) if the person executing the Proof of Claim and Release Form is acting in a representative capacity, a certification of his current authority to act on behalf of the Settlement Class Member must be provided with the Proof of Claim and Release Form; and (iv) the Proof of Claim and Release Form must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury.

(c) Once the Claims Administrator has considered a timely submitted Proof of Claim and Release Form, it shall determine whether such claim is valid, deficient or rejected. For each claim determined to be either deficient or rejected, the Claims Administrator shall send a deficiency letter or rejection letter as appropriate, describing the basis on which the claim was so determined. Persons who timely submit a Proof of Claim and Release Form that is deficient or otherwise rejected shall be afforded a reasonable time (at least ten (10) calendar days) to cure such deficiency if it shall appear that such deficiency may be cured. If any Claimant whose claim has been rejected in whole or in part wishes to contest such rejection, the Claimant must, within ten (10) calendar days after the date of mailing of the notice, serve upon the Claims Administrator a

notice and statement of reasons indicating the Claimant's ground for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If an issue concerning a claim cannot be otherwise resolved, Class Counsel shall thereafter present the request for review to the Court.

(d) As part of the Proof of Claim and Release Form, each Settlement Class Member shall submit to the jurisdiction of the Court with respect to the claim submitted, and shall, upon the Effective Date, release all claims as provided in the Settlement Stipulation. No discovery shall be allowed on the merits of the Action or the Settlement in connection with processing of the Proof of Claim and Release Forms, nor shall any discovery from or of Defendants be allowed on any topic.

20. All Settlement Class Members who do not submit valid and timely Proof of Claim and Release Forms will be forever barred from receiving any payments from the Net Settlement Fund, but will in all other respects be subject to and bound by the provisions of the Settlement Stipulation and the Order and Final Judgment, if entered.

21. Settlement Class Members shall be bound by all determinations and judgments in this Action whether favorable or unfavorable, unless such Persons request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided. A Settlement Class Member wishing to make such request for exclusion shall mail it, in written form, by first class mail, postage prepaid, or otherwise deliver it, so that it is received no later than \_\_\_\_\_, 2017 (twenty-one (21) calendar days prior to the Settlement Hearing) (the "Exclusion Deadline"), to the addresses listed in the Notice. In order to be valid, such request for exclusion (A) must clearly indicate the name and address and phone number and e-mail contact information (if any) of the Person seeking exclusion, and state that the sender specifically "requests to be excluded

from the Settlement Class in *Church v. Chatila, et al.*, Case No. 1:16-cv-07962-PKC (S.D.N.Y.)”, and (B) state (i) the date, number of shares and dollar amount of each Vivint securities purchase or acquisition during the Settlement Class Period, and any sale transactions, and (ii) the number of shares of Vivint securities held by the Person as of July 20, 2015 through April 1, 2016. In order to be valid, such request for exclusion must be submitted with documentary proof (i) of each purchase or acquisition and, if applicable, sale transaction of Vivint securities during the Settlement Class Period and (ii) demonstrating the Person’s status as a beneficial owner of the Vivint securities. Any such request for exclusion must be signed and submitted by the beneficial owner under penalty of perjury. The request for exclusion shall not be effective unless it provides the required information, is legible, and is made within the time stated above, or the exclusion is otherwise accepted by the Court. Class Counsel may contact any Person filing a request for exclusion, or their attorney if one is designated, to discuss the exclusion.

22. The Claims Administrator shall provide all requests for exclusion and supporting documentation submitted therewith (including untimely requests and revocations of requests) to counsel for the Settling Parties as soon as possible and no later than the Exclusion Deadline or upon the receipt thereof (if later than the Exclusion Deadline). The Settlement Class will not include any Person who delivers a valid and timely request for exclusion.

23. Any Person that submits a request for exclusion may thereafter submit to the Claims Administrator a written revocation of that request for exclusion, provided that it is received no later than two (2) Business Days before the Settlement Hearing, in which event that Person will be included in the Settlement Class.

24. All Persons who submit a valid, timely and unrevoked request for exclusion will be forever barred from receiving any payments from the Net Settlement Fund.

25. The Court will consider comments and/or objections to the Settlement, the Plan of Allocation, or the Fee and Expense Application, provided, however, that no Settlement Class Member or other Person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement or, if approved, the Order and Final Judgment, or any other order relating thereto, unless that Person has served copies of any objections, papers and briefs to each of the following counsel at least twenty-one (21) calendar days prior to the Settlement Hearing Date:

CLASS COUNSEL:

Jeremy A. Lieberman  
Murielle J. Steven Walsh  
Aatif Iqbal  
POMERANTZ LLP  
600 Third Avenue, Floor 20  
New York, New York 10016

COUNSEL FOR DEFENDANTS:

Sara B. Brody  
Norman J. Blears  
Jamie A. Bartlett  
SIDLEY AUSTIN LLP  
555 California Street, Suite 2000  
San Francisco, California 94104

and that Person has (at least twenty-one (21) calendar days prior to the Settlement Hearing date) filed said objections, papers and briefs, showing due proof of service upon counsel identified above, with the Clerk of the Court, U.S. District Court, Southern District of New York, 500 Pearl Street, New York, New York 10007. To be valid, any such objection must contain the Settlement Class Member's (1) name, address, and telephone number, (2) a list of all purchases and sales of Vivint securities during the Settlement Class Period in order to show membership in the Settlement Class, (3) all grounds for the objection, including any legal support known to the Settlement Class

Member and/or his, her, or its counsel, (4) the name, address and telephone number of all counsel who represent the Settlement Class Member, including former or current counsel who may be entitled to compensation in connection with the objection, and (5) the number of times the Settlement Class Member and/or his, her, or its counsel has filed an objection to a class action settlement in the last five years, the nature of each such objection in each case, the jurisdiction in each case, and the name of the issuer of the security or seller of the product or service at issue in each case. Attendance at the Settlement Hearing is not necessary but Persons wishing to be heard orally in opposition to the approval of the Settlement Stipulation, the Plan of Allocation, and/or the Fee and Expense Application are required to indicate in their written objection (or in a separate writing that is submitted in accordance with the deadline and after instruction pertinent to the submission of a written objection) that they intend to appear at the Settlement Hearing and identify any witnesses they may call to testify or exhibits they intend to introduce into evidence at the Settlement Hearing. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

26. Any Settlement Class Member who does not object in the manner prescribed above shall be deemed to have waived all such objections and shall forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the Settlement, the Order and Final Judgment to be entered approving the Settlement, the Plan of Allocation, and/or the Fee and Expense Application, unless otherwise ordered by the Court; shall be bound by all the terms and provisions of the Settlement Stipulation and by all proceedings, orders and judgments in the Action; and shall also be foreclosed from appealing from any judgment or order entered in this Action.

27. The Court reserves the right to adjourn the Settlement Hearing without any further notice other than entry of an Order on the Court's docket, and to approve the Settlement without further notice to the Settlement Class.

28. All papers in support of the Settlement, the Plan of Allocation and/or the Fee and Expense Application shall be filed and served no later than twenty-eight (28) calendar days before the Settlement Hearing.

29. Any submissions filed in response to any objections or in further support of the Settlement, the Plan of Allocation and/or the Fee and Expense Application shall be filed no later than seven (7) calendar days prior to the Settlement Hearing.

30. Defendants, their counsel, their Insurers and other Released Parties shall have no responsibility for, or liability with respect to, the Plan of Allocation or any application for attorneys' fees and interest, or expenses or payments to the Class Representatives submitted by Class Counsel, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

31. Pending final determination of whether the Settlement should be approved, all Releasing Parties shall be enjoined from commencing, prosecuting, or attempting to prosecute any Released Claims against any Released Party in any court or tribunal or proceeding. Unless and until the Settlement Stipulation is cancelled and terminated pursuant to the Settlement Stipulation, all proceedings in the Action, other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement Stipulation, are hereby stayed and suspended until further order of the Court.

32. 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



such funds shall be distributed or returned pursuant to the Settlement Stipulation and Plan of Allocation and/or further order(s) of the Court.

33. Neither the Settlement Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Defendants, their counsel, their Insurers or any of the other Released Parties of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing or any kind and shall not be construed as, or deemed to be evidence of or an admission or concession that Class Representatives or any Settlement Class Members have suffered any damages, harm, or loss. Further, neither the Settlement Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, nor this Order shall be construed as an admission or concession by the Class Representatives of the validity of any factual or legal defense or of the infirmity of any of the claims or facts alleged in this Action.

34. In the event the Settlement is not consummated in accordance with the terms of the Settlement Stipulation, then the Settlement Stipulation and this Order (including any amendment(s) thereof, and except as expressly provided in the Settlement Stipulation or by order of the Court) shall be null and void, of no further force or effect, and without prejudice to any Settling Party, and may not be introduced as evidence or used in any action or proceeding by any Person against the Settling Parties or the Released Parties, and each Settling Party shall be restored to his, her or its respective litigation positions as they existed prior to July 26, 2017, pursuant to the terms of the Settlement Stipulation.

35. The Court reserves the right to alter the time or the date of the Settlement Hearing without further notice to the Class Members, provided that the time or the date of the Settlement Hearing shall not be set at a time or date earlier than the time and date set forth in ¶ 6 above. The

EXHIBIT A

Court retains exclusive jurisdiction over the Action to consider all further matters arising out of, or relating to, the Settlement Stipulation, including by way of illustration and not limitation, any dispute concerning any Proof of Claim and Release Form submitted and any future requests by one or more of the Parties that the Order and Final Judgment, the releases and/or the permanent injunction set forth in the Settlement Stipulation be enforced.

