

## EXHIBIT A

“**Releasee**” means each and every one of, and “**Releasees**” means all of, the following: Global Crossing, each of the ERISA Plans and Simpson Thacher, and each of their respective past and present directors, officers, employees, members, partners, principals, agents, attorneys, advisors, trustees, administrators, fiduciaries (including, without limitation, independent fiduciaries in connection with any ERISA Plan), consultants, representatives, accountants and auditors, as well as the Insurers, including, without limitation, the Settling Defendants and each of their respective estates, heirs, executors, agents, attorneys, accountants, trusts, trustees, administrators and assigns, entities owned by a Settling Defendant or in which a Settling Defendant has a Controlling Interest, Patrick Joggerst, Hank Millner, Susan Dullabh, Thomas Robershaw, Robin Wright, Jackie Armstrong, Brian Fitzpatrick and David Carey, and any representatives of any of the foregoing, and each of them; *provided however*, that the term Releasees does not include any individual or entity identified by name as a Securities Non-Settling Defendant or an ERISA Non-Settling Defendant in Sections I.E.1.nnnnnnnn below and I.E.1.ttt above, and does not include Asia Netcom Corporation Limited, CXO, L.L.C. or Pivotal Telecom, L.L.C., or any subsidiaries or affiliates (as defined in 17 C.F.R. Part 210.1-02.b) of Asia Netcom Corporation Limited, CXO, L.L.C. or Pivotal Telecom, L.L.C.; *provided further* that, with respect to the Securities Action, the term Releasees does not include any entity to the extent (and only to such extent) that it is potentially liable to Class Members as a successor of Arthur Andersen LLP, Arthur Andersen Asahi & Co. or Andersen Worldwide S.C.

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“**Released Claims**” means each and every Claim or Unknown Claim, whether arising under any federal, state or foreign statutory or common law or rule, that has been, could have been, or could be asserted against any of the Releasees *(a)* in the Actions or *(b)* in any other court, tribunal or other forum of competent jurisdiction arising out of or related, directly or indirectly, to *(i)* the purchase, sale, exchange, acquisition, disposal, transfer or any other Investment Decision involving Global Crossing Securities, during the Securities Class Period, *(ii)* the purchase, sale, exchange, acquisition, disposal, transfer or any other Investment Decision involving Global Crossing Securities in any of the ERISA Plans, during the ERISA Class Period and *(iii)* the participation in the Change of Control Severance Plan and/or the Global Crossing Severance Plan. Without limiting the generality of the foregoing, the term Released Claims includes, without limitation, any Claims or Unknown Claims arising out of or relating to:

(1) any or all of the acts, failures to act, omissions, misrepresentations, facts, events, matters, transactions, statements, occurrences, or oral or written statements or representations that have been, could have been or could be directly or indirectly alleged, embraced, complained of, asserted, described, set forth or otherwise referred to in the Actions;

(2) the contents of any SEC Filing, DOL Filing or IRS Filing during the Class Period by any of the Releasees *(i)* relating to Global Crossing Securities or Global Crossing or *(ii)* relating to or made in connection with any of the ERISA Plans;

(3) any forward-looking statement regarding Global Crossing made by any of the Releasees during the Class Period;

(4) the contents of any SEC Filing, DOL Filing, IRS Filing or any publication, dissemination, adjustment, revision or restatement of financial information of Global Crossing relating to the Class Period;

(5) any disclosure, representation or statement of any sort (oral or written) made by any of the Releasees during the Class Period to any person or entity, or to the public at large regarding, without limitation, Global Crossing's business, its financial condition, its operational results and/or its financial or operational prospects, including, without limitation, any press releases and/or press reports, earnings calls, memoranda (whether internally or externally circulated), and presentations to analysts, creditors, rating agencies, banks or other lenders, investment bankers, broker dealers, investment advisors, investment companies, bond holders, Global Crossing employees, potential and actual vendors or customers, participants in one or more of the ERISA Plans, potential investors and/or shareholders;

(6) any disclosure, representation, or statement of any sort (oral or written) made by any of the Releasees during the Class Period to any person or entity regarding any of the ERISA Plans;

