

EXHIBIT 1

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

IN RE SPECTRUM PHARMACEUTICALS,
INC. SECURITIES LITIGATION

Case No. 2:16-cv-02279-RFB-EJY

STIPULATION AND AGREEMENT OF SETTLEMENT

This stipulation and agreement of settlement (“Stipulation”) is made and entered into by and between Lead Plaintiffs Michael Bestwick (“Bestwick”) and Mark Hawkins (“Hawkins” and together with Bestwick, “Lead Plaintiffs”), on behalf of themselves and the Settlement Class (defined below), on the one hand, and Spectrum Pharmaceuticals, Inc. (“Spectrum” or “Company”), Rajesh C. Shrotriya (“Shrotriya”), Lee F. Allen (“Allen”), and Joseph W. Turgeon (“Turgeon”) (and, together with Plaintiffs, “Parties”), on the other hand.

WHEREAS

A. All words or terms used herein that are capitalized shall have the meaning ascribed to those words or terms as set forth herein and in ¶ 1 hereof entitled “Definitions.”

B. On September 28, 2016, Glen Hartsock filed a Class Action Complaint for Violation of the Federal Securities Laws (“Hartsock Action”). (ECF No. 1). On September 21, 2016, Olutayo Ayeni filed a substantially similar Class Action Complaint for Violation of the Federal Securities Laws in the United States District Court for the Central District of California, Case No. 2:16-cv-07074 (“Ayeni Action”).

C. After the Ayeni Action was transferred to this Court and assigned the case number 2:16-cv-02649, by Order dated October 6, 2017, this Court consolidated the two cases under the Hartsock Action caption, (ECF No. 48), terminating the Ayeni Action pursuant to LR 42.1(b).

D. On November 11, 2017, Lead Plaintiffs filed their Consolidated Amended Complaint for Violations of the Federal Securities Laws (“Complaint”). (ECF No. 52). The Complaint alleges violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 promulgated thereunder by the U.S. Securities and Exchange

1 Commission (“SEC”) on behalf of a class of all purchasers of Spectrum’s securities between
2 January 31, 2013 and September 16, 2016, both dates inclusive.

3 E. By Order dated November 13, 2017, the Court appointed Bestwick and Hawkins as
4 Lead Plaintiffs. (ECF No. 51).

5 F. On January 19, 2018, Defendants¹ moved to dismiss the Complaint. (Dkt. Nos. 56-
6 58). On March 2, 2018, Lead Plaintiffs opposed Defendants’ motion to dismiss (Dkt. No. 61), and
7 on March 30, 2018, Defendants filed their reply memorandum in further support of their motion to
8 dismiss. (ECF No. 63).

9 G. On September 21, 2018, the Court granted in part and denied in part Defendants’
10 motion to dismiss, dismissing all claims with prejudice against Defendants Keller and Gustafson,
11 but otherwise sustaining the Complaint in its entirety against Defendants. (ECF No. 80).

12 H. On October 3, 2018, the Parties submitted proposed discovery plans and schedules.
13 (ECF No. 83). On October 16, 2018, the Court entered a Scheduling Order regarding the proposed
14 discovery plan. (ECF No. 84).

15 I. On October 22, 2018, pursuant to 28 U.S.C. §1292(b), Defendants filed a motion to
16 certify for interlocutory appeal the Court’s Order denying their motion to dismiss (“Section 1292(b)
17 Motion “). (ECF No. 87). That same day, Defendants filed a motion to stay the case, in its entirety,
18 pending resolution of their Section 1292(b) Motion. (ECF No. 88). On November 13, 2018, Lead
19 Plaintiffs opposed both Defendants’ Section 1292(b) Motion, (ECF No. 93), and to their motion to
20 stay. (ECF No. 94). On November 20, 2018, Defendants filed reply briefs in support of both their
21 Section 1292(b) Motion, (ECF No. 95) and their motion to stay. (ECF No. 96).

22 J. On November 30, 2018, Defendants filed their Answer to the Complaint. (ECF No.
23 99).

24 K. On January 25, 2019, Lead Plaintiffs filed their motion for class certification,
25 pursuant to Fed. R. Civ. P. 23. (ECF Nos. 103-104). On April 24, 2019, Defendants opposed Lead
26 Plaintiffs’ motion for class certification. (ECF No. 130).

27
28 ¹ The Complaint also named as Defendants Joseph K. Keller (“Keller”) and Kurt A. Gustafson
 (“Gustafson”).

1 L. On April 10, 2019, the Court granted Defendants’ motion to stay the litigation. (ECF
2 No. 128).

3 M. Defendants and Lead Plaintiffs engaged Jed D. Melnick, Esq. (“Mr. Melnick”), a
4 respected and experienced mediator, to assist them in exploring a potential negotiated resolution of
5 the claims in the Action. After exchanging thorough mediation statements, on June 20, 2019, Lead
6 Plaintiffs, Defendants and representatives from Defendants’ insurers convened a mediation with
7 Mr. Melnick to attempt to reach a settlement.

8 N. Following extended, arm’s-length, and mediated negotiations under the auspices of
9 Mr. Melnick, on July 2, 2019, Defendants and Plaintiffs agreed, in principle, to this Settlement. On
10 July 25, 2019, the Parties executed a Memorandum of Understanding (“MOU”), memorializing the
11 principal terms of this Settlement.

12 O. Lead Plaintiffs, through Lead Counsel, conducted a thorough investigation relating
13 to the claims, defenses, and underlying events and transactions that are the subject of the Action.
14 This process included reviewing and analyzing: (i) documents filed publicly by the Company with
15 the SEC; (ii) publicly available information, including press releases, news articles, and other public
16 statements issued by or concerning the Company and the Defendants; (iii) research reports issued
17 by financial analysts concerning the Company; (iv) other publicly available information and data
18 concerning the Company; (v) public documentation from the United States Food and Drug
19 Administration; and (vi) the applicable law governing the claims and potential defenses. Lead
20 Counsel also identified former Spectrum employees and other persons with relevant knowledge
21 and interviewed several of them and consulted with experts on issues of market efficiency,
22 damages, and loss causation.

23 P. Defendants have denied and continue to deny any wrongdoing or that they have
24 committed any act or omission giving rise to any liability or violation of law, including, but not
25 limited to, the federal securities laws. Among other things, Defendants deny the allegations that
26 they knowingly, or otherwise, made any material misstatements or omissions; that any member of
27 the Class has suffered damages; that the prices of Spectrum securities were artificially inflated by
28 reason of the alleged misrepresentations, omissions or otherwise; or that members of the Class were

1 harmed by the conduct alleged in the Complaint. Defendants have denied and continue to deny
2 each and every one of the claims alleged by Lead Plaintiffs in the Action on behalf of the Settlement
3 Class, including all claims in the Complaint, and maintain that they have meritorious defenses to
4 all claims alleged in the Complaint.

5 Q. This Stipulation, whether or not consummated, any proceedings relating to any
6 settlement, or any of the terms of any settlement, whether or not consummated, shall in no event be
7 construed as, or deemed to be evidence of, an admission or concession on the part of the
8 Defendants, or any of them, with respect to any fact or matter alleged in the Action, or any claim
9 of fault or liability or wrongdoing or damage whatsoever, or any infirmity in any claim or defense
10 that has been or could have been asserted. Defendants are entering into this Settlement solely to
11 eliminate the burden, expense, uncertainty, and distraction of further litigation.