Dated: \_\_\_\_\_, 2017

\_\_\_\_\_  
HON. P. KEVIN CASTEL  
UNITED STATES DISTRICT JUDGE

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

IN RE: SUNEDISON, INC. SECURITIES LITIGATION	Case No. 16-MD-2742 (PKC) (AJP)
DARCY CHURCH, Individually and on Behalf of All Others Similarly Situated,  <p style="text-align:right">Plaintiff,</p> <p style="text-align:center">v.</p> AHMAD R. CHATILA and BRIAN WUEBBELS,  <p style="text-align:right">Defendants.</p>	Case No. 1:16-cv-07962-PKC

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION, MOTION FOR  
ATTORNEYS' FEES AND EXPENSES, AND SETTLEMENT FAIRNESS HEARING**

If you purchased or otherwise acquired securities of Vivint Solar, Inc. (“Vivint” or the “Company”) between July 20, 2015 and April 1, 2016, both dates inclusive (the “Settlement Class Period”), you could get a payment from a proposed class action settlement (the “Settlement”).

*A federal court authorized this Notice. This is not attorney advertising.*

- The Court will hold a Settlement Hearing on \_\_\_\_, 201\_\_ at \_\_\_\_ to decide whether to approve the Settlement. If approved by the Court, the Settlement will provide \$2,100,000 gross (the “Settlement Amount”), plus interest as it accrues, minus attorneys’ fees, costs, and administrative expenses, net of any taxes on interest, to pay claims of investors who purchased Vivint securities during the Settlement Class Period.
- The Settlement represents an average recovery of \$0.16 per share of Vivint stock for the approximately 13.2 million estimated shares that Lead Plaintiff alleges were damaged and declined in value as a result of Defendants’ alleged misconduct during the Settlement Class Period. A share may have been traded more than once during the Settlement Class Period. This estimate solely reflects the average recovery per outstanding share of Vivint stock. This is not an estimate of the actual recovery per share you should expect. Your actual recovery will depend on the aggregate losses of all Settlement Class Members, the date(s) you purchased and sold Vivint securities, and the total number of claims filed. See the Plan of Allocation on page \_\_ below for more details.
- To claim your share of the Settlement, you must submit a valid Proof of Claim and Release form by \_\_\_\_, 201\_\_.
- Attorneys for Plaintiffs (“Plaintiffs’ Counsel”) intend to ask the Court to award them fees of up to 30% of the Settlement Amount (\$630,000) plus interest and reimbursement of up to \$50,000 in litigation expenses. Since the Action’s inception, Plaintiffs’ Counsel have expended considerable time and effort in this litigation on a contingent-fee basis and have advanced the expenses of the litigation in the expectation that if they were successful in obtaining a recovery for the Settlement Class, they would be paid from such recovery. Plaintiffs’ Counsel also intends to ask the Court to grant an incentive award to Lead Plaintiff

and Named Plaintiff collectively not to exceed \$4,000. Collectively, the requested attorneys' fees and litigation expenses and Award to Plaintiffs are estimated to average \$0.05 per allegedly damaged share of Vivint stock. If approved by the Court, these amounts will be paid from the Settlement Fund.

- The average recovery, after the deductions set forth in the preceding paragraph, is \$0.11 per allegedly damaged share of Vivint. This estimate is based on the assumptions set forth in the preceding paragraph. Your actual recovery, if any, will depend on the aggregate losses of all Settlement Class Members, the date(s) you purchased and sold Vivint securities, the purchase and sales prices, and the total number and amount of claims filed.
- The Settlement resolves the Action concerning whether Ahmad Chatila and Brian Wuebbels (collectively "Defendants") violated federal securities laws by allegedly making misrepresentations and/or omissions of material fact in public statements to the investing public concerning SunEdison's liquidity and internal controls over financial reporting. Defendants have denied and continue to deny each, any, and all allegations of wrongdoing, fault, liability, or damage whatsoever asserted by Plaintiffs. Defendants have also denied, *inter alia*, the allegations that Plaintiffs or the Settlement Class have suffered damages or that Plaintiffs or the Settlement Class were harmed by the conduct alleged in the Action. Defendants continue to believe the claims asserted against them in the Action are without merit.
- The parties disagree on how much money could have been won if the investors won at trial.
- Your legal rights will be affected whether you act or do not act. If you do not act, you may permanently forfeit your right to recover on this claim. Therefore, you should read this Notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to get a payment. Proof of Claim and Release forms must be postmarked or submitted online by ____, 201__.
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against the Defendants or any other Released Parties about the legal claims in this case. Requests for Exclusion must be received by ____, 201__.
<b>OBJECT</b>	Write to the Court about why you do not like the Settlement, the Plan of Allocation, and/or the request for attorneys' fees, costs, and expenses. You will still be a member of the Class. Objections must be received by counsel by ____, 201__.
<b>GO TO THE HEARING</b>	Ask to speak in Court about the fairness of the Settlement. Requests to speak must be received by counsel by ____, 201__. The Settlement Hearing is scheduled for ____, 201__.
<b>DO NOTHING</b>	Get no payment. Give up your rights.

## INQUIRIES

For further information regarding the Action or this Notice or to review the Stipulation and Agreement of Settlement, dated September 8, 2017 (the “Settlement Stipulation”), please visit <http://www.strategicclaims.net/cases> or contact the Claims Administrator toll-free at (866) 274-4004 or at [info@strategicclaims.net](mailto:info@strategicclaims.net). You may also contact Plaintiffs’ Counsel at Pomerantz LLP, 600 Third Ave., 20th Floor, New York, NY 10016, (212) 661-1100, <http://pomerantzlawfirm.com>. **Please do not contact the Court or Defendants regarding this Notice.**

## DEFINITIONS

All capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Settlement Stipulation.

## BASIC INFORMATION CONCERNING THE SETTLEMENT

### 1. Why did I get this notice package?

You or someone in your family may have purchased or otherwise acquired securities of Vivint Solar, Inc. (“Vivint” or the “Company”) between July 20, 2015 and April 1, 2016, both dates inclusive (the “Settlement Class Period”).

### 2. What is this lawsuit about?

This case is known as *Church v. Chatila, et al.*, Case No. 1:16-cv-07962 (S.D.N.Y.) (the “Action”). The Court in charge of the case is the United States District Court for the Southern District of New York. The Action involves allegations that Defendants violated certain federal securities laws by allegedly making misrepresentations and/or omissions of material fact in public statements to the investing public concerning SunEdison’s liquidity and internal controls over financial reporting. The Second Amended Securities Class Action Complaint (the “Complaint”) alleges that the misstatements or omissions artificially inflated the price of Vivint securities, and that the securities’ prices dropped in response to certain subsequent disclosures. Defendants have denied and continue to deny each, any and all allegations of wrongdoing, fault, liability or damage whatsoever asserted in the Action. The Settlement shall in no event be construed as, or deemed to be evidence of, liability, fault, wrongdoing, injury or damages, or of any wrongful conduct, acts or omissions on the part of any of the Released Parties, or of any infirmity of any defense, or of any damages to the Plaintiffs or any other Settlement Class Member. The Settlement resolves all of the claims in the Action, as well as certain other claims or potential claims, whether known or unknown.

### 3. Why is this a class action?

In a class action, one or more persons called plaintiffs sue on behalf of all persons who have similar claims. All of the persons with similar claims are referred to as a class. One court resolves the issues for all class members, except for those who exclude themselves from the class.

<b>4. Why is there a settlement?</b>
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Plaintiffs and Defendants do not agree regarding the merits of Plaintiffs' allegations and Defendants' defenses with respect to liability or the average amount of damages per share, if any, that would be recoverable if Plaintiffs were to prevail at trial on each claim. The issues on which Plaintiffs and the Defendants disagree include: (1) whether the challenged statements were materially false or misleading or otherwise actionable under federal securities law; (2) whether the Defendants acted with scienter; (3) whether the alleged disclosures were corrective disclosures; (4) the causes of the loss in the value of the securities; and (5) the amount of alleged damages, if any, that could be recovered at trial.

This matter has not gone to trial and the Court has not decided in favor of either Plaintiffs or Defendants. Instead, Plaintiffs and Defendants have agreed to settle the case. Plaintiffs and Plaintiffs' Counsel believe the Settlement is best for all Settlement Class Members because of the risks associated with continued litigation and the nature of the defenses raised by the Defendants. Among the reasons that Plaintiffs and Plaintiffs' Counsel believe the Settlement is fair is the fact that there is uncertainty about whether they will be able to prove that any challenged statement was false or misleading, that the alleged misstatements and omissions actually caused the Settlement Class any damages, and the amount of damages, if any.

Even if Plaintiffs were to win at trial, and also prevail on any on appeal, Plaintiffs might not be able to collect some, or all, of any judgment they are awarded. Moreover, while litigation of this type is usually expensive, it appears that, even if Plaintiffs' allegations were found to be true, the total amount of damages to which Settlement Class Members would be entitled could be substantially reduced.

### **WHO IS IN THE SETTLEMENT**

To see if you will get money from this Settlement, you first have to determine if you are a Class Member.

<b>5. How do I know if I am part of the Settlement?</b>
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The Settlement Class includes all persons or entities, except those who are excluded as described below, who purchased or otherwise acquired securities of Vivint Solar, Inc. ("Vivint" or the "Company") between July 20, 2015 and April 1, 2016, both dates inclusive (the "Settlement Class Period").

If one of your mutual funds owns Vivint securities, that alone does not make you a Settlement Class Member. Also, if you sold Vivint securities during the Settlement Class Period, that alone does not make you a Settlement Class Member. You are a Settlement Class Member only if you directly purchased or otherwise acquired Vivint securities during the Settlement Class Period. Contact your broker to see if you have made any of these transactions.