(7) any internal and/or external accounting memoranda, reports or opinions prepared by the Company or any of the Releasees during, or that relate in any way to, the Class Period, including, without limitation, any such memoranda, reports or opinions with respect to the Company's compliance with bank covenants, or on which any Class Member allegedly relied during the Class Period in purchasing, selling, exchanging, acquiring, disposing of, transferring, or making any other Investment Decision regarding, Global Crossing Securities;

(8) Global Crossing's record keeping during, or that relates in any way to any of the transactions or other events occurring in, the Class Period;

(9) any financial statement, audited or unaudited, and any report or opinion on any financial statement relating to Global Crossing that was prepared or issued by the Company or any of the Releasees during, or that relates in any way to, the Class Period, or on which any Class Member allegedly or actually relied during the Class Period in purchasing, selling, exchanging, acquiring, disposing of, transferring, or making any other Investment Decision involving, Global Crossing Securities;

(10) any statements or omissions by any of the Releasees as to quarterly or annual results of Global Crossing during the Class Period, including, without limitation, statements or omissions in connection with Earnings Releases or during calls and/or meetings with one or more analysts or investors, and statements or omissions regarding the use, description or provision of information with respect to any GAAP measurements or with respect to Consolidated Cash Flow, Consolidated EBITDA, Adjusted EBITDA, Recurring Adjusted EBITDA, Cash Revenue, Deferred Cash Revenue, or any other pro-forma or non-GAAP measurements (as defined in 17 C.F.R. Part 244.101) as those terms are described or used in SEC Filings, DOL Filings, IRS Filings, Earnings Releases or in connection with calls and/or meetings with analysts;

(11) any internal accounting controls or internal audits of Global Crossing during, or that relate in any way to, the Class Period;

(12) any purchases, sales, exchanges, acquisitions, disposals, retentions, transfers or other trading (including, without limitation, collar and hedge transactions) or any other Investment Decision involving Global Crossing Securities, any profits made or losses avoided in connection with a transaction involving Global Crossing Securities during the Class Period by any of the Releasees, or any acts taken by Releasees to finance or pay for any such transactions, including, but not limited to, any personal profit, remuneration or advantage received by a Releasee in connection with a transaction involving Global Crossing Securities to which he, she or it was allegedly not legally entitled;

(13) any personal profit, remuneration or advantage received by a Releasee from any source in connection with any initial or other public offering of securities to the extent such personal profit, remuneration or advantage was received by the Releasee because of the Releasee's relationship with Global Crossing;

(14) any of Global Crossing's accounting practices or procedures, including any disclosure and disclosure obligations relating thereto, during the Class Period, including, but not limited to, adoption, use and/or application of any accounting principles or standards, or the manner in which the Company accounted for or recorded (i) sales and/or purchases of indefeasible rights of use, (ii) sales and/or purchases of terrestrial back-haul, (iii) sales and/or purchases of, and payments and/or receipt of payments for, services, including operations, administration and maintenance services, or (iv) transactions with its carrier customers in which Global Crossing contemporaneously purchased and sold telecommunications capacity and/or services, including, without limitation, all "swaps," reciprocal transactions, concurrent transactions or any other similar transactions without regard to how such transactions were characterized internally by the Company or by any other parties (including, without limitation, Global Crossing's carrier customers and analysts);

(15) any statements or omissions by any of the Releasees in connection with Global Crossing's acquisition of any entity, including, without limitation, Frontier Corporation, Global Marine Services, RACAL, IPC Communications and IXnet, including, without limitation, any statements or omissions regarding the effect of any such acquisition on, or relationship between, any such acquisition and one or more of the ERISA Plans;

(16) the integration of Global Crossing (16) or any of its divisions, business units or companies, and any of the entities that it acquired, including, without limitation, Frontier Corporation, Global Marine Services, RACAL, IPC Communications and IXnet;

(17) any statements or omission by any of the Releasees in connection with Global Crossing's sale of any divisions, business units, companies and/or assets to Citizens Communications Co., including, without limitation, the termination of any ERISA Plans or the transfer of any ERISA Plan assets in connection with such a sale;

(18) any and all Claims against any Releasees relating in any way to any of the facts or allegations addressed or discussed or in any way related to the investigation, findings or Claims of the Special Committee on Accounting Matters formed by Global Crossing on or about February 11, 2002, including, without limitation, any of the facts or allegations addressed or discussed or in any way related to the February 18, 2003 report of the Special Committee and accompanying materials, documents and exhibits, including a February 18, 2003 letter.