12 R. Lead Plaintiffs believe that the claims asserted in the Action have merit and that the
13 evidence developed to date supports the claims asserted. Lead Plaintiffs and Lead Counsel,
14 however, recognize and acknowledge the expense and length of continued proceedings necessary
15 to prosecute the Action through trial and appeals. Lead Plaintiffs and Lead Counsel have also
16 accounted for the uncertain outcome and the risk of any litigation, especially in complex actions
17 such as the Action, as well as the difficulties and delays inherent in such litigation. Lead Counsel
18 also are mindful of the inherent problems of proof and the possible defenses to the claims alleged
19 in the Action, including a loss causation defense. Based on their evaluation, Lead Plaintiffs and
20 Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial monetary
21 benefits upon the Settlement Class and is in the best interests of Lead Plaintiffs and the Settlement
22 Class.

23 **NOW THEREFORE**, without any concession by Lead Plaintiffs that the Action lacks
24 merit, and without any concession by the Defendants of any liability or wrongdoing or lack of merit
25 in their defenses, it is hereby **STIPULATED AND AGREED**, by and among the Parties to this
26 Stipulation, through their respective attorneys, subject to approval by the Court pursuant to Rule
27 23(e) of the Federal Rules of Civil Procedure, that, in consideration of the benefits flowing to the
28 Parties hereto, all Released Claims and all Released Defendants' Claims, as against all Released

1 Parties, shall be fully, finally, and forever compromised, settled, released, discharged, and
2 dismissed with prejudice, and without costs, upon and subject to the following terms and
3 conditions:

4 DEFINITIONS

5 As used in this Stipulation, the following terms shall have the meanings set forth below. In
6 the event of any inconsistency between any definition set forth below and any definition in any
7 other document related to the Settlement, the definition set forth below shall control.

8 1. “Action” means the consolidated securities class actions captioned *In re Spectrum*
9 *Pharmaceuticals, Inc. Securities Litigation* or *Hartsock v. Spectrum Pharmaceuticals, Inc.*, No.
10 2:16-cv-02279-RFB-EJY, pending in the United States District Court for the District of Nevada
11 before the Honorable Richard F. Boulware, II, and includes all actions consolidated therein.

12 2. “Alternative Judgment” means a form of final judgment that may be entered by the
13 Court but in a form other than the form of Judgment provided for in this Stipulation and where none
14 of the Parties hereto elects to terminate this Settlement by reason of such variance.

15 3. “Authorized Claimant” means a Settlement Class Member who timely submits a
16 valid Proof of Claim and Release form to the Claims Administrator that is accepted for payment by
17 the Court.

18 4. “Claims Administrator” means Strategic Claims Services, whom Lead Counsel will
19 retain to provide all Court-approved notices to Settlement Class Members, to process proofs of
20 claim, and generally to administer the Settlement.

21 5. “Class Period” means the period from January 31, 2013 through September 16,
22 2016, both dates inclusive.

23 6. “Defendants” means Spectrum Pharmaceuticals, Inc., Rajesh C. Shrotriya, Joseph
24 W. Turgeon, and Lee F. Allen, and previously dismissed defendants Joseph K. Keller and Kurt A.
25 Gustafson.

26 7. “Defendants’ Counsel” means the law firms of Paul Hastings LLP, Peterson Baker,
27 PLLC, Fenwick & West LLP and Snell & Wilmer, L.L.P.

28 8. “Distribution Order” means an order of the Court approving the Claims

1 Administrator's determinations concerning the acceptance and rejection of the claims submitted
2 and approving any fees and expenses not previously paid, including the fees and expenses of the
3 Claims Administrator, and, if the Effective Date has occurred, directing payment of the Net
4 Settlement Fund to Authorized Claimants.

5 9. "Effective Date" means the date upon which the Settlement shall have become
6 effective, as set forth in ¶ 79 below.

7 10. "Escrow Account" means the separate escrow account designated and controlled by
8 Lead Counsel at one or more national banking institutions into which the Settlement Amount will
9 be deposited for the benefit of the Settlement Class.

10 11. "Escrow Agent" means Lead Counsel.

11 12. "Fee and Expense Application" means Lead Counsel's application, on behalf of
12 Lead Plaintiff's Counsel, for an award of attorneys' fees and payment of litigation expenses
13 incurred in prosecuting the case, including any expenses pursuant to 15 U.S.C. § 78u-4(a)(4) of the
14 Private Securities Litigation Reform Act of 1995 ("PSLRA").

15 13. "Final," with respect to a court order, including, but not limited to the Judgment or
16 Alternative Judgment, means the later of: (i) if there is an appeal from a court order, the date of
17 final affirmance on appeal and the expiration of the time for any further judicial review whether by
18 appeal, reconsideration or a petition for a writ of certiorari and, if certiorari is granted, the date of
19 final affirmance of the order following review pursuant to the grant; or (ii) the date of final dismissal
20 of any appeal from the order or the final dismissal of any proceeding on certiorari to review the
21 order; or (iii) the expiration of the time for the filing or noticing of any appeal or petition for
22 certiorari from the order (or, if the date for taking an appeal or seeking review of the order shall be
23 extended beyond this time by order of the issuing court, by operation of law or otherwise, or if such
24 extension is requested, the date of expiration of any extension if any appeal or review is not sought),
25 without any such filing or noticing being made. However, any appeal or proceeding seeking
26 subsequent judicial review pertaining solely to the Plan of Allocation of the Net Settlement Fund,
27 or to the Court's award of attorneys' fees or expenses, shall not in any way delay or affect the time
28 set forth above for the Judgment or Alternative Judgment to become Final or otherwise preclude

1 the Judgment or Alternative Judgment from becoming Final.

2 14. "Individual Defendants" means Rajesh C. Shrotriya, Joseph W. Turgeon, Lee F.
3 Allen, and previously dismissed defendants Joseph K. Keller and Kurt A. Gustafson.

4 15. "Judgment" means the proposed judgment and order of dismissal with prejudice to
5 be entered by the Court upon approval of the Settlement, substantially in the form attached hereto
6 as Exhibit B.

7 16. "Lead Counsel" means The Rosen Law Firm, P.A. and Bronstein Gewirtz &
8 Grossman, LLC.

9 17. "Lead Plaintiffs" means Michael Bestwick and Mark Hawkins.

10 18. "Local Counsel" means Leverty & Associates Law, Chtd.

11 19. "Mediator" means Jed D. Melnick, Esq.

12 20. "Net Settlement Fund" means the Settlement Fund less: (i) Court-awarded
13 attorneys' fees and expenses; (ii) Notice and Administration Expenses; (iii) Taxes; and (iv) any
14 other fees or expenses approved by the Court.

15 21. "Notice" means the Notice of Pendency of Class Action, Proposed Settlement, and
16 Motion for Attorneys' Fees and Expenses to be sent to Settlement Class Members, which, subject
17 to approval of the Court, shall be substantially in the form attached hereto as Exhibit 1 to Exhibit
18 A hereto.

19 22. "Notice and Administration Expenses" means all costs, fees, and expenses incurred
20 in connection with providing notice to the Settlement Class and the administration of the
21 Settlement, including but not limited to: (i) providing notice of the proposed Settlement by mail,
22 publication, and other means to Settlement Class Members; (ii) receiving and reviewing claims;
23 (iii) applying the Plan of Allocation; (iv) communicating with Persons regarding the proposed
24 Settlement and claims administration process; (v) distributing the proceeds of the Settlement; and
25 (vi) fees related to the Escrow Account and investment of the Settlement Fund.

26 23. "Person(s)" means any individual, corporation (including all divisions and
27 subsidiaries), general or limited partnership, association, joint stock company, joint venture, limited
28 liability company, professional corporation, estate, legal representative, trust, unincorporated

1 association, government or any political subdivision or agency thereof, and any other business or
2 legal entity and his, her or its heirs, predecessors, trustees, successors, representatives, or assignees.

3 24. "Plaintiff's Counsel" means Lead Counsel and Local Counsel and all other legal
4 counsel who, at the direction and under the supervision of Lead Counsel and/or Local Counsel,
5 performed services on behalf of the Settlement Class in the Action.