<b>6. Are there exceptions to being included?</b>
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Yes. Excluded from the Settlement Class are (i) Defendants Ahmad Chatila and Brian Wuebbels; (ii) all current and former officers and directors of SunEdison, Inc.; (iii) blood relatives and household members of any such person excluded under (i); (iv) any entities affiliated with, controlled by, or more than 5% owned by, any person excluded under (i) and (ii); (v) the legal representatives, heirs, successors or assigns of any person excluded under (i) through (iv); (vi)

Opt-Outs, *i.e.*, those Persons who timely and validly request exclusion from the Settlement Class in accordance with the requirements set forth below; and (vii) Persons who have no compensable damages.

**7. What if I am still not sure if I am included?**

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator toll-free at (866) 274-4004 or at [info@strategicclaims.net](mailto:info@strategicclaims.net) or by visiting the website at <http://www.strategicclaims.net/cases>, or you can fill out and return the Proof of Claim and Release form enclosed with this Notice package to see if you qualify.

**THE SETTLEMENT BENEFITS—WHAT YOU GET**

**8. What does the Settlement provide?**

The proposed Settlement provides for Defendants' insurers to pay \$2,100,000 into a settlement fund. The Settlement is subject to Court approval. Also, subject to the Court's approval, a portion of the Settlement Fund will be used to pay attorneys' fees with interest and reasonable litigation expenses to Plaintiffs' Counsel, and any Award to Plaintiffs. A portion of the Settlement Fund also will be used to pay taxes due on interest earned by the Settlement Fund, if necessary, and the costs of the claims administration, including the costs of printing and mailing this Notice and the costs of publishing notice. After the foregoing deductions from the Settlement Fund have been made, the amount remaining (the "Net Settlement Fund") will be distributed to Settlement Class Members who submit timely, valid claims, according to the Plan of Allocation to be approved by the Court.

**9. How much will my payment be?**

Your share of the Net Settlement Fund will depend on several factors, including: (i) how many Vivint securities you purchased or sold during the Settlement Class Period, and the dates and prices of those purchases and sales; (ii) the number of timely and valid claims submitted by other Settlement Class Members, and the purchases and sales of Vivint securities represented by those claims; (iii) the amount of administrative costs, including the costs of notice; and (iv) the amount awarded by the Court to Plaintiffs' Counsel for attorneys' fees, costs, and expenses and to Plaintiffs.

The Claims Administrator will determine each Settlement Class Member's *pro rata* share of the Net Settlement Fund based upon each Settlement Class Member's valid "Recognized Loss." The Recognized Loss formula is the basis upon which the Net Settlement Fund will be proportionately allocated to the Settlement Class Members with valid claims ("Authorized Claimants"). The Recognized Loss formula is not intended to be an estimate of the amount that a Settlement Class Member might have been able to recover after a trial; it also is not an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. You can calculate your Recognized Loss by following the instructions in the Plan of Allocation at page \_\_\_ of this Notice.

It is unlikely that you will get a payment for all of your Recognized Loss. After all Settlement Class Members have sent in their Proof of Claim and Release forms, the payment you get will be a part of the Net Settlement Fund equal to your Recognized Loss divided by the total of everyone's Recognized Losses.

**HOW YOU GET A PAYMENT—SUBMITTING A CLAIM FORM****10. How can I get a payment?**

To qualify for a payment, you must submit a Proof of Claim and Release form. The Claims Administrator will process your claim and determine whether you are an Authorized Claimant.

A Proof of Claim and Release form is enclosed with this Notice and may also be downloaded at <http://www.strategicclaims.net/cases>. Read the instructions carefully, fill out the form, include all the documents that the form requests, sign it, and mail or submit it online so that it is postmarked or received no later than \_\_\_\_\_, 201\_. The claim form may be submitted online at [info@strategicclaims.net](mailto:info@strategicclaims.net) or mailed to:

*Vivint Solar, Inc. Securities Litigation*  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 3  
Media, PA 19063

**11. When would I get my payment?**

The Court will hold a Settlement Hearing on \_\_\_\_\_, 201\_ at \_\_\_\_\_ to decide whether to approve the Settlement. If the Court approves the Settlement, there might be appeals afterwards. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. It also takes time for all claims to be processed. Please be patient.

**12. What am I giving up to get a payment or to stay in the Class?**

Unless you exclude yourself from the Settlement Class by the \_\_\_\_\_, 201\_ deadline, you will remain a member of the Settlement Class and will be bound by the release of claims against Defendants and other Released Parties if the Settlement is approved. That means you and all other Settlement Class Members and each of their respective present, former and future direct and indirect parent entities, associates, affiliates, subsidiaries, predecessors, successors, and the officers, directors, attorneys, assigns, legal representatives, and agents of each of them, each of their respective officers, directors, attorneys, legal representatives, and agents, and any person or entity which is or was related to or affiliated with any Releasing Party or in which any Releasing Party has a controlling interest, and each of their immediate family members, heirs, representatives, administrators, executors, trustees, successors, assigns, devisees, legatees, and estates will release (agreeing never to sue, continue to sue, or be part of any other lawsuit) as against Defendants and other Released Parties any and all claims which arise out of, are based upon or relate in any way to the purchase or acquisition of Vivint securities during the Settlement Class Period. (Note that “Released Parties” does not include Vivint Solar, Inc., or any of its officers or directors.) It means that all of the Court’s orders will apply to you and legally bind you. That means you will accept a share of the Net Settlement Fund as sole compensation for any losses you suffered in the purchase, acquisitions, sale or ownership of Vivint securities during the Settlement Class Period. The specific terms of the release are included in the Settlement Stipulation.



## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement, and you want to keep any right you may have to sue or continue to sue Defendants or other Released Parties on your own about the claims being released in this Settlement, then you must take steps to remove yourself from the Settlement. This is called excluding yourself, or “opting out,” from the Settlement.

### 13. **How do I get out of the proposed Settlement?**

To exclude yourself from the Settlement, you must mail a letter stating that you “request exclusion from the Settlement Class in the *Vivint Solar, Inc. Securities Litigation*, Case No. 16-cv-07962-PKC (S.D.N.Y.)”. To be valid, the letter must state (A) your name, address, telephone number, and e-mail address (if any); (B) the date, number of shares, and dollar amount of all purchases, acquisitions, sales, or dispositions of Vivint securities during the Settlement Class Period; and (C) the number of shares of Vivint securities held by you as of April 1, 2016. Any request for exclusion must be signed and submitted by you, as the beneficial owner, under penalty of perjury. You must submit your exclusion request so that it is **received no later than \_\_\_\_\_, 201\_ at:**

*Vivint Solar, Inc. Securities Litigation*  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 3  
Media, PA 19063

You cannot exclude yourself by telephone or by e-mail. If you properly exclude yourself, you will not receive a payment from the Net Settlement Fund, you cannot object to the Settlement, and you will not be legally bound by the judgment in this case.

### 14. **If I do not exclude myself, can I sue the Defendants or the other Released Parties for the same thing later?**

No. Unless you exclude yourself by following the instructions above, you give up any rights to sue the Defendants or the other Released Parties for the claims being released in this Settlement. If you have a pending lawsuit against the Released Parties or related to any Released Claims, speak to your lawyer in that case immediately, since you must exclude yourself from this Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is \_\_\_\_\_, **201\_.**

### 15. **If I exclude myself, can I get money from the proposed Settlement?**

No. If you exclude yourself, you may not send in a Proof of Claim and Release form to ask for any money.

## THE LAWYERS REPRESENTING YOU

### 16. **Do I have a lawyer in this case?**

The Court has appointed Pomerantz LLP as Lead Counsel, and The Rosen Law Firm, P.A. has served as additional counsel to the Class (collectively “Plaintiffs’ Counsel”), to represent you

and the other Settlement Class Members. If you want to be represented by your own lawyer, you may hire one at your own expense. Contact information for Pomerantz LLP is provided below.

**17. How will the lawyers be paid?**

Plaintiffs' Counsel have expended considerable time litigating this Action on a contingent-fee basis, and have paid for the expenses of the case themselves. They have not been paid attorneys' fees or reimbursed for their expenses in advance of this Settlement. Plaintiffs' Counsel have done so with the expectation that, if they are successful in recovering money for the Settlement Class, they will receive attorneys' fees and be reimbursed for their litigation expenses from the Settlement Fund, as is customary in this type of litigation. Plaintiffs' Counsel will not receive attorneys' fees or be reimbursed for their litigation expenses except from the Settlement Fund. Therefore, Plaintiffs' Counsel will file a motion at the Settlement Hearing asking the Court for an award of attorneys' fees in an amount not greater than 30% of the Settlement Fund, equaling \$630,000 plus interest, plus reimbursement of litigation expenses of no more than \$50,000 and an Award to Lead Plaintiff and Named Plaintiff collectively not to exceed \$4,000 (\$2,000 each). The Court may award less than these amounts. Any amounts awarded by the Court will come out of the Settlement Fund.

**OBJECTING TO THE SETTLEMENT**

**18. How do I tell the Court that I object to the proposed Settlement?**

If you are a Class Member, you can tell the Court you do not agree with the proposed Settlement, any part of the Settlement, the proposed Plan of Allocation, and/or Plaintiffs' Counsel's motion for attorneys' fees and expenses and application for an Award to Plaintiffs. You can write to the Court setting out your objection. The Court will consider your views.