(19) the integration or merger of any Employee Benefit Plan into the Global Crossing Employees' Retirement Savings Plan;

(20) the relationship and any transactions, actual or contemplated, between or among Global Crossing Ltd. and any of its parents, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), divisions, business units, subsidiaries and entities in which it has a Controlling Interest, including, but not limited to, Asia Global Crossing Ltd.;

(21) any or all Claims relating to the decision to file a bankruptcy petition on behalf of Global Crossing Ltd., Asia Global Crossing Ltd. and/or Pacific Crossing Ltd.;

(22) any or all Claims relating to any relationship between any Releasee and any company making a bid to purchase Global Crossing Ltd., Asia Global Crossing Ltd., Pacific Crossing Ltd. and/or any assets of Global Crossing Ltd., Asia Global Crossing Ltd. and/or Pacific Crossing Ltd, including, without limitation, any relationship between any Releasee and Hutchison Whampoa Limited, Singapore Technologies Telemedia Pte. and/or K1 Ventures;

(23) any or all Claims against an individual Releasee that are based upon or arise out of the Releasee's (i) status as a director, officer or employee of, or investor in, the Company or (ii) acts or omissions in his or her capacity as a director, officer or employee of, or investor in, the Company;

(24) any or all transactions between Global Crossing and a Releasee or any entity that is an affiliate (as defined in 17 C.F.R. Part 210.1-02.b) of a Releasee or in which a Releasee has a Controlling Interest;

(25) the suitability or prudence of any ERISA Plan's investing in Global Crossing Securities during the Class Period;

(26) any and all activities undertaken in a fiduciary capacity with respect to the ERISA Plans;

(27) purchases, sales, exchanges, acquisitions, disposals, transfers or any other Investment Decisions involving Global Crossing Securities on behalf of the ERISA Plans or on behalf of any participant in or beneficiary of, or any person having an interest in, the ERISA Plans;

(28) issuance of treasury shares of Global Crossing Securities to the ERISA Plans;

(29) any decisions made, actions taken, or failures to act with respect to payments under the Change of Control Severance Plan and/or the Global Crossing Severance Plan, including, without limitation, decisions regarding the timing of such payments;

(30) any or all Claims against an individual Releasee that are based upon or arise out of the Releasee's (i) alleged status as a fiduciary with respect to any of the ERISA Plans or (ii) acts or omissions in his or her capacity as a fiduciary with respect to any of the ERISA Plans;

(31) any or all Claims based upon the design, structure and/or terms of any of the ERISA Plans;

(32) any or all Claims relating to benefits or payments due under any of the ERISA Plans on or before the Execution Date;

(33) any or all claims against any Releasee relating to the administration of any of the ERISA Plans arising on or before the Execution Date; and

(34) any or all other Claims or other matters relating in any way to Global Crossing's finances, disclosures, financial condition or accounting practices, or Releasees' disclosures to or communications with other parties, including, without limitation, the public and all lenders, creditors, shareholders and other persons engaged in financial transactions with Global Crossing.

*Provided* that notwithstanding anything in this Section I.E.1.iii, the term "Released Claims" shall not include, and nothing in this Settlement Agreement shall interfere with or bar the prosecution of, (i) any Claim asserted against Global Crossing Ltd., Asia Global Crossing Ltd., Pacific Crossing Ltd. and/or any of their subsidiaries or affiliates (as defined in 17 C.F.R. Part 210.1-02.b, including, but not limited to, Asia Global Crossing Development Company) in a proof of claim or request for payment of an administrative expense filed on or before the applicable bar date, or any amendments to such proof of claim or request for payment of an administrative expense (other than any of the proofs of claim filed on behalf of Class Members or any of them by Securities Lead Plaintiffs or ERISA Plaintiffs) in the Global Crossing Bankruptcy Proceeding, the Asia Global Crossing Bankruptcy Proceeding, the Pacific Crossing Bankruptcy Proceeding, any bankruptcy proceeding arising out of the Global Crossing Bankruptcy Proceeding, the Asia Global Crossing Bankruptcy Proceeding, the Pacific Crossing Bankruptcy Proceeding, and/or any bankruptcy proceeding relating to any subsidiary or affiliate (as defined in 17 C.F.R. Part 210.1-02.b) of Global Crossing Ltd., Asia Global Crossing Ltd. or Pacific Crossing Ltd. (including, but not limited to, the bankruptcy proceeding of Asia Global Crossing Development Company), which Claim shall be able to be pursued consistent with the Final rulings of the relevant bankruptcy court or relevant reviewing court, (ii) any Claim against any person or entity appointed by either the Global Crossing Bankruptcy Court, the Asia Global Crossing Bankruptcy Court, the Pacific Crossing Bankruptcy Court, or any other bankruptcy court in a proceeding involving an affiliate (as defined in 17 C.F.R. Part 210.1-02.b) or subsidiary of any of the three preceding entities, or against Pacific Crossing Ltd., any of its subsidiaries or affiliates (as defined in 17 C.F.R. Part 210.1-02.b) acting as a debtor in possession, or their lenders where such Claim arises out of, relates to, or is filed in response to any Claim made