6 25. "Plan of Allocation" means the proposed Plan of Allocation of Net Settlement Fund,
7 which, subject to the approval of the Court, shall be substantially in the form described in the
8 Notice.

9 26. "Preliminary Approval Order" means the proposed Order Granting Preliminary
10 Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for
11 Hearing on Final Approval of Settlement, which, subject to the approval of the Court, shall be
12 substantially in the form attached hereto as Exhibit A.

13 27. "Proof of Claim" or "Claim Form" means the Proof of Claim and Release form for
14 submitting a claim, which, subject to approval of the Court, shall be substantially in the form
15 attached as Exhibit 2 to Exhibit A hereto.

16 28. "Released Claims" means any and all claims, debts, demands, controversies,
17 obligations, losses, rights or causes of action or liabilities of every nature and description, including
18 both known claims and Unknown Claims (defined below), whether arising under federal, state,
19 common or foreign law, whether fixed or contingent, accrued or unaccrued, liquidated or
20 unliquidated, at law or in equity, matured or unmatured, whether class or individual in nature, that
21 Lead Plaintiff or any other Settlement Class Member (i) asserted in the Action; or (ii) could have
22 asserted in the Action, or any other action, or in any forum or proceeding, that arise out of, relate
23 to or are based upon both (a) the facts, matters, allegations, transactions, events, disclosures,
24 representations, statements, acts, or omissions or failures to act that were alleged or that could have
25 been alleged in the Action against the Released Defendant Parties, and (b) the purchase or
26 acquisition by any means, directly or indirectly, of publicly traded Spectrum securities (including
27 through the exercise of warrants, options or other form of issuance) and/or call options, and/or the
28 sale of publicly traded Spectrum put options, by the Settlement Class Member during the Class

1 Period. The Released Claims further include all claims and causes of action of every nature and
2 description, including both known claims and Unknown Claims (as defined below), whether arising
3 under federal, state, common or foreign law, or any other law, that could have been asserted against
4 the Released Defendant Parties that arise out of or relate in any way to the litigation, defense, or
5 settlement of the claims in the Action. For the avoidance of doubt, Released Claims do not include
6 (i) claims relating to the enforcement of the Settlement; or (ii) any governmental or regulatory
7 agency's claims in any criminal or civil action against any of the Released Defendant Parties, or
8 right to recover therefrom.

9 29. "Released Defendant Parties" means Defendants, Defendants' Counsel, and each of
10 their respective past or present subsidiaries, parents, general or limited partnerships, limited liability
11 companies, affiliates, divisions, joint ventures, related or affiliated entities, principals, accountants,
12 advisors, successors and predecessors, assigns, officers, directors, shareholders, trustees, partners,
13 agents, fiduciaries, contractors, employees, attorneys, auditors, insurers, co-insurers, or re-insurers;
14 the spouses, members of the immediate families, representatives, and heirs of the Individual
15 Defendants, as well as any trust of which any Individual Defendant is the settlor or which is for the
16 benefit of any of their immediate family members; any firm, trust, corporation, or entity in which
17 any Defendant has a controlling interest; and any of the legal representatives, heirs, successors in
18 interest or assigns of Defendants.

19 30. "Released Defendants' Claims" means all claims and causes of action of every
20 nature and description, including both known claims and Unknown Claims (as defined below),
21 whether arising under federal, state, common or foreign law, or any other law, that Defendants
22 could have asserted against any of the Released Plaintiff Parties that arise out of or relate in any
23 way to the institution, prosecution, or settlement of the claims in the Action, except for claims
24 relating to the enforcement of the Settlement.

25 31. "Released Parties" means the Released Defendant Parties and the Released Plaintiff
26 Parties.

27 32. "Released Plaintiff Parties" means each and every Settlement Class Member, Lead
28 Plaintiffs, Lead Counsel, Local Counsel, and each of their respective past or present trustees,

1 officers, directors, partners, employees, contractors, auditors, principals, agents, attorneys,
2 accountants, advisors, predecessors, successors, assigns, insurers, parents, divisions, subsidiaries,
3 general or limited partners or partnerships, and limited liability companies; and the spouses,
4 members of the immediate families, representatives, and heirs of any Released Plaintiff Party who
5 is an individual, as well as any trust of which any Released Plaintiff Party is the settlor or which is
6 for the benefit of any of their immediate family members. Released Plaintiff Parties does not
7 include any Person who timely and validly seeks exclusion from the Settlement Class.

8 33. "Settlement" means the resolution of the Action in accordance with the terms and
9 provisions of this Stipulation.

10 34. "Settlement Amount" means the total principal amount of two million nine hundred
11 ninety five thousand U.S. dollars (\$2,995,000) in cash.

12 35. "Settlement Class" or "Settlement Class Member" means all persons and entities
13 that purchased or acquired publicly traded Spectrum securities (including through the exercise of
14 warrants, options or other form of issuance) and/or call options, and/or sold publicly traded
15 Spectrum put options, during the period from January 31, 2013 through September 16, 2016, both
16 dates inclusive, and were allegedly damaged thereby. Excluded from the Settlement Class are: (i)
17 the Defendants; (ii) the officers and directors of Spectrum during the Class Period; (iii) members
18 of the immediate families of the Individual Defendants and the officers and directors of Spectrum
19 during the Class Period; (iv) any entity in which any Defendant has or had a controlling interest;
20 (v) the legal representatives, heirs, successors, assigns, and affiliates of any such excluded party.
21 Also excluded from the Settlement Class will be any person who timely and validly seeks exclusion
22 from the Settlement Class.

23 36. "Settlement Fund" means the Settlement Amount and any interest earned thereon.

24 37. "Settlement Hearing" means the hearing to be held by the Court to determine
25 whether the proposed Settlement is fair, reasonable, and adequate and should be finally approved.

26 38. "Stipulation" means this Stipulation and Agreement of Settlement.

27 39. "Summary Notice" means the Summary Notice of Pendency of Class Action,
28 Proposed Settlement, and Motion for Attorneys' Fees and Expenses for publication, which, subject

1 to approval of the Court, shall be substantially in the form attached as Exhibit 3 to Exhibit A hereto.

2 40. "Taxes" means all federal, state, or local taxes of any kind on any income earned by
3 the Settlement Fund and the expenses and costs incurred in connection with the taxation of the
4 Settlement Fund (including, without limitation, interest, penalties and the reasonable expenses of
5 tax attorneys and accountants).

6 41. "Unknown Claims" means any and all Released Claims that Lead Plaintiff or any
7 other Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time
8 of the release of the Released Defendant Parties, and any and all Released Defendants' Claims that
9 any Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of
10 the Released Plaintiff Parties, which if known by him, her, or it might have affected his, her, or its
11 decision(s) with respect to the Settlement, including the decision to object to the terms of the
12 Settlement or to exclude himself, herself, or itself from the Settlement Class. With respect to any
13 and all Released Claims and Released Defendants' Claims, the Parties stipulate and agree that,
14 upon the Effective Date, Lead Plaintiff and Defendants shall expressly, and each other Settlement
15 Class Member shall be deemed to have, and by operation of the Judgment or Alternative Judgment
16 shall have, to the fullest extent permitted by law, expressly waived and relinquished any and all
17 provisions, rights and benefits conferred by any law of any state or territory of the United States,
18 or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542,
19 which provides:

20 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
21 **THAT THE CREDITOR OR RELEASING PARTY DOES**
22 **NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
23 **FAVOR AT THE TIME OF EXECUTING THE RELEASE**
24 **AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
25 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT**
26 **WITH THE DEBTOR OR RELEASED PARTY.**

27 Lead Plaintiffs, other Settlement Class Members, or Defendants may hereafter discover facts, legal
28 theories, or authorities in addition to or different from those which any of them now knows or

1 believes to be true with respect to the subject matter of the Released Claims and the Released
2 Defendants' Claims, but Lead Plaintiffs and Defendants shall expressly, fully, finally, and forever
3 settle and release, and each Settlement Class Member shall be deemed to have settled and released,
4 and upon the Effective Date and by operation of the Judgment or Alternative Judgment shall have
5 settled and released, fully, finally, and forever, any and all Released Claims and Released
6 Defendants' Claims as applicable, without regard to the subsequent discovery or existence of such
7 different or additional facts, legal theories, or authorities. Lead Plaintiffs and Defendants
8 acknowledge, and other Settlement Class Members by operation of law shall be deemed to have
9 acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and
10 Released Defendants' Claims was separately bargained for and was a material element of the
11 Settlement.