To object, you must send a signed letter saying that you object to the proposed Settlement in the *Vivint Solar, Inc. Securities Litigation*. Be sure to include (1) your name, address, telephone number, and your signature; (2) the date(s), price(s), and amount(s) of all Vivint securities that you purchased, otherwise acquired, sold, or otherwise disposed of during the Settlement Class Period, in order to show membership in the Settlement Class; (3) all grounds for the objection, including any legal support known to you or your counsel, (4) the name, address and telephone number of all counsel, if any, who represent you, including your former or current counsel who may be entitled to compensation in connection with the objection, and (5) the number of times you and/or your counsel has filed an objection to a class action settlement in the last five years, the nature of each such objection in each case, the jurisdiction in each case, and the name of the issuer of the security or seller of the product or service at issue in each case.

Attendance at the Settlement Hearing is not necessary. Objectors wishing to be heard orally at the Settlement Hearing must indicate in their written objection that they intend to appear at the Settlement Hearing and identify any witnesses they may call to testify or exhibits they intend to introduce into evidence at the Settlement Hearing.

Be sure to mail or deliver copies of any objections, papers and briefs to **each** of the addresses listed below such that they are **received no later than** \_\_\_\_, 201\_:

<b>Clerk of the Court</b> United States District Court Southern District of New York 500 Pearl Street New York, NY 10007	<b>Plaintiffs' Counsel</b> Jeremy A. Lieberman Murielle Steven Walsh Aatif Iqbal POMERANTZ LLP 600 Third Avenue, Floor 20 New York, NY 10016	<b>Counsel For Defendants Ahmad Chatila And Brian Weubbels</b> Sara B. Brody SIDLEY AUSTIN LLP 555 California Street, Suite 2000 San Francisco, CA 94104
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**19. What is the difference between objecting and excluding myself?**

Objecting is simply telling the Court you do not like something about the Settlement or some portion thereof. You can object only if you stay in the Settlement Class. Requesting exclusion is telling the Court you do not want to be part of the Settlement Class or the Settlement. If you exclude yourself, you cannot object to the Settlement because it no longer concerns you. If you stay in the Settlement Class and object, but your objection is overruled, you will not be allowed a second opportunity to exclude yourself.

**THE COURT'S SETTLEMENT HEARING**

The Court will hold a hearing to decide whether to approve the proposed Settlement. You may attend, and you may ask to speak, but you do not have to.

**20. When and where will the Court decide whether to approve the proposed Settlement?**

The Court will hold a Settlement Hearing on \_\_\_\_, 201\_ at \_\_\_\_ at the Daniel Patrick Moynihan United States Courthouse, Courtroom 11D, 500 Pearl St., New York, NY 10007.

At this hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate and should be approved by the Court; whether an Order and Final Judgment as provided in the Settlement Stipulation should be entered; and whether the proposed Plan of Allocation should be approved. If there are objections, the Court will consider them, and the Court will listen to people who have asked to speak at the hearing. The Court may also decide how much should be awarded to Plaintiffs' Counsel for attorneys' fees and expenses and to Plaintiffs for their service to the Settlement Class.

We do not know how long these decisions will take. You should be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Class Members. If you want to attend the hearing, you should check with Plaintiffs' Counsel beforehand to be sure that the date and/or time has not changed.

**21. Do I have to come to the hearing?**

No. Plaintiffs' Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mail your written objection on time, the Court will consider

it. You may also pay your own lawyer to attend, but it is not necessary. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

**22. May I speak at the hearing?**

If you object to the Settlement, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must include with your objection (see question 18 above) a statement that you “intend to appear in the *Vivint Solar, Inc. Securities Litigation*.” Persons who intend to object to the Settlement, the Plan of Allocation, and/or the application for an award of attorneys’ fees, costs, and expenses, and desire to present evidence at the Settlement Hearing, must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Settlement Hearing. You cannot speak at the hearing if you exclude yourself.

**IF YOU DO NOTHING**

**23. What happens if I do nothing at all?**

If you do nothing, you will not receive a payment from the Settlement. However, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants or the Released Parties about the Released Claims (as defined in the Settlement Stipulation) ever again.

**GETTING MORE INFORMATION**

**24. Are there more details about the proposed Settlement?**

This Notice summarizes the proposed Settlement. More details are in the Settlement Stipulation. The Settlement Stipulation is the controlling document describing the proposed Settlement, and its terms govern anything to the contrary in this Notice. You can get a copy of the Settlement Stipulation and obtain answers to common questions regarding the proposed Settlement by visiting <https://www.strategicclaims.net/cases> or by contacting the Claims Administrator toll-free at (866) 274-4004.

**25. How do I get more information?**

For even more detailed information concerning the matters involved in this Action, see the Settlement Stipulation, the pleadings in the Action, the papers filed in support of the Settlement, and the orders entered by the Court, which will be posted on the settlement website <https://www.strategicclaims.net/cases>. For a fee, all papers filed in this Action are also available at [www.pacer.gov](http://www.pacer.gov).

**PROPOSED PLAN OF ALLOCATION OF NET SETTLEMENT FUND  
AMONG SETTLEMENT CLASS**

The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants based on their respective alleged economic losses as a result of the alleged fraud, as opposed to losses caused by market- or industry-wide factors, or Company-specific factors unrelated to the alleged fraud.

The Claims Administrator shall determine each Authorized Claimant's share of the Net Settlement Fund based upon the recognized loss formula (the "Recognized Loss") described below. A Recognized Loss will be calculated for each share of Vivint common stock purchased or otherwise acquired during the Settlement Class Period.<sup>1</sup> The calculation of Recognized Loss will depend upon several factors, including when shares of Vivint common stock were purchased or otherwise acquired during the Settlement Class Period, and in what amounts, and whether those shares were sold, and if sold, when they were sold, and for what amounts. The Recognized Loss is not intended to estimate the amount a Settlement Class Member might have been able to recover after a trial, nor to estimate the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss is the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants. The Claims Administrator will use its best efforts to administer and distribute the Net Settlement Fund to the extent that it is equitably and economically feasible.

The Plan of Allocation was created with the assistance of a consulting damages expert, and reflects the assumption that the prices of Vivint common stock were artificially inflated throughout the Settlement Class Period. The estimated alleged artificial inflation in the prices of Vivint common stock during the Settlement Class Period is reflected in Table 1 below. The computation of the estimated alleged artificial inflation in the prices of Vivint common stock during the Settlement Class Period is based on certain misrepresentations alleged by Plaintiffs and the price change in the stock, net of market- and industry-wide factors, in reaction to the public announcements that allegedly corrected the misrepresentations alleged by Plaintiffs.

Federal securities laws allow investors to recover for losses caused by disclosures which corrected the Defendants' alleged previous misleading statements or omissions. Thus, in order to have been damaged by the alleged violations of the federal securities laws, Vivint common stock purchased or otherwise acquired during the Settlement Class Period must have been held during a period of time in which its price declined due to the disclosure of information which corrected an allegedly misleading statement or omission. Plaintiffs have alleged that such price declines occurred on the following dates: November 17, 2015; February 11, 2016; February 12, 2016; March 1, 2016; March 2, 2016; March 8, 2016; and April 4, 2016 (the "Corrective Disclosure Dates"). Accordingly, if a share of Vivint common stock was sold before November 10, 2015 (the earliest Corrective Disclosure Date), the Recognized Loss for that share is \$0.00, and any loss suffered is not compensable under the federal securities laws. Likewise, if a share of Vivint common stock was both purchased and subsequently sold between two consecutive corrective disclosures, the Recognized Loss for that share is \$0.00.

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<sup>1</sup> During the Settlement Class Period, Vivint common stock was listed on the NYSE under the ticker symbol "VSLR."

<b>Table 1: Artificial Inflation in Vivint Common Stock<sup>2, 3</sup></b>		
<b>From</b>	<b>To</b>	<b>Per-Share Price Inflation</b>
July 20, 2015	November 16, 2015	\$7.78
November 17, 2015	February 10, 2016	\$5.72
February 11, 2016	February 11, 2016	\$5.01
February 12, 2016	February 29, 2016	\$4.12
March 1, 2016	March 1, 2016	\$2.77
March 2, 2016	March 7, 2016	\$1.08
March 8, 2016	April 3, 2016	\$0.12
April 4, 2016	Thereafter	\$0.00

The “90-day look back” provision of the Private Securities Litigation Reform Act of 1995 (“PSLRA”) is incorporated into the calculation of the Recognized Loss for Vivint common stock. The limitations on the calculation of the Recognized Loss imposed by the PSLRA are applied such that losses on Vivint common stock purchased/acquired during the Settlement Class Period and held as of the close of the 90-day period subsequent to the Settlement Class Period (the “90-Day Lookback Period”) cannot exceed the difference between the purchase price paid for such securities and the average price of the Vivint common stock during the 90-Day Lookback Period. The Recognized Loss on Vivint common stock purchased/acquired during the Settlement Class Period and sold during the 90-Day Lookback Period cannot exceed the difference between the purchase price paid for such securities and the rolling average price of the Vivint common stock during the portion of the 90-Day Lookback Period elapsed as of the date of sale.

In the calculations below, all purchase and sale prices shall exclude any fees, taxes and commissions. If a Recognized Loss amount is calculated to be a negative number, that Recognized Loss shall be set to zero.

### **Calculation of Recognized Loss Per Share of Vivint Common Stock**

For each share of Vivint common stock purchased or otherwise acquired during the Settlement Class Period (i.e., July 20, 2015 through April 1, 2016, inclusive), the Recognized Loss per share shall be calculated as follows:

- i. For each share of Vivint common stock purchased during the Settlement Class Period that was sold prior to November 10, 2015, the Recognized Loss per share is \$0.
- ii. For each share of Vivint common stock purchased during the Settlement Class Period that was subsequently sold during the period November 10, 2015 through April 1,

<sup>2</sup> If the price inflation reflected in Table 1 exceeds the purchase price paid for a Vivint common stock, then the price inflation shall be equal to the purchase price paid for such stock, excluding all fees, taxes and commissions.