by such person or entity or by Pacific Crossing Ltd. or any of Pacific Crossing Ltd.'s subsidiaries, affiliates (as defined in 17 C.F.R. Part 210.1-02.b) or lenders against a Class Member or a Releasee, (iii) any claim for wages (including severance) asserted against Global Crossing Ltd., Asia Global Crossing Ltd., Pacific Crossing Ltd. and/or any of their subsidiaries or affiliates (as defined in 17 C.F.R. Part 210.1-02.b, including, but not limited to, Asia Global Crossing Development Company) in a proof of claim or request for payment of an administrative expense submitted by any Class Member on or before the applicable bar date, or any amendments to such proof of claim or request for payment of an administrative expense (other than any of the proofs of claim filed on behalf of Class Members or any of them by Securities Lead Plaintiffs or ERISA Plaintiffs) in the Global Crossing Bankruptcy Proceedings, the Asia Global Crossing Bankruptcy Proceedings, the Pacific Crossing Bankruptcy Proceeding and/or any bankruptcy proceeding relating to any subsidiary or affiliate (as defined in 17 C.F.R. Part 210.1-02.b) of Global Crossing Ltd., Asia Global Crossing Ltd. or Pacific Crossing Ltd. (including, but not limited to, the bankruptcy proceeding of Asia Global Crossing Development Company) with respect to which Claim, a Class Member shall be able to pursue the Claim consistent with the Final rulings of the relevant bankruptcy court or relevant reviewing court, (iv) any claim (including, but not limited to, a claim for insurance coverage) concerning any insurance or indemnity policy other than the Executive Liability Insurance Policies, the Fiduciary Liability Insurance Policy and/or the Pender Policy or (v) any claim that would otherwise be included in the foregoing clauses I.E.1.iii(30) through I.E.1.iii(34) to the extent such claim (a) is brought under ERISA Section 502(a)(1)(A) with respect to any ERISA Plan other than the Frontier Group Employees' Retirement Savings Plan, the Global Crossing Employees' Retirement Savings Plan, the Upstate Cellular Network Employees' Retirement Savings Plan, the IPC/IXnet 401(k) Plan, the Global Crossing 401(k) Plan, or the Change in Control Severance Plan, or (b) is brought under ERISA Section 502(a)(1)(B) to recover benefits or other individualized relief under or with respect to any ERISA Plan other than claims for benefits or other individualized relief (1) under or with respect to the Change in Control Severance Plan or (2) under or with respect to the Frontier Group Employees' Retirement Savings Plan, the Global Crossing Employees' Retirement Savings Plan, the Upstate Cellular Network Employees' Retirement Savings Plan, the IPC/IXnet 401(k) Plan or the Global Crossing 401(k) Plan to the extent such claim arises out of or relates directly or indirectly to the purchase, sale, exchange, acquisition, disposal, transfer or any other Investment Decision involving Global Crossing Securities in any such Plan during the ERISA Class Period.