12 **SCOPE AND EFFECT OF SETTLEMENT**

13 42. The obligations incurred pursuant to this Stipulation are (a) subject to approval by
14 the Court and the Judgment, or Alternative Judgment, reflecting such approval becoming Final;
15 and (b) in full and final disposition of the Action with respect to the Released Parties and any and
16 all Released Claims and Released Defendants' Claims.

17 43. For purposes of this Settlement only, the Parties agree to: (a) certification of the
18 Action as a class action, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3), on behalf of the Settlement
19 Class as defined above in ¶ 35; (b) the appointment of Plaintiffs as Class Representatives for the
20 Settlement Class; and (c) the appointment of Lead Counsel as Class Counsel for the Settlement
21 Class pursuant to Federal Rule of Civil Procedure 23(g).

22 44. Upon the Effective Date, Plaintiffs and each and every other Settlement Class
23 Member (whether or not such Settlement Class Member receives the Notice, executes and delivers
24 a valid Proof of Claim, or receives proceeds from the Settlement Fund), and the heirs,
25 representatives, attorneys, affiliates, executors, trustees, administrators, predecessors, successors,
26 and assigns of each of them, in their capacity as such, shall be deemed to have, and by operation of
27 the Judgment or Alternative Judgment shall have, fully, finally, and forever waived, released,
28 discharged, and dismissed each and every one of the Released Claims against each and every one

1 of the Released Defendant Parties.

2 45. Upon the Effective Date, Lead Plaintiffs and each and every other Settlement Class
3 Member (whether or not such Settlement Class Member receives the Notice, executes and delivers
4 a valid Proof of Claim, or receives proceeds from the Settlement Fund), and the heirs,
5 representatives, attorneys, affiliates, executors, trustees, administrators, predecessors, successors,
6 and assigns of each of them, in their capacity as such, shall forever be barred and enjoined from the
7 assertion, institution, maintenance, prosecution, or enforcement of any and all Released Claims
8 against each and every one of the Released Defendant Parties, in any state or federal court or arbitral
9 forum, or in the court of any foreign jurisdiction, administrative forum or other forum of any kind,
10 either directly or indirectly, on their own behalf or on behalf of any class or other person.

11 46. Upon the Effective Date, Defendants, and the heirs, representatives, attorneys,
12 affiliates, executors, trustees, administrators, predecessors, successors, and assigns of each of them,
13 in their capacity as such, shall be deemed to have, and by operation of the Judgment or Alternative
14 Judgment shall have, fully, finally, and forever waived, released, discharged, and dismissed each
15 and every one of the Released Defendants' Claims against each and every one of the Released
16 Plaintiff Parties and shall forever be barred and enjoined from the assertion, institution,
17 maintenance, prosecution, or enforcement in any state or federal court or arbitral forum, or in the
18 court of any foreign jurisdiction, administrative forum or other forum of any kind, of any and all of
19 the Released Defendants' Claims against any and all of the Released Plaintiff Parties.

20 **THE SETTLEMENT CONSIDERATION**

21 47. In full settlement of the claims asserted in the Action against Defendants and in
22 consideration of the releases specified above in ¶¶ 44-46, all of which the Parties agree are good
23 and valuable consideration, Defendants shall cause the Settlement Amount to be paid into the
24 Escrow Account within twenty (20) business days after both (i) entry of the Preliminary Approval
25 Order and (ii) Lead Counsel provides to Christopher H. McGrath of Paul Hastings, LLP,
26 information necessary to effectuate a transfer of funds to the Escrow Account, including but not
27 limited to, wire transfer instructions, payment address, and a complete and executed Form W-9 for
28 the Settlement Fund that reflects a valid tax identification number.

1 48. With the sole exception of Defendants' obligation to cause the payment of the
2 Settlement Amount into the Escrow Account as provided for in ¶ 47 and Spectrum's obligation
3 pursuant to ¶ 77, Released Defendant Parties shall have no responsibility for, interest in, or liability
4 whatsoever with respect to: (i) any act, omission, or determination by Lead Counsel or the Claims
5 Administrator, or any of their respective designees or agents, in connection with the administration
6 of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement
7 Fund; (iii) the Plan of Allocation; (iv) the determination, administration, calculation, or payment of
8 any claims asserted against the Settlement Fund; (v) any loss suffered by, or fluctuation in value
9 of, the Settlement Fund; or (vi) the payment or withholding of any Taxes, expenses, and/or costs
10 incurred in connection with the taxation of the Settlement Fund, distributions or other payments
11 from the Escrow Account, or the filing of any federal, state, or local returns.

12 49. Other than the obligation of Defendants to cause the payment of the Settlement
13 Amount pursuant to ¶ 47, Released Defendant Parties shall have no obligation to make any other
14 payments into the Escrow Account, to Lead Plaintiff, or to any other Settlement Class Member
15 pursuant to this Stipulation.

16 **USE AND TAX TREATMENT OF SETTLEMENT FUND**

17 50. The Settlement Fund shall be used: (i) to pay any Taxes; (ii) to pay Notice and
18 Administration Expenses; (iii) to pay any attorneys' fees and expenses awarded by the Court; (iv)
19 to pay any costs and expenses allowed by the PSLRA and awarded to Lead Plaintiff by the Court;
20 (v) to pay any other fees and expenses awarded by the Court; and (vi) to pay the claims of
21 Authorized Claimants.

22 51. The Net Settlement Fund shall be distributed to Authorized Claimants as provided
23 in ¶¶ 63-75 hereof. The Net Settlement Fund shall remain in the Escrow Account prior to the
24 Effective Date. All funds held in the Escrow Account, and all earnings thereon, shall be deemed to
25 be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such
26 time as the funds shall have been disbursed or returned, pursuant to the terms of this Stipulation,
27 and/or further order of the Court. The Escrow Agent shall invest funds in the Escrow Account in
28 instruments backed by the full faith and credit of the United States Government (or a mutual fund

1 invested solely in such instruments), or deposit some or all of the funds in non-interest-bearing
2 transaction account(s) that are fully insured by the Federal Deposit Insurance Corporation (“FDIC”)
3 in amounts that are up to the limit of FDIC insurance. Released Defendant Parties shall have no
4 responsibility for, interest in, or liability whatsoever with respect to investment decisions executed
5 by the Escrow Agent. All risks related to the investment of the Settlement Fund shall be borne
6 solely by the Settlement Fund.