<sup>3</sup> Any transactions in Vivint common stock executed outside of regular trading hours for the U.S. financial markets shall be deemed to have occurred during the next regular trading session.

- 2016, inclusive, the Recognized Loss per share is the amount of price inflation per share on the date of purchase as appears in Table 1 above, *minus* the amount of price inflation per share on the date of sale as appears in Table 1 above.
- iii. For each share of Vivint common stock purchased during the Settlement Class Period that was subsequently sold during the period April 4, 2016 through June 30, 2016, inclusive (i.e., the 90-Day Lookback Period), the Recognized Loss per share is *the lesser of*:
- the amount of per-share price inflation on the date of purchase as appears in Table 1 above, *minus* the amount of per-share price inflation on the date of sale as appears in Table 1 above; or
  - the purchase price *minus* the “90-Day Lookback Value” on the date of sale provided in Table 2 below.
- iv. For each share of Vivint common stock purchased during the Settlement Class Period and still held as of the close of trading on June 30, 2016, the Recognized Loss per share is *the lesser of*:
- the amount of per-share price inflation on the date of purchase as appears in Table 1 above; or
  - the purchase price *minus* the average closing price for Vivint common stock during the 90-Day Lookback Period, which is \$2.95.

<b>Sale / Disposition Date</b>	<b>90-Day Lookback Value</b>	<b>Sale / Disposition Date</b>	<b>90-Day Lookback Value</b>	<b>Sale / Disposition Date</b>	<b>90-Day Lookback Value</b>
4/4/2016	\$2.42	5/3/2016	\$3.09	6/2/2016	\$2.88
4/5/2016	\$2.44	5/4/2016	\$3.08	6/3/2016	\$2.89
4/6/2016	\$2.65	5/5/2016	\$3.06	6/6/2016	\$2.90
4/7/2016	\$2.74	5/6/2016	\$3.04	6/7/2016	\$2.91
4/8/2016	\$2.80	5/9/2016	\$3.02	6/8/2016	\$2.92
4/11/2016	\$2.84	5/10/2016	\$2.99	6/9/2016	\$2.92
4/12/2016	\$2.88	5/11/2016	\$2.97	6/10/2016	\$2.93
4/13/2016	\$2.89	5/12/2016	\$2.94	6/13/2016	\$2.93
4/14/2016	\$2.90	5/13/2016	\$2.92	6/14/2016	\$2.93
4/15/2016	\$2.92	5/16/2016	\$2.90	6/15/2016	\$2.93
4/18/2016	\$2.93	5/17/2016	\$2.88	6/16/2016	\$2.93
4/19/2016	\$2.94	5/18/2016	\$2.86	6/17/2016	\$2.94
4/20/2016	\$2.95	5/19/2016	\$2.85	6/20/2016	\$2.95
4/21/2016	\$2.96	5/20/2016	\$2.84	6/21/2016	\$2.95
4/22/2016	\$2.99	5/23/2016	\$2.83	6/22/2016	\$2.95
4/25/2016	\$3.01	5/24/2016	\$2.83	6/23/2016	\$2.95

4/26/2016	\$3.03	5/25/2016	\$2.83	6/24/2016	\$2.95
4/27/2016	\$3.06	5/26/2016	\$2.82	6/27/2016	\$2.95
4/28/2016	\$3.08	5/27/2016	\$2.85	6/28/2016	\$2.95
4/29/2016	\$3.09	5/31/2016	\$2.86	6/29/2016	\$2.95
5/2/2016	\$3.10	6/1/2016	\$2.87	6/30/2016	\$2.95

### INSTRUCTIONS APPLICABLE TO ALL CLAIMANTS

The payment you receive will reflect your proportionate share of the Net Settlement Fund. Such payment will depend on the number of eligible securities that participate in the Settlement, and when those securities were purchased and sold. The number of claimants who send in claims varies widely from case to case.

A purchase or sale of Vivint common stock shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date.

**Acquisition by Gift, Inheritance, or Operation of Law:** If a Settlement Class Member acquired Vivint common stock during the Settlement Class Period by way of gift, inheritance or operation of law, such a claim will be computed by using the date and price of the original purchase and not the date and price of transfer. To the extent that Vivint common stock were originally purchased prior to commencement of the Settlement Class Period, the Recognized Loss for that acquisition shall be deemed to be zero (\$0.00).

Notwithstanding any of the above, receipt of Vivint common stock during the Settlement Class Period in exchange for securities of any other corporation or entity shall not be deemed a purchase or sale of Vivint common stock.

The first-in-first-out (“FIFO”) basis will be applied to purchases and sales. Sales will be matched in chronological order, by trade date, first against Vivint common stock held as of the close of trading on July 19, 2015 (the last day before the Settlement Class Period begins) and then against the purchases of Vivint common stock during the Settlement Class Period.

The date of covering a “short sale” is deemed to be the date of purchase of shares. The date of a “short sale” is deemed to be the date of sale of shares. In accordance with the Plan of Allocation, however, the Recognized Loss on “short sales” is zero. In the event that a claimant has an opening short position in Vivint common stock, the earliest Settlement Class Period purchases shall be matched against such opening short position and not be entitled to a recovery until that short position is fully covered.

With respect to Vivint common stock purchased or sold through the exercise of an option, the purchase/sale date of the stock shall be the exercise date of the option and the purchase/sale price of the stock shall be the closing price of Vivint common stock on the date of exercise. Any Recognized Loss arising from purchases of Vivint common stock acquired during the Settlement



Class Period through the exercise of an option on Vivint common stock<sup>4</sup> shall be computed as provided for other purchases of Vivint common stock in the Plan of Allocation.

Payment according to the Plan of Allocation will be deemed conclusive against all Authorized Claimants. A Recognized Loss will be calculated as defined herein and cannot be less than zero. The Claims Administrator shall allocate to each Authorized Claimant a *pro rata* share of the Net Settlement Fund based on his, her, or its Recognized Loss as compared to the total Recognized Losses of all Authorized Claimants. No distribution will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.

Settlement Class Members who do not submit an acceptable Proof of Claim and Release form will not share in the Settlement proceeds. The Settlement Stipulation and the Order and Final Judgment dismissing this Action will nevertheless bind Settlement Class Members who do not submit a request for exclusion and/or submit an acceptable Proof of Claim and Release form.

Please contact the Claims Administrator or Plaintiffs' Counsel if you disagree with any determinations made by the Claims Administrator regarding your Proof of Claim and Release form. If you are unsatisfied with the determinations, you may ask the Court, which retains jurisdiction over all Settlement Class Members and the claims-administration process, to decide the issue by submitting a written request.

Defendants, their respective counsel, and all other Released Parties will have no responsibility or liability whatsoever for the investment of the Settlement Fund, the distribution of the Net Settlement Fund, the Plan of Allocation, or the payment of any claim. Lead Plaintiff, Named Plaintiff, and Plaintiffs' Counsel likewise will have no liability for their reasonable efforts to execute, administer, and distribute the Settlement.

Distributions will be made to Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement. 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 after at least six (6) months after the initial distribution of such funds will be used in the following fashion: (a) first, to pay any amounts mistakenly omitted from the initial disbursement; (b) second, to pay any additional settlement administration fees, costs, and expenses, including those of Plaintiffs' Counsel as may be approved by the Court; and (c) finally, to make a second distribution to claimants who cashed their checks from the initial distribution and who would receive at least \$10.00, after payment of the estimated costs, expenses, or fees to be incurred in administering the Net Settlement Fund and in making this second distribution, if such second distribution is economically feasible. These redistributions shall be repeated, if economically feasible, until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance will then be distributed to a non-sectarian, not-for-profit organization identified by Plaintiffs' Counsel and approved by the Court.

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<sup>4</sup> Including (1) purchases of Vivint common stock as the result of the exercise of a call option, and (2) purchases of Vivint common stock by the seller of a put option as a result of the buyer of such put option exercising that put option.

**SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

If you purchased Vivint common stock during the Class Period (CUSIPs: \_\_\_\_\_) for the beneficial interest of an individual or organization other than yourself, the Court has directed that, WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS NOTICE, you either (a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased such securities during such time period or (b) request additional copies of this Notice and the Proof of Claim and Release form, which will be provided to you free of charge, and within ten (10) days mail the Notice and Proof of Claim and Release form directly to the beneficial owners of the securities referred to herein. If you choose to follow alternative procedure (b), upon such mailing, you must send a statement to the Claims Administrator confirming that the mailing was made as directed and retain the names and addresses for any future mailings to Class Members. You are entitled to reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Your reasonable expenses will be paid upon request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator:

*Vivint Solar, Inc. Securities Litigation*  
c/o Strategic Claims Services  
Claims Administrator  
P.O. Box 230  
600 N. Jackson Street, Suite 3  
Media, PA 19063  
1-866-274-4004  
[www.strategicclaims.net](http://www.strategicclaims.net)

DATED:

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BY ORDER OF THE UNITED STATES  
DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: SUNEDISON, INC. SECURITIES LITIGATION	Case No. 16-MD-2742 (PKC) (AJP)
DARCY CHURCH, Individually and on Behalf of All Others Similarly Situated,  Plaintiff,  v.  AHMAD R. CHATILA and BRIAN WUEBBELS,  Defendants.	Case No. 1:16-cv-07962-PKC

PROOF OF CLAIM AND RELEASE

**A. GENERAL INSTRUCTIONS**

1. You are urged to read carefully the accompanying Notice of Proposed Settlement of Class Action, Motion for Attorneys’ Fees and Expenses, and Settlement Fairness Hearing (the “Notice”).