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## **IX. RELEASE AND WAIVER, AND ORDER OF DISMISSAL**

### **A. Securities Release and Waiver**

1. Without further action by anyone, and subject to Section IX.A.4 below, on and after the date on which all of the payments required by Sections II.C.1.a, II.C.1.b, II.C.4 and II.C.5 have been made into the Cash Settlement Securities Subaccount, any and all Securities Class Members (including those Securities Class Members who are parties to any other litigation, arbitration or other proceedings against, or have any Claim against any of the Releasees that is, or relates in any way to, any Released Claim that is pending on the Final Settlement Date), on behalf of themselves, their heirs, executors, administrators, beneficiaries, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), assigns, any person or entity claiming by or through any of the Securities Class Members and any person or entity representing any or all Securities Class Members, for good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, shall be deemed to have, and by operation of law and of the Final Judgment shall have, fully, finally, and forever released, relinquished, settled, and discharged:

a. all Released Claims against each and every one of the Releasees, including such Released Claims as already have been, could have been or could be asserted in any pending litigation, arbitration, or other proceeding, or other Claims, and whether or not a Securities Proof of Claim has been executed and/or delivered by, or on behalf of, any such Securities Class Member;

b. all claims, damages and liability as to Securities Lead Counsel or any or all Securities Lead Plaintiffs, Executive Committee Members, Securities Plaintiffs, Settling Defendants' Counsel, Separate Releasee Counsel and each and every one of the Releasees that relate in any way to any or all acts, omissions, nondisclosures, facts, matters, transactions, occurrences or oral or written statements or representations in connection with or directly or indirectly relating to the prosecution, defense or settlement of the Securities Action or to this Settlement Agreement, and any and all claims for attorneys' fees, costs or disbursements incurred by Securities Lead Counsel or other counsel representing Securities Lead Plaintiffs, Securities Plaintiffs or the Securities Class Members in the Securities Action, or any of them, in connection with or related in any manner to the Securities Action, the ERISA Actions, the settlement of the Securities Action and/or the ERISA Actions, or the administration of the Securities Action, the ERISA Actions and/or the settlement of such Actions except to the extent otherwise specified in this Settlement Agreement; and

c. all claims, damages and liabilities as to the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent, the ERISA Escrow Agent, the Simpson Thacher Escrow Agent, the Winnick Securities Escrow Agent and the Winnick ERISA Escrow Agent for anything done or omitted by such agent in performing its duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow

Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement except such claims that are based upon the Securities Insurers' Escrow Agent's, the Securities Reinsurers' Escrow Agent's, the ERISA Escrow Agent's, the Simpson Thacher Escrow Agent's, the Winnick Securities Escrow Agent's and/or the Winnick ERISA Securities Escrow Agent's (as the case may be) bad faith, gross negligence, willful misconduct or breach of, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement.

2. Without further action by anyone, and subject to Section IX.A.4 below, on and after the date on which all of the payments required by Sections II.C.1.a, II.C.1.b, II.C.4 and II.C.5 have been made into the Cash Settlement Securities Subaccount, all Securities Settling Defendants' Counsel and any or all Securities Settling Defendants, Simpson Thacher and Separate Releasee Counsel on behalf of themselves, their heirs, executors, administrators, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), assigns, any person or entity claiming by or through any of the Securities Settling Defendants and any person or entity representing any or all Securities Settling Defendants, for good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, shall be deemed to have, and by operation of law and of the Final Judgment shall have, fully, finally, and forever released, relinquished, settled, and discharged (i) Securities Lead Counsel and any or all Securities Lead Plaintiffs and Securities Plaintiffs from any and all Claims and/or Unknown Claims that relate in any way to any or all acts directly or indirectly relating to the prosecution, defense or settlement of the Securities Action, the ERISA Actions or to this Settlement Agreement. (ii) the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent, the ERISA Escrow Agent, the Simpson Thacher Escrow Agent, the Winnick Securities Escrow Agent and the Winnick ERISA Escrow Agent from all claims, damages and liabilities as to anything done or omitted by such agent in performing its duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement except such claims that are based upon the Securities Insurers' Escrow Agent's, the Securities Reinsurers' Escrow Agent's, the ERISA Escrow Agent's, the Simpson Thacher's Escrow Agent's, the Winnick Securities Escrow Agent's and/or the Winnick ERISA Escrow Agent's (as the case may be) bad faith, gross negligence, willful misconduct or breach of, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement and (iii) the Insurers from all claims, damages and liabilities as to anything done or omitted by the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent and the ERISA Escrow Agent in performing duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed and the ERISA Escrow Agreement.