7 52. After the Settlement Amount has been paid into the Escrow Account, the Parties
8 agree to treat the Settlement Fund as a “qualified settlement fund” within the meaning of Treas.
9 Reg. § 1.468B-1. In addition, Lead Counsel shall timely make, or cause to be made, such elections
10 as necessary or advisable to carry out the provisions of this paragraph 52, including the “relation-
11 back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such
12 election shall be made in compliance with the procedures and requirements contained in such
13 regulations. It shall be the responsibility of Lead Counsel to timely and properly prepare and
14 deliver, or cause to be prepared and delivered, the necessary documentation for signature by all
15 necessary parties, and thereafter take all such actions as may be necessary or appropriate to cause
16 the appropriate filing(s) to occur. Consistent with the foregoing:

17 a. For the purposes of Section 468B of the Internal Revenue Code of 1986, as
18 amended, and Treas. Reg. § 1.468B promulgated thereunder, the “administrator”
19 shall be Lead Counsel or its successors, who shall timely and properly file, or cause
20 to be filed, all federal, state, or local tax returns and information returns (together,
21 “Tax Returns”) necessary or advisable with respect to the earnings on the funds
22 deposited in the Escrow Account (including without limitation the returns described
23 in Treas. Reg. § 1.468B-2(k)). Such Tax Returns (as well as the election described
24 above) shall be consistent with this subparagraph and in all events shall reflect that
25 all Taxes (including any estimated taxes, earnings, or penalties) on the income
26 earned on the funds deposited in the Escrow Account shall be paid out of such funds
27 as provided in subparagraphs (b) and (c) of this paragraph 52.

28 b. All Taxes shall be paid out of the Settlement Fund. In all events, Released

1 Defendant Parties shall have no liability or responsibility whatsoever for the Taxes
2 or the filing of any tax return or other document with the Internal Revenue Service
3 or any other state or local taxing authority. In the event any Taxes are owed by any
4 of the Defendants on any earnings on the funds on deposit in the Escrow Account,
5 such amounts shall also be paid out of the Settlement Fund. Any Taxes or Tax
6 expenses owed on any earnings on the Settlement Amount prior to its transfer to the
7 Escrow Account shall be the sole responsibility of the entities that make the deposit.

8 c. Taxes shall be treated as, and considered to be, a cost of administration of
9 the Settlement and shall be timely paid, or caused to be paid, by Lead Counsel out
10 of the Settlement Fund without prior order from the Court or approval by
11 Defendants, and Lead Counsel shall be obligated (notwithstanding anything herein
12 to the contrary) to withhold from distribution to Authorized Claimants any funds
13 necessary to pay such amounts (as well as any amounts that may be required to be
14 withheld under Treas. Reg. § 1.468B-2(1)(2)). The Parties agree to cooperate with
15 Lead Counsel, each other, and their tax attorneys and accountants to the extent
16 reasonably necessary to carry out the provisions of this paragraph 52.

17 53. This is not a claims-made settlement. As of the Effective Date, Defendants, and/or
18 any other Person funding the Settlement on a Defendant's behalf, shall not have any right to the
19 return of the Settlement Fund or any portion thereof for any reason.

20 **ATTORNEYS' FEES AND EXPENSES**

21 54. Lead Counsel, on behalf of Plaintiff's Counsel, will apply to the Court for an award
22 from the Settlement Fund of attorneys' fees and payment of litigation expenses incurred in
23 prosecuting the Action, including any earnings on such amounts at the same rate and for the same
24 periods as earned by the Settlement Fund. Defendants shall take no position with respect to the Fee
25 and Expense Application as long as the amount sought is consistent with Ninth Circuit guidelines.

26 55. The amount of attorneys' fees and expenses awarded by the Court is within the sole
27 discretion of the Court. Any attorneys' fees and expenses awarded by the Court shall be paid from
28 the Settlement Fund to Lead Counsel immediately after entry of the order awarding such attorneys'

1 fees and expenses, notwithstanding the existence of any timely filed objections thereto or to the
2 Settlement, or potential for appeal therefrom, or collateral attack on the Fee and Expense
3 Application, the Settlement, or any part thereof. Lead Counsel shall allocate any Court- awarded
4 attorneys' fees and expenses among Plaintiff's Counsel.

5 56. Any payment of attorneys' fees and expenses pursuant to ¶¶ 54-55 above shall be
6 subject to Lead Counsel's obligation to make refunds or repayments to the Settlement Fund of any
7 paid amounts, plus accrued earnings at the same net rate as is earned by the Settlement Fund, if the
8 Settlement is terminated pursuant to the terms of this Stipulation or fails to become effective for
9 any reason, or if, as a result of any appeal or further proceedings on remand or successful collateral
10 attack, the award of attorneys' fees and/or expenses is reduced or reversed by Final non-appealable
11 court order. Lead Counsel shall make the appropriate refund or repayment in full no later than
12 fifteen (15) business days after receiving notice of the termination of the Settlement pursuant to
13 this Stipulation, notice from a court of appropriate jurisdiction of the disapproval of the Settlement
14 by Final non-appealable court order, or notice of any reduction or reversal of the award of attorneys'
15 fees and/or expenses by Final non-appealable court order.

16 57. With the sole exception of Defendants' obligation to pay the Settlement Amount
17 into the Escrow Account as provided for in ¶ 47, the Released Defendant Parties shall have no
18 responsibility for, and no liability whatsoever with respect to, any payment whatsoever to Plaintiff's
19 Counsel in the Action that may occur at any time.

20 58. The Released Defendant Parties shall have no responsibility for, and no liability
21 whatsoever with respect to, any allocation of any attorneys' fees or expenses among Plaintiff's
22 Counsel in the Action, or to any other Person who may assert some claim thereto, or any fee or
23 expense awards the Court may make in the Action.

24 59. The Released Defendant Parties shall have no responsibility for, and no liability
25 whatsoever with respect to, any attorneys' fees, costs, or expenses incurred by or on behalf of
26 Settlement Class Members, whether or not paid from the Escrow Account. The Settlement Fund
27 will be the sole source of payment from Defendants for any award of attorneys' fees and expenses
28 ordered by the Court.

1 directing the payment of the Net Settlement Fund to Authorized Claimants.

2 64. The Claims Administrator shall administer the Settlement under Lead Counsel's
3 supervision in accordance with the terms of this Stipulation and subject to the jurisdiction of the
4 Court. The Released Defendant Parties shall have no responsibility for (except as stated in ¶¶ 47
5 and 77 hereof), interest in, or liability whatsoever with respect to the administration of the
6 Settlement or the actions or decisions of the Claims Administrator, and shall have no liability to the
7 Settlement Class in connection with such administration.

8 65. The Claims Administrator shall determine each Authorized Claimant's *pro rata*
9 share of the Net Settlement Fund based upon each Authorized Claimant's Recognized Loss, as
10 defined in the Plan of Allocation included in the Notice, or in such other plan of allocation as the
11 Court may approve.

12 66. Defendants have no role in the development of, and will take no position with
13 respect to, the Plan of Allocation. The Plan of Allocation is a matter separate and apart from the
14 proposed Settlement, and any decision by the Court concerning the Plan of Allocation shall not
15 affect the validity or finality of the proposed Settlement. The Plan of Allocation is not a necessary
16 term of this Stipulation and it is not a condition of this Stipulation that any particular plan of
17 allocation be approved by the Court. Lead Plaintiff and Lead Counsel may not cancel or terminate
18 the Stipulation or the Settlement in accordance with ¶ 80 or otherwise based on the Court's or any
19 appellate court's ruling with respect to the Plan of Allocation or any plan of allocation in the Action.
20 The Released Defendant Parties shall have no responsibility or liability for reviewing or
21 challenging claims, the allocation of the Net Settlement Fund, or the distribution of the Net
22 Settlement Fund.

23 67. If there is any balance remaining in the Net Settlement Fund (whether by reason of
24 tax refunds, uncashed checks or otherwise) after at least six (6) months from the date of initial
25 distribution of the Net Settlement Fund, Lead Counsel shall, if feasible and economical, redistribute
26 such balance among Authorized Claimants who have cashed their checks in an equitable and
27 economic fashion. Any balance that still remains in the Net Settlement Fund after re-distribution(s),
28 which is not feasible or economical to reallocate, after payment of Notice and Administration

1 Expenses, Taxes, and attorneys' fees and expenses, shall be contributed to non- sectarian, not-for-
2 profit charitable organization(s) serving the public interest, designated by Lead Plaintiffs and
3 approved by the Court.