2. To recover under the Settlement of this Action, you must have purchased or otherwise acquired the securities of Vivint Solar, Inc. (“Vivint” or the “Company”) between July 20, 2015 and April 1, 2016, both dates inclusive (the “Settlement Class Period”). You must not be a person who is excluded from the Settlement Class, as defined in the Notice. You also must not have requested exclusion from the Settlement Class.

3. If you are a Settlement Class member and not one of the excluded persons, and wish to participate in the proposed Settlement, you must complete and sign this Proof of Claim and Release (“Proof of Claim”). If you fail to file a properly addressed and fully completed Proof of Claim, fail to provide required documentation, or are not eligible to recover under the Settlement, your claim may be rejected and you may be precluded from any recovery from the proposed Settlement.

4. You must mail your completed and signed Proof Of Claim, **postmarked on or before** \_\_\_\_, **201\_**, to the Claims Administrator at:

*Vivint Solar, Inc. Securities Litigation*  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 3  
Media, PA 19063  
info@strategicclaims.net

5. If you are a member of the Settlement Class and did not timely request exclusion, **you will be bound** by any judgment entered in the Action **whether or not you submit a proof of claim.**

**B. CLAIMANT IDENTIFICATION INSTRUCTIONS**

1. If you purchased Vivint securities and registered the certificate in your name, you are the beneficial owner as well as the record purchaser. If, however, you purchased Vivint securities and the certificate was registered in the name of a third party, such as your stock broker or some other nominee or trustee, you are the beneficial owner even though the third party is the record purchaser listed on Vivint’s records. Proceeds of this Settlement will be distributed to Settlement Class members who are beneficial owners of Vivint securities.

2. Use Section D of this form, entitled “Claimant Identification Schedule,” to identify yourself and each owner of record, such as your stock broker, if different from the beneficial owner of Vivint securities

that forms the basis of this claim. THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER(S), OR THE LEGAL REPRESENTATIVE OF SUCH OWNER(S), OF THE COMMON STOCK UPON WHICH THIS CLAIM IS BASED.

3. All joint owners must sign this claim. Executors, administrators, guardians, conservators, and trustees must complete and sign this claim on behalf of persons represented by them and must identify each beneficial owner or owners for whom they are acting; proof of their authority must accompany this claim, and their titles or capacities must be stated.

4. The Social Security (or Taxpayer Identification) number and telephone number of the beneficial owner must be provided.

5. If you fail to provide the foregoing information, your claim may be delayed or rejected.

### **C. INSTRUCTIONS FOR SCHEDULE OF TRANSACTIONS**

1. Use Section E of this form, entitled "Schedule of Transactions," to supply all required details of your transactions (purchases and sales) in Vivint securities between July 20, 2015 and June 30, 2016, both dates inclusive.

2. On the schedules, provide all of the requested information with respect to all of your purchases and sales of Vivint securities that took place at any time between July 20, 2015 through and including June 30, 2016, whether such transactions resulted in a profit or a loss. If you need more space, attach separate, numbered sheets giving all of the required information in substantially the same form. Print your name and Social Security or Taxpayer Identification number at the top of each additional sheet.

3. The failure to report all such transactions may result in the rejection of your claim.

4. List each transaction separately and in the order in which they took place, by trade date, beginning with the earliest. You must accurately provide the month, day, and year of each transaction you list, as well as the purchase and/or sales price, excluding commissions, taxes, and other fees. If you do not have this information, your broker may be able to help you find it.

5. Vivint securities acquired or disposed of for any consideration other than, or in addition to, cash must be reported as having been acquired or disposed of.

6. COPIES OF BROKER'S CONFIRMATIONS, BROKER'S ACCOUNT STATEMENTS, OR OTHER ACCEPTABLE DOCUMENTATION OF YOUR TRANSACTIONS IN VIVINT SECURITIES MUST BE ATTACHED TO YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS, INCLUDING SHARES OF STOCK. If you no longer have copies of your broker's confirmations or statements, your broker may be able to get you copies. A complete list of acceptable supporting documentation can be found on the website: [www.strategicclaims.net](http://www.strategicclaims.net).

7. Any claims submitted that contain more than 50 transactions are requested to be filed electronically and to provide all the purchase and sale information required in the Schedule of Transactions. For a copy of instructions and parameters concerning such a submission, contact the Claims Administrator: (1) at the website address above, and click on Vivint Solar, Inc. Securities Litigation; (2) by phone at (866) 274-4004; or (3) by fax at (610) 565-7985.

**D. CLAIMANT IDENTIFICATION SCHEDULE**

Claims must be received by the Claims Administrator postmarked no later than \_\_\_\_, 201\_\_.

**Please Type or Print**

\_\_\_\_\_  
Beneficial Owner's Name *(as it appears on your brokerage statement)*

\_\_\_\_\_  
Joint Beneficial Owner's Name *(as it appears on your brokerage statement)*

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address 2

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Foreign Province

\_\_\_\_\_  
Foreign Country

\_\_\_\_\_  
Social Security Number *or*

\_\_\_\_\_  
Taxpayer Identification Number

(\_\_\_\_\_) \_\_\_\_\_  
Telephone Number (Day)

(\_\_\_\_\_) \_\_\_\_\_  
Telephone Number (Evening)

(\_\_\_\_\_) \_\_\_\_\_  
Facsimile Number

\_\_\_\_\_  
E-Mail Address

\_\_\_\_\_  
Record Owner's Name and Address *(if different from beneficial owner listed above)*

\_\_\_\_\_

**Specify one of the following.**

Claimant holder of Vivint securities is:

<input type="checkbox"/>	A. Individual Claimant: I am a claimant acting in my own interest, and am the sole owner of the shares.
<input type="checkbox"/>	B. Joint Claimants: We are claimants acting jointly.
<input type="checkbox"/>	C. Corporate Claimant: I am the _____ of _____, a corporation whose address is _____. I am authorized to make this claim on behalf of the corporation. The corporation is the owner of the shares.
<input type="checkbox"/>	D. IRA Claimant: I am a claimant acting on behalf of my IRA. The shares are held in my IRA.
<input type="checkbox"/>	E. Partnership Claimant: I am a partner of _____, a partnership whose business address is _____. I am authorized to make this claim on behalf of the partnership. The partnership is the owner of the shares.
<input type="checkbox"/>	F. Decedent's Estate Claimant: I am the executor or the administrator (circle which) of the estate of _____, whose last address was _____. (Valid proof of authority must accompany this claim.)
<input type="checkbox"/>	G. Trust Claimant: I am a trustee of _____, a trust authorized under the laws of _____. I am authorized to make this claim on behalf of the trust. The trust is the owner of the shares.
<input type="checkbox"/>	H. Custodial or Guardian Claimant: I am the custodian or the guardian (circle which) for _____ whose address is _____. (Valid proof of authority must accompany this claim.)
<input type="checkbox"/>	I. Other: (Specify) _____

**E. SCHEDULE OF TRANSACTIONS IN VIVINT SECURITIES**

1. State the total number of Vivint securities owned at the close of trading on July 19, 2015, long or short (*if none, enter "0"; if other than zero, must be documented*):

---

2. Separately list each and every **purchase** of Vivint securities between July 20, 2015 and June 30, 2016, and provide the following information (*must be documented*):

<b>Trade Date</b> <i>(list chronologically)</i> <b>Month/Day/Year</b>	<b>Number of Securities Purchased</b>	<b>Price Per Share</b> <i>(excluding commissions, taxes, and other fees)</i>	<b>Total Purchase Price</b> <i>(excluding commissions, taxes, and other fees)</i>
___/___/___		\$	\$
___/___/___		\$	\$
___/___/___		\$	\$

3. Separately list each and every **sale** of Vivint securities between July 20, 2015 and June 30, 2016, and provide the following information (*must be documented*):

<b>Trade Date</b> <i>(list chronologically)</i> <b>Month/Day/Year</b>	<b>Number of Securities Sold</b>	<b>Price Per Share</b> <i>(excluding commissions, taxes, and other fees)</i>	<b>Total Sale Price</b> <i>(excluding commissions, taxes, and other fees)</i>
___/___/___		\$	\$
___/___/___		\$	\$
___/___/___		\$	\$

4. State the total number of Vivint securities owned at the close of trading on June 30, 2016, long or short (*if none, enter "0"; if other than zero, must be documented*):

---

**If you need additional space, attach the required information on separate, numbered sheets in the same format as above and print your name and Social Security or Taxpayer Identification number at the top of each additional sheet.**

**YOU MUST ALSO READ AND SIGN THE RELEASE AND CERTIFICATION****F. RELEASE**

1. By signing this Proof of Claim Form and Release, and in consideration of the establishment of the Settlement Consideration, as of the effective date thereof, the undersigned claimant ("Claimant"), on behalf of Claimant and Claimant's predecessors, successors, parents, subsidiaries, affiliates, custodians, agents, assigns, representatives, heirs, executors, trustees, and administrators, hereby fully, finally, and forever releases, relinquishes, and discharges each and every Released

Claim (as defined below) against the Released Parties (as defined below). Claimant shall be forever barred and enjoined from instituting, prosecuting, participating, continuing, maintaining or asserting any or all of the Released Claims, whether known or unknown, against the Released Parties, whether directly or indirectly, whether in the United States or elsewhere, and whether on Claimant’s own behalf or on the behalf of others.