3. Without further action by anyone, and subject to Section IX.A.4 below, on and after the date on which all of the payments required by Sections II.C.1.a, II.C.1.b, II.C.4 and II.C.5 have been made into the Cash Settlement Securities Subaccount, Securities Lead Counsel, Executive Committee Members, and any or all Securities Lead Plaintiffs or Securities Plaintiffs, on behalf of themselves, their heirs, executors, administrators, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), assigns, any person or entity claiming by or through any of them and any person or entity representing any or all Securities Lead Plaintiffs and/or Securities Plaintiffs, for good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, shall be deemed to have, and by operation of law and of the Final Judgment shall have, fully, finally, and forever released, relinquished, settled, and discharged (i) Settling Defendants' Counsel, Separate Releasee Counsel and any or all Releasees from any and all Claims and/or Unknown Claims that relate in any way to any or all acts directly or indirectly relating to the prosecution, defense or settlement of the Securities Action, the ERISA Actions or to this Settlement Agreement, (ii) the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent, the ERISA Escrow Agent, the Simpson Thacher Escrow Agent, the Winnick Securities Escrow Agent and the Winnick ERISA Escrow Agent from all claims, damages and liabilities as to anything done or omitted by the such agent in performing its duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement except such claims that are based upon the Securities Insurers' Escrow Agent's, the Securities Reinsurers' Escrow Agent's, the ERISA Escrow Agent's, the Simpson Thacher Escrow Agent's, the Winnick Securities Escrow Agent's and/or the Winnick ERISA Escrow Agent's (as the case may be) bad faith, gross negligence, willful misconduct or breach of, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement and (iii) the Insurers from all claims, damages and liabilities as to anything done or omitted by the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent and the ERISA Escrow Agent in performing duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed and the ERISA Escrow Agreement.

4. Notwithstanding Sections IX.A.1, IX.A.2 and IX.A.3 above, nothing in the Final Judgment shall bar any action or claim by the Securities Settling Parties to enforce the terms of this Settlement Agreement or the Final Judgment.

5. Notwithstanding Sections IX.A.1, IX.A.2 and IX.A.3 above, nothing in this Settlement Agreement or the Final Judgment shall release, interfere with or bar the prosecution of, any claims brought by plaintiff in the action captioned *JPMorgan Chase Bank, et al. v. Winnick, et al.*, currently pending in the court as Case No. 03 Civ. 8535 (GEL).

6. With respect to any and all Released Claims, the Securities Settling Parties stipulate and agree that, by the terms of the Final Judgment, each Securities Class Member shall have and be deemed to have waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by Section 1542 of the California Civil Code or any federal, state, or foreign law, rule, regulation or common law doctrine that is similar, comparable, equivalent, or identical to, or which has the effect of, Section 1542 of the California Civil Code, which provides:

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

Notwithstanding the provisions of Section 1542 and any similar provisions, rights and benefits conferred by any law, rule, regulation or common law doctrine of California or in any federal, state or foreign jurisdiction, Securities Class Members understand and agree that, subject to Section IX.A.4 above, the Securities Release is intended to include all Released Claims Securities Class Members have or may have, including Released Claims that are Unknown Claims. Securities Class Members hereby stipulate and agree that they shall have and be deemed to have, on or after the date on which all of the payments required by Sections II.C.1.a, II.C.1.b, II.C.4 and II.C.5 have been made into the Cash Settlement Securities Subaccount, fully, finally and forever settled and released any and all Released Claims whether or not they are Unknown Claims.