4 **ADMINISTRATION OF THE SETTLEMENT**

5 68. Any Settlement Class Member who fails timely to submit a valid Proof of Claim
6 (substantially in the form of Exhibit 2 to Exhibit A) will not be entitled to receive any of the
7 proceeds from the Net Settlement Fund, except as otherwise ordered by the Court, but will
8 otherwise be bound by all of the terms of this Stipulation and the Settlement, including the terms
9 of the Judgment or Alternative Judgment to be entered in the Action and all releases provided for
10 herein, and shall forever be barred and enjoined from the assertion, institution, maintenance,
11 prosecution, or enforcement of any and all Released Claims against each and every one of the
12 Released Defendant Parties.

13 69. Lead Counsel shall be responsible for supervising the administration of the
14 Settlement and disbursement of the Net Settlement Fund by the Claims Administrator. Lead
15 Counsel shall have the right, but not the obligation, to advise the Claims Administrator to waive
16 what Lead Counsel deems to be de minimis or formal or technical defects in any Proof of Claim
17 submitted. The Released Defendant Parties shall have no liability, obligation or responsibility for
18 the administration of the Settlement, the allocation of the Net Settlement Fund, or the reviewing or
19 challenging of claims of Settlement Class Members. Lead Counsel shall be solely responsible for
20 designating the Claims Administrator, subject to approval by the Court.

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

23 a. Each Settlement Class Member shall be required to submit a Proof of Claim,
24 substantially in the form attached hereto as Exhibit 2 to Exhibit A, supported by
25 such documents as are designated therein, including proof of the claimant's loss, or
26 such other documents or proof as the Claims Administrator or Lead Counsel, in their
27 discretion, may deem acceptable;

28 b. All Proofs of Claim must be submitted by the date set by the Court in the

1 Preliminary Approval Order and specified in the Notice, unless such deadline is
2 extended by Lead Counsel in its discretion or by Order of the Court. Any Settlement
3 Class Member who fails to submit a Proof of Claim by such date shall be barred
4 from receiving any distribution from the Net Settlement Fund or payment pursuant
5 to this Stipulation (unless, by Order of the Court or the discretion of Lead Counsel,
6 late-filed Proofs of Claim are accepted), but shall in all other respects be bound by
7 all of the terms of this Stipulation and the Settlement, including the terms of the
8 Judgment or Alternative Judgment and all releases provided for herein, and shall
9 forever be barred and enjoined from the assertion, institution, maintenance,
10 prosecution, or enforcement of any and all Released Claims against each and every
11 one of the Released Defendant Parties. Provided that it is received before the motion
12 for the Distribution Order is filed, a Proof of Claim shall be deemed to be submitted
13 when mailed, if received with a postmark on the envelope and if mailed by first-
14 class or overnight U.S. Mail and addressed in accordance with the instructions
15 thereon. In all other cases, the Proof of Claim shall be deemed to have been
16 submitted when actually received by the Claims Administrator;

17 c. Each Proof of Claim shall be submitted to and reviewed by the Claims
18 Administrator, under the supervision of Lead Counsel, who shall determine in
19 accordance with this Stipulation the extent, if any, to which each claim shall be
20 allowed, subject to review by the Court;

21 d. Proofs of Claim that do not meet the submission requirements may be
22 rejected. Prior to rejecting a Proof of Claim in whole or in part, the Claims
23 Administrator shall communicate with the claimant in writing to give the claimant
24 the chance to remedy any curable deficiencies in the Proof of Claim submitted. The
25 Claims Administrator, under supervision of Lead Counsel, shall notify, in a timely
26 fashion and in writing, all claimants whose claims the Claims Administrator
27 proposes to reject in whole or in part for curable deficiencies, setting forth the
28 reasons therefor, and shall indicate in such notice that the claimant whose claim is

1 to be rejected has the right to a review by the Court if the claimant so desires and
2 complies with the requirements of subparagraph (e) below;

3 e. If any claimant whose timely claim has been rejected in whole or in part for
4 curable deficiency desires to contest such rejection, the claimant must, within twenty
5 (20) calendar days after the date of mailing of the notice required in subparagraph
6 (d) above, or a lesser period of time if the claim was untimely, serve upon the Claims
7 Administrator a notice and statement of reasons indicating the claimant's grounds
8 for contesting the rejection along with any supporting documentation, and
9 requesting a review thereof by the Court. If a dispute concerning a claim cannot be
10 otherwise resolved, Lead Counsel shall thereafter present the request for review to
11 the Court; and

12 f. The determinations of the Claims Administrator accepting or rejecting
13 disputed claims shall be presented to the Court, on notice to Defendants' Counsel,
14 for approval by the Court in the Distribution Order.

15 71. Each claimant who submits a Proof of Claim shall be deemed to have submitted to
16 the jurisdiction of the Court with respect to the claimant's claim, including but not limited to, all
17 releases provided for herein and in the Judgment or Alternative Judgment, and the claim will be
18 subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that
19 such investigation and discovery shall be limited to the claimant's status as a Settlement Class
20 Member and the validity and amount of the claimant's claim. In connection with processing the
21 Proofs of Claim, no discovery shall be allowed on the merits of the Action or the Settlement.

22 72. Payment pursuant to the Distribution Order shall be deemed final and conclusive
23 against any and all Settlement Class Members. All Settlement Class Members whose claims are
24 not approved by the Court shall be barred from participating in distributions from the Net
25 Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the
26 Settlement, including the terms of the Judgment or Alternative Judgment to be entered in the Action
27 and the releases provided for herein and therein, and shall forever be barred and enjoined from the
28 assertion, institution, maintenance, prosecution, or enforcement of any and all Released Claims

1 against each and every one of the Released Defendant Parties.

2 73. All proceedings with respect to the administration, processing and determination of
3 claims described by this Stipulation and the determination of all controversies relating thereto,
4 including disputed questions of law and fact with respect to the validity of claims, shall be subject
5 to the jurisdiction of the Court, but shall not in any event delay or affect the finality of the Judgment
6 or Alternative Judgment.

7 74. No Person shall have any claim of any kind against the Released Defendant Parties
8 with respect to the matters set forth in this section (i.e., ¶¶ 68-75) or any of its subsections, or
9 otherwise related in any way to the administration of the Settlement, including without limitation
10 the processing of claims and distributions.

11 75. No Person shall have any claim against Lead Plaintiff, Lead Counsel, or the Claims
12 Administrator, or other agent designated by Lead Counsel, based on the distributions made
13 substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of
14 Allocation, or further order(s) of the Court.

15 **TERMS OF THE PRELIMINARY APPROVAL ORDER**

16 76. Concurrently with their application for preliminary approval by the Court of the
17 Settlement contemplated by this Stipulation and promptly upon execution of this Stipulation, and
18 no later than five (5) business days after the execution of the Stipulation, Lead Counsel shall apply
19 to the Court for entry of the Preliminary Approval Order, which shall be substantially in the form
20 annexed hereto as Exhibit A. The Preliminary Approval Order will, inter alia, preliminarily approve
21 the Settlement, set the date for the Settlement Hearing, approve the form of notice, and prescribe
22 the method for giving notice of the Settlement to the Settlement Class.