- 2. “Released Claims” has the meaning laid out in the Settlement Stipulation.
- 3. “Unknown Claims” has the meaning laid out in the Settlement Stipulation.
- 4. “Released Parties” has the meaning laid out in the Settlement Stipulation.

5. This Release shall be of no force or effect unless the United States District Court approves the Stipulation and unless the Stipulation becomes effective as to the Defendants on the Effective Date (as defined in the Stipulation).

**G. CERTIFICATION**

1. I/we certify that I/we believe in good faith that I am/we are a Settlement Class Member, as defined in the Notice, or am/are acting for such person; that I/we have read and understood the contents of the Notice; that I/we have not submitted a Request for Exclusion seeking to be excluded from the Settlement Class; that I/we believe that I am/we are entitled to receive a portion of the Net Settlement Fund; and that the foregoing information is true, accurate, and complete to the best of my/our knowledge, information, and belief.

2. By submitting this Proof of Claim and Release form, I/we, and every Settlement Class member I/we represent, submit to the jurisdiction of the United States District Court for the Southern District of New York for purposes of this Action and the Settlement of the Action, as reflected in the Settlement Stipulation. I/we agree to furnish additional information to Plaintiffs’ Counsel to support this claim if requested to do so. I/we authorize Vivint or any brokerage house with whom I/we transacted business to release to Plaintiffs’ Counsel, or their designee, upon their request and without notice to me/us, any and all information relating to any purchase or sale of Vivint securities by me/us between July 20, 2015 through and including June 30, 2016. I/We further agree to be bound by the orders of the Court; agree that this Proof of Claim and Release form, my/our status or the status of the Settlement Class member I/we represent as a Claimant, and the allowable amount of this claim will be subject to review and further inquiry; and that I/we will furnish such additional documentation with respect to this Proof of Claim as may be required.

3. Federal law provides that the filing of a false claim is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

4. I/we certify that I am/we are NOT subject to backup withholding under the provisions of Section 3406(a)(1)(c) of the Internal Revenue Code.

(NOTE: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the word “NOT” in the certification above.)

5. I/we declare under penalty of perjury under the laws of the United States that the foregoing information supplied by the undersigned and the supporting documentation attached hereto are true and correct, that I/we wish to enter into the Release, and that this Proof of Claim form was executed this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year)

in \_\_\_\_\_.  
(City, State, Country)

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Signature of Joint Claimant, if any



\_\_\_\_\_  
(Print your name here)

\_\_\_\_\_  
(Print your name here)

\_\_\_\_\_  
Signature of person signing on behalf of claimant

\_\_\_\_\_  
(Print your name here)

\_\_\_\_\_  
(Capacity of persons signing on behalf of  
claimant, e.g., Executor, Custodian, etc.)

IMPORTANT: IF THIS CLAIM IS ON BEHALF OF JOINT OWNERS, ALL JOINT OWNERS  
MUST SIGN.

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.**

**THANK YOU FOR YOUR PATIENCE.**

**Reminder Checklist:**

1. Deadline for submission: \_\_\_\_\_, **201**\_
2. Remember to sign the above Release and Certification (or W-8 Certification).
3. Remember to attach only **copies** of acceptable supporting documentation, a complete list of which can be found on the Claims Administrator's website. Do not send originals of securities certificates.
4. Keep copies of the completed claim form and documentation for your own records.
5. If you desire an acknowledgment of receipt of your claim form, please send it Certified Mail, Return Receipt Requested, or its equivalent. **You will bear all risks of delay or non-delivery of your claim.**
6. If your address changes in the future, or if these documents were sent to an old or incorrect address, please send us **written** notification of your new address.
7. If you have questions or concerns regarding your claim, please contact the Claims Administrator at:

*Vivint Solar, Inc. Securities Litigation*  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 3  
Media, PA 19063  
info@strategicclaims.net  
Tel: 866-274-4004  
Fax: 610-565-7985

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: SUNEDISON, INC. SECURITIES LITIGATION
DARCY CHURCH, Individually and on Behalf of All Others Similarly Situated,  Plaintiff,  v.  AHMAD R. CHATILA and BRIAN WUEBBELS,  Defendants.

Case No. 16-MD-2742 (PKC) (AJP)

Case No. 1:16-cv-07962-PKC

**SUMMARY NOTICE OF PROPOSED CLASS-ACTION SETTLEMENT**

**To: All Persons Who Purchased Or Otherwise Acquired Securities of Vivint Solar, Inc. Between July 20, 2015 and April 1, 2016, both dates inclusive.**

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States District Court for the Southern District of New York, that a hearing will be held on \_\_\_\_\_, 201\_, at \_\_\_:\_\_\_m. before the Honorable P. Kevin Castel, United States District Judge of the Southern District of New York, 500 Pearl Street, Courtroom 11D, New York, NY 10007 for the purpose of determining: (1) whether the proposed Settlement of the claims in the above-captioned Action for consideration including the sum of \$2,100,000 should be approved by the Court as fair, reasonable, and adequate; (2) whether the proposed plan to distribute the Settlement proceeds is fair, reasonable, and adequate; (3) whether the application of Plaintiffs’ Counsel for an award of attorneys’ fees of up to 30% of the Settlement Amount (\$630,000) plus interest, reimbursement of expenses of not more than \$50,000, and an incentive payment of no more than \$4,000 aggregate (\$2,000 each to Lead Plaintiff and Named Plaintiff) should be approved; and (4) whether this Action should be dismissed with prejudice as set forth in the Stipulation and Agreement of Settlement dated September 8, 2017 (the “Settlement Stipulation”).

**If you purchased Vivint Solar, Inc. (“Vivint”) securities between July 20, 2015 and April 1, 2016, both dates inclusive (the “Settlement Class Period”), your rights may be affected by this Settlement, including the release and extinguishment of claims you may possess relating to your ownership interest in Vivint securities.** If you have not received a detailed Notice Of Proposed Settlement Of Class Action, Motion For Attorneys’ Fees And Expenses, And Settlement Fairness Hearing (“Notice”) and a copy of the Proof of Claim and Release form, you may obtain copies by visiting <http://www.strategicclaims.net/cases> or by contacting the Claims Administrator at: *Vivint Solar, Inc. Securities Litigation*, c/o Strategic Claims Services, P.O. Box 230, 600 N. Jackson Street, Suite 3, Media, PA 19063; toll-free at (866) 274-4004; or email at [info@strategicclaims.net](mailto:info@strategicclaims.net). If you are a member of the Settlement Class, in order to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim and Release form to the Claims Administrator, postmarked no later than

\_\_\_\_\_, 201\_, establishing that you are entitled to recovery. Unless you submit a written exclusion request, you will be bound by any judgment rendered in the Action whether or not you make a claim.

If you desire to be excluded from the Settlement Class, you must submit to the Claims Administrator a request for exclusion so that it is received no later than \_\_\_\_\_, 201\_, in the manner and form explained in the detailed Notice. All members of the Settlement Class who have not requested exclusion from the Settlement Class will be bound by any judgment entered in the Action pursuant to the Settlement Stipulation.

Any objection to the Settlement, Plan of Allocation, or Plaintiffs’ Counsel’s request for an award of attorneys’ fees and reimbursement of expenses and award to Lead Plaintiff and Named Plaintiff must be in the manner and form explained in the detailed Notice and received no later than \_\_\_\_\_, 201\_, to each of the following:

<p><b>Clerk of the Court</b>                  United States District Court                  Southern District of New York                  500 Pearl Street                  New York, NY 10007</p>	<p><b>Plaintiffs’ Counsel</b>                  Jeremy A. Lieberman                  Murielle J. Steven Walsh                  Aatif Iqbal                  POMERANTZ LLP                  600 Third Avenue, Floor 20                  New York, NY 10016</p>	<p><b>Counsel For Defendants Ahmad Chatila And Brian Weubbels</b>                  Sara B. Brody                  SIDLEY AUSTIN LLP                  555 California Street, Suite 2000                  San Francisco, CA 94104</p>
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If you have any questions about the Settlement, you may visit <http://www.strategicclaims.net/cases> or write to Plaintiffs’ Counsel at the above address. **PLEASE DO NOT CONTACT THE COURT OR THE CLERK’S OFFICE REGARDING THIS NOTICE.**

Dated: \_\_\_\_\_, 201\_

\_\_\_\_\_  
 BY ORDER OF THE UNITED STATES  
 DISTRICT COURT FOR THE  
 SOUTHERN DISTRICT OF NEW YORK

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

IN RE: SUNEDISON, INC. SECURITIES  
LITIGATION

Case No. 16-MD-2742 (PKC) (AJP)

DARCY CHURCH, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

Case No. 1:16-cv-07962-PKC

AHMAD R. CHATILA and BRIAN  
WUEBBELS,

Defendants.

**[PROPOSED] ORDER AND FINAL JUDGMENT**

On the \_\_\_\_ day of \_\_\_\_\_, 2017, a hearing having been held before this Court to determine: (1) whether the terms and conditions of the Stipulation of Settlement dated September 8, 2017 (the “Settlement Stipulation”) are fair, reasonable and adequate for the settlement of all claims asserted by the Settlement Class against the Defendants (as defined in the Settlement Stipulation), including the release of the Released Claims against the Released Parties, and should be approved; (2) whether judgment should be entered dismissing the Action with prejudice; (3) whether to approve the proposed Plan of Allocation as a fair and reasonable method to allocate the Net Settlement Fund among Settlement Class Members; (4) whether and in what amount to award Plaintiffs’ Counsel as fees and reimbursement of expenses; and (5) whether and in what amount to award Plaintiffs as incentive fees; and

The Court having considered all matters submitted to it at the hearing and otherwise; and

It appearing in the record that the Notice substantially in the form approved by the Court in the Court’s Order Granting Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement, dated \_\_\_\_\_, 2017 (“Preliminary Approval Order”) was mailed to all reasonably identifiable Settlement Class Members and posted to the website of the Claims Administrator, both in accordance with the Preliminary Approval Order and the specifications of the Court; and

It appearing in the record that the Summary Notice substantially in the form approved by the Court in the Preliminary Approval Order was published in accordance with the Preliminary Approval Order and the specifications of the Court;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Order and Final Judgment incorporates by reference the definitions in the Settlement Stipulation, and all capitalized terms used herein shall have the same meanings as set forth therein.