7. With respect to the releases provided in Sections IX.A.2 and IX.A.3, each individual and entity providing such release stipulates and agrees that, by the terms of the Final Judgment, each such individual and entity shall have and be deemed to have waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by Section 1542 of the California Civil Code or any federal, state, or foreign law, rule, regulation or common law doctrine that is similar, comparable, equivalent, or identical to, or which has the effect of, Section 1542 of the California Civil Code, which provides:

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

Notwithstanding the provisions of Section 1542 and any similar provisions, rights and benefits conferred by any law, rule, regulation or common law doctrine of California or in any federal, state or foreign jurisdiction, each individual and entity providing a release in either Section IX.A.2 or Section IX.A.3 above understands and agrees that the Securities Release is intended to include all Claims and/or Unknown Claims that he, she or it has or may have that relate in any way to any or all acts directly or indirectly relating to the prosecution, defense or settlement of the Securities Action or to this Settlement Agreement, including such Claims that are Unknown Claims. Each such individual and entity hereby stipulates and agrees that he, she or it shall have and be deemed to have, on or after the date on which all of the payments required by Sections II.C.1.a, II.C.1.b, II.C.4 and II.C.5 have been made into the Cash Settlement Securities Subaccount, fully, finally and forever settled and released any and all Claims that relate in any way to any or all acts directly or indirectly relating to the prosecution, defense or settlement of the Securities Action, the ERISA Actions or to this Settlement Agreement whether or not they are Unknown Claims.

8. The releases and waivers contained in this Section IX.A were separately bargained for and are essential elements of this Settlement Agreement.

## **B. ERISA Release and Waiver**

1. Without further action by anyone, and subject to Section IX.B.4 below, on and after the date on which all of the payments required by Sections II.C.2.a and II.C.3 have been made into the Cash Settlement ERISA Subaccount, any and all ERISA Class Members (including those who are parties to any other litigation, arbitration or other proceedings, or have any Claim against any of the Releasees that is, or relates in any way to, any Released Claim that is pending on the Final Settlement Date), on behalf of themselves, their heirs, executors, administrators, beneficiaries, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), assigns, any person or entity claiming by or through any of the ERISA Class Members and any person or entity representing any or all ERISA Class Members, for good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, shall be deemed to have, and by operation of law and of the Final Judgment shall have, fully, finally, and forever released, relinquished, settled, and discharged:

a. all Released Claims against each and every one of the Releasees, including such Released Claims as already have been, could have been or could be asserted in any pending litigation, arbitration, or other proceeding, or other Claims;

b. all claims, damages and liabilities as to ERISA Plaintiffs' Counsel or any or all ERISA Plaintiffs, Settling Defendants' Counsel or Releasees that relate in any way to any or all acts, omissions, nondisclosures, facts, matters, transactions, occurrences or oral or written statements or representations in connection with or directly or indirectly relating to the prosecution, defense or settlement of the ERISA Actions or to this Settlement Agreement, and any and all claims for attorneys' fees, costs or disbursements incurred by ERISA Plaintiffs Counsel or other counsel representing ERISA Plaintiffs or the ERISA Class Members in the ERISA Actions, or any of them, in connection with or related in any manner to the ERISA Actions, the Securities Action, the settlement of the ERISA Actions and/or the Securities Action, or the administration of the ERISA Actions, the Securities Action and/or the settlement of such Actions except to the extent otherwise specified in this Settlement Agreement; and

c. all claims, damages and liabilities as to the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent, the ERISA Escrow Agent, the Simpson Thacher Escrow Agent, the Winnick Securities Escrow Agent and the Winnick ERISA Escrow Agent for anything done or omitted by the such agent in performing its duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement except such claims that are based upon the Securities Insurers' Escrow Agent's, the Securities Reinsurers' Escrow Agent's, the ERISA Escrow Agent's, the Simpson Thacher Escrow Agent's the Winnick Securities Escrow Agent's and/or the Winnick ERISA Securities Escrow Agent's (as the case may be) bad faith, gross negligence, willful misconduct or breach of, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement.