23 77. Spectrum shall provide, or cause to be provided, to Lead Counsel or the Claims
24 Administrator, at no cost to Lead Plaintiff or the Settlement Class, within five (5) business days of
25 entry of the Preliminary Approval Order, a list in electronic searchable form, such as Excel,
26 containing the names and addresses of Persons who purchased or acquired the common stock of
27 Spectrum during the Class Period, as identified in the records maintained by Spectrum's transfer
28 agent. Lead Counsel, other Plaintiff's Counsel and the Claims Administrator shall use such transfer

1 records solely to effectuate this Settlement and shall in all events keep the transfer records
2 confidential.

3 **TERMS OF THE FINAL ORDER AND JUDGMENT**

4 78. If the Court approves the Settlement this Stipulation memorializes, Lead Counsel
5 and Defendants' Counsel shall jointly request that the Court enter a Judgment substantially in the
6 form annexed hereto as Exhibit B

7 **EFFECTIVE DATE OF THE SETTLEMENT**

8 79. The Effective Date of this Settlement shall be the first business day on which all of
9 the following shall have occurred or been waived:

- 10 a. entry of the Preliminary Approval Order, which shall be in all material
11 respects substantially in the form set forth in Exhibit A annexed hereto;
- 12 b. payment of the Settlement Amount into the Escrow Account;
- 13 c. no Party has exercised its right to terminate the Settlement;
- 14 d. approval by the Court of the Settlement, following notice to the Settlement
15 Class and the Settlement Hearing, as prescribed by Rule 23 of the Federal Rules of
16 Civil Procedure; and
- 17 e. a Judgment, which shall be in all material respects substantially in the form
18 set forth in Exhibit B annexed hereto, will have been entered by the Court and will
19 have become Final; or in the event that an Alternative Judgment will have been
20 entered, the Alternative Judgment will have become Final.

21 **WAIVER OR TERMINATION**

22 80. Defendants and Lead Plaintiffs shall have the right to terminate the Settlement and
23 this Stipulation by providing written notice of their election to do so ("Termination Notice"),
24 through counsel, to all other Parties hereto within fourteen (14) calendar days of: (i) the Court's
25 Final refusal to enter the Preliminary Approval Order in any material respect; (ii) the Court's Final
26 refusal to approve this Stipulation or any material part of it; (iii) the Court's Final refusal to enter
27 the Judgment or an Alternative Judgment; or (iv) the date upon which the Judgment or Alternative
28 Judgment is modified or reversed in any material respect by a Final order of the Court, the United

1 States Court of Appeals, or the Supreme Court of the United States. For the avoidance of doubt,
2 Lead Plaintiff shall not have the right to terminate the Settlement due to any decision, ruling, or
3 order respecting the Fee and Expense Application or any plan of allocation.

4 81. In addition to the foregoing, Spectrum shall also have the option to terminate the
5 Settlement and render this Stipulation null and void as to all Parties if the aggregate number of
6 allegedly damaged shares of Spectrum publicly traded common stock purchased or acquired during
7 the Class Period by Persons who would otherwise be entitled to participate as members of the
8 Settlement Class, but who timely and validly request exclusion from the Settlement Class, exceeds
9 the sum specified in a separate confidential Supplemental Agreement Regarding Requests for
10 Exclusion between Lead Counsel and Defendants' Counsel ("Supplemental Agreement"). The
11 Parties agree to maintain the confidentiality of the Supplemental Agreement, which shall not be
12 filed with the Court unless a dispute arises as to its terms, or as otherwise ordered by the Court, nor
13 shall the Supplemental Agreement otherwise be disclosed unless ordered by the Court. If
14 submission of the Supplemental Agreement is required for resolution of a dispute or is otherwise
15 ordered by the Court, the Parties will undertake to have the Termination Threshold submitted to
16 the Court in camera or under seal. In the event of a termination of this Settlement pursuant to the
17 Supplemental Agreement, this Stipulation shall become null and void and of no further force and
18 effect, with the exception of the provisions of ¶¶ 87-89 which shall continue to apply.

19 82. The Preliminary Approval Order, attached hereto as Exhibit A, shall provide that
20 requests for exclusion shall be received no later than twenty-one (21) calendar days prior to the
21 Settlement Hearing. Upon receiving any request for exclusion pursuant to the Notice, Lead Counsel
22 shall promptly, and certainly no later than five (5) calendar days after receiving a request for
23 exclusion or fifteen (15) calendar days prior to the Settlement Hearing, whichever is earlier, notify
24 Defendants' Counsel of such request for exclusion and provide copies of such request for exclusion
25 and any documentation accompanying it by email.

26 83. In addition to all of the rights and remedies that Lead Plaintiff has under the terms
27 of this Stipulation, Lead Plaintiff shall also have the right to terminate the Settlement in the event
28 that the Settlement Amount has not been paid in the time period provided for in ¶ 47 above, by

1 providing written notice of the election to terminate to all other Parties and, thereafter, there is a
2 failure to pay the Settlement Amount within fourteen (14) calendar days of such written notice.

3 84. If, before the Settlement becomes Final, any Defendant files for protection under
4 the Bankruptcy Code or any similar law or a trustee, receiver, conservator, or other fiduciary is
5 appointed under Bankruptcy, or any similar law, and in the event of the entry of a final order of a
6 court of competent jurisdiction determining the transfer of money or any portion thereof to the
7 Settlement Fund by or on behalf of such Defendant to be a preference, voidable transfer, fraudulent
8 transfer or similar transaction and any portion thereof is required to be returned, and such amount
9 is not promptly deposited into the Settlement Fund by others, then, at the election of Lead Plaintiff,
10 the Parties shall jointly move the Court to vacate and set aside the release given and the Judgment
11 or Alternative Judgment entered in favor of that Defendant and that Defendant and Lead Plaintiff
12 and the members of the Settlement Class shall be restored to their litigation positions immediately
13 prior to July 23, 2019. All releases and the Judgment or Alternative Judgment as to other
14 Defendants shall remain unaffected.

15 85. Spectrum warrants, as to itself and the payments made on its and its current and
16 former officers' behalves, that, at the time of such payment, it will not be insolvent, nor will
17 payment render it insolvent, within the meaning of and/or for the purposes of the United States
18 Bankruptcy Code, including Sections 101 and 547 thereof.

19 86. If an option to terminate this Stipulation and Settlement arises under any of ¶¶ 80-
20 85 above: (i) neither Defendants nor Lead Plaintiff (as the case may be) will be required for any
21 reason or under any circumstance to exercise that option; and (ii) any exercise of that option shall
22 be made in good faith, but in the sole and unfettered discretion of Defendants or Lead Plaintiff, as
23 applicable.

24 87. With the exception of the provisions of ¶¶ 87-89 which shall continue to apply, in
25 the event the Settlement is terminated as set forth herein or cannot become effective for any reason,
26 then the Settlement shall be without prejudice, and none of its terms shall be effective or enforceable
27 except as specifically provided herein; the Parties shall be deemed to have reverted to their
28 respective litigation positions in the Action immediately prior to July 25, 2019; and, except as

1 specifically provided herein, the Parties shall proceed in all respects as if this Stipulation and any
2 related order had not been entered. In such event, this Stipulation, and any aspect of the discussions
3 or negotiations leading to this Stipulation shall not be admissible in this Action and shall not be
4 used against or to the prejudice of Defendants or against or to the prejudice of Lead Plaintiff, in
5 any court filing, deposition, at trial, or otherwise.

6 88. In the event the Settlement is terminated or fails to become effective for any reason,
7 any portion of the Settlement Amount previously paid, together with any earnings thereon, less any
8 Taxes paid or due, less Notice and Administration Expenses actually incurred and paid or payable
9 from the Settlement Amount, shall be returned to the Person(s) that made the deposit(s) within ten
10 (10) business days after written notification of such event in accordance with instructions provided
11 by Defendants' Counsel to Lead Counsel. At the request of Defendants' Counsel, the Escrow Agent
12 or its designees shall apply for any tax refund owed on the amounts in the Escrow Account and pay
13 the proceeds, after any deduction of any fees or expenses incurred in connection with such
14 application(s), of such refund to the Person(s) that made the deposits or as otherwise directed.