2. The Court has jurisdiction over the subject matter of the Action, Plaintiffs, all Settlement Class Members, and Defendants.

3. The Court finds that, for settlement purposes only, the prerequisites for a class action under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that:

(a) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable;

(b) there are questions of law and fact common to the Settlement Class;

(c) the claims of the Plaintiffs are typical of the claims of the Settlement Class they seek to represent;

(d) Plaintiffs and Plaintiffs' Counsel fairly and adequately represent the interests of the Settlement Class;

(e) questions of law and fact common to the members of the Settlement Class predominate over any questions affecting only individual members of the Settlement Class; and

(f) a class action is superior to other available methods for the fair and efficient adjudication of this Action, considering:

i. the interests of the Settlement Class Members in individually controlling the prosecution of the separate actions;

ii. the extent and nature of any litigation concerning the controversy already commenced by Settlement Class Members;

- iii. the desirability or undesirability of concentrating the litigation of these claims in this particular forum; and
- iv. the difficulties likely to be encountered in the management of the class action.

The Settlement Class is being certified for settlement purposes only.

1. The Court hereby finally certifies this action as a class action for purposes of the Settlement, pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, on behalf of all Persons (including, without limitation, their beneficiaries) who purchased or acquired Vivint Solar, Inc. (“Vivint”) securities during the period from July 20, 2015 through April 1, 2016, both dates inclusive (“Settlement Class Period”), except excluded from the Settlement Class are: (i) Defendants; (ii) all current and former officers and directors of SunEdison, Inc.; (iii) blood relatives and household members of any such person excluded under (i); (iv) any entities affiliated with, controlled by, or more than 5% owned by, any person excluded under (i) and (ii); (v) the legal representatives, heirs, successors or assigns of any person excluded under (i) through (iv); (vi) Opt-Outs; and (vii) Persons who have no compensable damages.

2. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for the purposes of this Settlement only, Plaintiffs are certified as the class representatives on behalf of the Settlement Class (“Class Representatives”) and Plaintiffs’ Counsel previously selected by Plaintiffs and appointed by the Court are hereby appointed as Class Counsel for the Settlement Class (“Class Counsel”).

3. In accordance with the Court’s Preliminary Approval Order, the Court hereby finds that the forms and methods of notifying the Settlement Class of the Settlement and its terms and conditions met the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure,



and Section 21D(a)(7) of the Exchange Act, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995; constituted the best notice practicable under the circumstances; and constituted due and sufficient notice of these proceedings and the matters set forth herein, including the Settlement and Plan of Allocation, to all persons and entities entitled to such notice. No Settlement Class Member is relieved from the terms and conditions of the Settlement, including the releases provided for in the Settlement Stipulation, based upon the contention or proof that such Settlement Class Member failed to receive actual or adequate notice. A full opportunity has been offered to the Settlement Class Members to object to the proposed Settlement and to participate in the hearing thereon. The Court further finds that the notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, were fully discharged. Thus, it is hereby determined that all Settlement Class Members are bound by this Order and Final Judgment except those persons listed on Exhibit A to this Order and Final Judgment.

4. The Settlement is approved as fair, reasonable and adequate under Rule 23 of the Federal Rules of Civil Procedure, and in the best interests of the Settlement Class. This Court further finds that the Settlement set forth in the Settlement Stipulation is the result of good faith, arm's-length negotiations between experienced counsel representing the interests of the Class Representatives, Settlement Class Members and Defendants. The Settling Parties are directed to consummate the Settlement in accordance with the terms and provisions of the Settlement Stipulation.

5. The Action and all claims contained therein, as well as all of the Released Claims, are dismissed with prejudice as against Defendants and the Released Parties. The Settling Parties are to bear their own costs, except as otherwise provided in the Settlement Stipulation.

6. The Releasing Parties, on behalf of themselves, their successors and assigns, and any other Person claiming (now or in the future) through or on behalf of them, regardless of whether any such Releasing Party ever seeks or obtains by any means, including without limitation by submitting a Proof of Claim and Release Form, any disbursement from the Settlement Fund, shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties. The Releasing Parties shall be deemed to have, and by operation of this Order and Final Judgment shall have, covenanted not to sue the Released Parties with respect to any and all Released Claims in any forum and in any capacity. The Releasing Parties shall be and hereby are permanently barred and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating, or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any Released Claim, in any capacity, against any of the Released Parties. Nothing contained herein shall, however, bar the Releasing Parties from bringing any action or claim to enforce the terms of the Settlement Stipulation or this Order and Final Judgment.

7. To the fullest extent permitted by law, all Persons shall be permanently enjoined, barred and restrained from bringing, commencing, prosecuting or asserting any claims, actions, or causes of action for contribution, indemnity or otherwise against any of the Released Parties seeking as damages or otherwise the recovery of all or any part of any liability, judgment or settlement which they pay or are obligated to pay or agree to pay to the Settlement Class or any Settlement Class Member arising out of, relating to or concerning such Persons' participation in any acts, facts, statements or omissions that were or could have been alleged in the Action, whether arising under state, federal or foreign law as claims, cross-claims, counterclaims, third-party claims

or otherwise, in the Court or any other federal, state, or foreign court, or in any arbitration proceeding, administrative agency proceeding, tribunal, or any other proceeding or forum. Further, nothing in the Settlement Stipulation or this Order and Final Judgment shall apply to bar or otherwise affect any claim for insurance coverage by any Defendant.

8. The Court hereby finds that the proposed Plan of Allocation is a fair and reasonable method to allocate the Net Settlement Fund among Settlement Class Members, and Class Counsel and the Claims Administrator are directed to administer the Plan of Allocation in accordance with its terms and the terms of the Settlement Stipulation.

9. The Court finds that the Settling Parties and their counsel have complied with all requirements of Rule 11 of the Federal Rules of Civil Procedure and the Private Securities Litigation Record Act of 1995 as to all proceedings herein.

10. Neither this Order and Final Judgment, the Settlement Stipulation (nor the Settlement contained therein), nor any of its terms and provisions, nor any of the negotiations, documents or proceedings connected with them:

(a) is or may be deemed to be, or may be used as an admission, concession, or evidence of, the validity or invalidity of any Released Claims, the truth or falsity of any fact alleged by the Class Representatives, the sufficiency or deficiency of any defense that has been or could have been asserted in the Action, or of any wrongdoing, liability, negligence or fault of Defendants, the Released Parties, or each or any of them;

(b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or misrepresentation or omission with respect to any statement or written document attributed to, approved or made by Defendants or Released Parties in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal;

(c) is or may be deemed to be or shall be used, offered or received against the Settling Parties, Defendants or the Released Parties, or each or any of them, as an admission, concession or evidence of the validity or invalidity of the Released Claims, the infirmity or strength of any claim raised in the Action, the truth or falsity of any fact alleged by the Plaintiffs or the Settlement Class, or the availability or lack of availability of meritorious defenses to the claims raised in the Action;

(d) is or may be deemed to be or shall be construed as or received in evidence as an admission or concession against Defendants, or the Released Parties, or each or any of them, that any of Class Representatives' or Settlement Class Members' claims are with or without merit, that a litigation class should or should not be certified, that damages recoverable in the Action would have been greater or less than the Settlement Fund or that the consideration to be given pursuant to the Settlement Stipulation represents an amount equal to, less than or greater than the amount which could have or would have been recovered after trial.

11. The Released Parties may file the Settlement Stipulation and/or this Order and Final Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. The Settling Parties may file the Settlement Stipulation and/or this Order and Final Judgment in any proceedings that may be necessary to consummate or enforce the Settlement Stipulation, the Settlement, or this Order and Final Judgment.

12. Except as otherwise provided herein or in the Settlement Stipulation, all funds held by the Escrow Agent shall be deemed to be in *custodia legis* and shall remain subject to the jurisdiction of the Court until such time as the funds are distributed or returned pursuant to the Settlement Stipulation and/or further order of the Court.

13. Without affecting the finality of this Order and Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over the Settling Parties and the Settlement Class Members for all matters relating to the Action, including the administration, interpretation, effectuation or enforcement of the Settlement Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to the Settlement Class Members.

14. Without further order of the Court, Defendants and Class Representatives may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Stipulation.

15. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

16. The finality of this Order and Final Judgment shall not be affected, in any manner, by rulings that the Court may make on Class Counsels' application for an award of attorneys' fees and expenses or an award to the Class Representatives.

17. In the event the Settlement is not consummated in accordance with the terms of the Settlement Stipulation, then the Settlement Stipulation and this Order and Final Judgment (including any amendment(s) thereof, and except as expressly provided in the Settlement Stipulation or by order of the Court) shall be null and void, of no further force or effect, and without

EXHIBIT B

prejudice to any Settling Party, and may not be introduced as evidence or used in any action or proceeding by any Person against the Settling Parties or the Released Parties, and each Settling Party shall be restored to his, her or its respective litigation positions as they existed prior to July 26, 2017, pursuant to the terms of the Settlement Stipulation.

Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
HON. P. KEVIN CASTEL  
UNITED STATES DISTRICT JUDGE