15 **NO ADMISSION**

16 89. Except as set forth in ¶ 90, this Stipulation, whether or not consummated, and
17 whether or not approved by the Court, and any discussion, negotiation, proceeding, or agreement
18 relating to the Stipulation, the Settlement, and any matter arising in connection with settlement
19 discussions or negotiations, proceedings, or agreements, shall not be offered or received against or
20 to the prejudice of the Parties or their respective counsel, for any purpose other than in an action to
21 enforce the terms hereof, and in particular:

22 a. do not constitute, and shall not be offered or received against or to the
23 prejudice of Defendants as evidence of, or construed as, or deemed to be evidence
24 of any presumption, concession, or admission by Defendants with respect to the
25 truth of any allegation by Lead Plaintiff and the Settlement Class, or the validity of
26 any claim that has been or could have been asserted in the Action or in any litigation,
27 including but not limited to the Released Claims, or of any liability, damages,
28 negligence, fault or wrongdoing of Defendants or any person or entity whatsoever;

1 b. do not constitute, and shall not be offered or received against or to the
2 prejudice of Defendants as evidence of a presumption, concession, or admission of
3 any fault, misrepresentation, or omission with respect to any statement or written
4 document approved or made by Defendants, or against or to the prejudice of Lead
5 Plaintiff, or any other member of the Settlement Class as evidence of any infirmity
6 in the claims of Lead Plaintiff, or the other members of the Settlement Class;

7 c. do not constitute, and shall not be offered or received against or to the
8 prejudice of Defendants, Lead Plaintiff, any other member of the Settlement Class,
9 or their respective counsel, as evidence of a presumption, concession, or admission
10 with respect to any liability, damages, negligence, fault, infirmity, or wrongdoing,
11 or in any way referred to for any other reason against or to the prejudice of any of
12 the Defendants, Lead Plaintiff, other members of the Settlement Class, or their
13 respective counsel, in any other civil, criminal, or administrative action or
14 proceeding, other than such proceedings as may be necessary to effectuate the
15 provisions of this Stipulation;

16 d. do not constitute, and shall not be construed against Defendants, Lead
17 Plaintiff, or any other member of the Settlement Class, as an admission or
18 concession that the consideration to be given hereunder represents the amount that
19 could be or would have been recovered after trial; and

20 e. do not constitute, and shall not be construed as or received in evidence as an
21 admission, concession, or presumption against Lead Plaintiff, or any other member
22 of the Settlement Class, that any of their claims are without merit or infirm or that
23 damages recoverable under the Complaint would not have exceeded the Settlement
24 Amount.

25 90. Notwithstanding ¶ 89 above, the Parties, and their respective counsel, may file this
26 Stipulation and/or the Judgment or Alternative Judgment in any action that may be brought against
27 them in order to support a defense or counterclaim based on principles of res judicata, collateral
28 estoppel, release, statute of limitations, statute of repose, good-faith settlement, judgment bar or

1 reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim,
2 or to effectuate any liability protection granted them under any applicable insurance policy. The
3 Parties may file this Stipulation and/or the Judgment or Alternative Judgment in any action that
4 may be brought to enforce the terms of this Stipulation and/or the Judgment or Alternative
5 Judgment. All Parties submit to the jurisdiction of the Court for purposes of implementing and
6 enforcing the Settlement.

7 **MISCELLANEOUS PROVISIONS**

8 91. All of the exhibits to the Stipulation (except any plan of allocation to the extent
9 incorporated in those exhibits) and the Supplemental Agreement are material and integral parts
10 hereof and are fully incorporated herein by this reference.

11 92. The Parties intend the Settlement to be the full, final, and complete resolution of all
12 claims asserted or that could have been asserted by the Parties with respect to the Released Claims
13 and Released Defendants' Claims. Accordingly, the Parties agree not to assert in any forum that
14 the Action was brought, prosecuted, or defended in bad faith or without a reasonable basis. The
15 Parties and their respective counsel agree that each has complied fully with Rule 11 of the Federal
16 Rules of Civil Procedure in connection with the maintenance, prosecution, defense, and settlement
17 of the Action and shall not make any application for sanctions, pursuant to Rule 11 or other court
18 rule or statute, with respect to any claim or defense in this Action. The Parties agree that the amount
19 paid and the other terms of the Settlement were negotiated at arm's-length and in good faith by the
20 Parties and their respective counsel and reflect a settlement that was reached voluntarily based upon
21 adequate information and after consultation with experienced legal counsel.

22 93. This Stipulation, along with its exhibits and the Supplemental Agreement may not
23 be modified or amended, nor may any of its provisions be waived, except by a writing signed by
24 counsel for the Parties hereto, or their successors, that are materially and adversely affected by the
25 modification, amendment, or waiver.

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

28 95. The administration and consummation of the Settlement as embodied in this

1 Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the
2 purpose of entering orders providing for awards of attorneys' fees and any expenses, and
3 implementing and enforcing the terms of this Stipulation.

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

6 97. This Stipulation, its exhibits, and the Supplemental Agreement constitute the entire
7 agreement among the Parties concerning the Settlement as against the Defendants, and no
8 representation, warranty, or inducement has been made by any Party concerning this Stipulation
9 and its exhibits other than those contained and memorialized in such documents.

10 98. Nothing in the Stipulation, or the negotiations relating thereto, is intended to or shall
11 be deemed to constitute a waiver of any applicable privilege or immunity, including, without
12 limitation, attorney-client privilege, joint defense privilege, or work product protection.

13 99. Without further order of the Court, the Parties may agree to reasonable extensions
14 of time to carry out any of the provisions of this Stipulation.

15 100. Pending final approval by the Court of the Stipulation and its attached exhibits, all
16 proceedings in the Action shall remain stayed unless modified by Court order.

17 101. All designations and agreements made, or orders entered during the course of the
18 Action relating to the confidentiality of documents or information shall survive this Stipulation.

19 102. This Stipulation may be executed in one or more counterparts. All executed
20 counterparts and each of them shall be deemed to be one and the same instrument. Signatures sent
21 by facsimile or via e-mail in pdf format shall be deemed originals.

22 103. This Stipulation shall be binding upon, and inure to the benefit of, the successors
23 and assigns of the Parties.

24 104. The construction, interpretation, operation, effect, and validity of this Stipulation,
25 and all documents necessary to effectuate it, shall be governed by the laws of the State of Nevada
26 without regard to conflicts of laws, except to the extent that federal law requires that federal law
27 govern.

28 105. This Stipulation shall not be construed more strictly against one Party than another

1 merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of
2 the Parties, it being recognized that it is the result of arm's-length negotiations among the Parties,
3 and all Parties have contributed substantially and materially to the preparation of this Stipulation.

4 106. All counsel and any other person executing this Stipulation and any of the exhibits
5 hereto, or any related Settlement document, warrant and represent that they have the full authority
6 to do so, and that they have the authority to take appropriate action required or permitted to be taken
7 pursuant to the Stipulation to effectuate its terms.

8 107. The Parties and their respective counsel agree to cooperate fully with one another in
9 promptly applying for preliminary approval by the Court of the Settlement and for the scheduling
10 of a hearing for consideration of Final approval of the Settlement and Lead Counsel's Fee and
11 Expense Application, and to agree promptly upon and execute all such other documentation as
12 reasonably may be required to obtain Final approval by the Court of the Settlement.

13 108. Except as otherwise provided herein, each Party shall bear its own costs.

14 **IN WITNESS WHEREOF**, the Parties have caused this Stipulation to be executed, by
15 their duly authorized attorneys, as of October 21, 2019.

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