2. Without further action by anyone, and subject to Section IX.B.4 below, on and after the date on which all of the payments required by Sections II.C.2.a and II.C.3 have been made into the Cash Settlement ERISA Subaccount, all ERISA Settling Defendants' Counsel and any or all ERISA Settling Defendants on behalf of themselves, their heirs, executors, administrators, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), assigns, any person or entity claiming by or through any of the ERISA Settling Defendants and any person or entity representing any or all ERISA Settling Defendants, for good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, shall be deemed to have, and by operation of law and of the Final Judgment shall have, fully, finally, and forever released, relinquished, settled, and discharged (i) ERISA Plaintiffs' Counsel and any or all ERISA Plaintiffs from any and all Claims and/or Unknown Claims that relate in any way to any or all acts directly or indirectly relating to the prosecution, defense or settlement of the ERISA Actions, the Securities Action or to this Settlement Agreement, (ii) the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent, the ERISA Escrow Agent, the Simpson Thacher Escrow Agent, the Winnick Securities Escrow Agent and the Winnick ERISA Escrow Agent from all claims, damages and liabilities as to anything done or omitted by the such agent in performing its duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement, except such claims that are based upon the Securities Insurers' Escrow Agent's, the Securities Reinsurers' Escrow Agent's, the ERISA Escrow Agent's, the Simpson Thacher Escrow Agent's, the Winnick Securities Escrow Agent's and/or the Winnick ERISA Escrow Agent's (as the case may be) bad faith, gross negligence, willful misconduct or breach of, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement and (iii) the Insurers from all claims, damages and liabilities as to anything done or omitted by the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent and the ERISA Escrow Agent in performing duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed and the ERISA Escrow Agreement.

3. Without further action by anyone, and subject to Section IX.B.4 below, on and after the date on which all of the payments required by Sections II.C.2.a and II.C.3 have been made into the Cash Settlement ERISA Subaccount, ERISA Plaintiffs' Counsel and any or all ERISA Plaintiffs, on behalf of themselves, their heirs, executors, administrators, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), assigns, any person or entity claiming by or through any of them and any person or entity representing any or all ERISA Plaintiffs, for good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, shall be deemed to have, and by operation of law and of the Final Judgment shall have, fully, finally, and forever released, relinquished, settled, and discharged (i) ERISA Settling Defendants' Counsel and any or all Releasees from any and all Claims and/or Unknown Claims that relate in any way to any or all acts directly or indirectly relating to the prosecution, defense or settlement of the ERISA Actions, the Securities Action or to this Settlement Agreement, (ii) the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent, the ERISA Escrow Agent, the Simpson Thacher Escrow Agent, the Winnick Securities Escrow Agent and the Winnick ERISA Escrow Agent from all claims, damages and liabilities as to anything done or omitted by the such agent in performing its duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement, except such claims that are based upon the Securities Insurers' Escrow Agent's, the Securities Reinsurers' Escrow Agent's, the ERISA Escrow Agent's, the Simpson

Thacher Escrow Agent's, the Winnick Securities Escrow Agent's and/or the Winnick ERISA Escrow Agent's (as the case may be) bad faith, gross negligence, willful misconduct or breach of, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed, the ERISA Escrow Agreement, the Simpson Thacher Escrow Agreement, the Winnick Securities Escrow Agreement and the Winnick ERISA Escrow Agreement and (iii) the Insurers from all claims, damages and liabilities as to anything done or omitted by the Securities Insurers' Escrow Agent, the Securities Reinsurers' Trust Agent and the ERISA Escrow Agent in performing duties under, respectively, the Securities Insurers' Escrow Agreement, the Securities Reinsurers' Trust Deed and the ERISA Escrow Agreement.

4. Notwithstanding Sections IX.B.1, IX.B.2 and IX.B.3 above, nothing in the Final Judgment shall bar any action or claim by the ERISA Settling Parties to enforce the terms of this Settlement Agreement or the Final Judgment.

5. With respect to any and all Released Claims, the ERISA Settling Parties stipulate and agree that, by the terms of the Final Judgment, each ERISA Class Member shall have and be deemed to have waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by Section 1542 of the California Civil Code or any federal, state, or foreign law, rule, regulation or common law doctrine that is similar, comparable, equivalent, or identical to, or which has the effect of, Section 1542 of the California Civil Code, which provides:

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

Notwithstanding the provisions of Section 1542 and any similar provisions, rights and benefits conferred by any law, rule, regulation or common law doctrine of California or in any federal, state or foreign jurisdiction, ERISA Class Members understand and agree that, subject to Section IX.B.4 above, the ERISA Release is intended to include all Released Claims ERISA Class Members have or may have, including Released Claims that are Unknown Claims. ERISA Class Members hereby stipulate and agree that they shall have and be deemed to have, on or after the date on which all of the payments required by Sections II.C.2.a and II.C.3 have been made into the Cash Settlement ERISA Subaccount, fully, finally and forever settled and released any and all Released Claims whether or not they are Unknown Claims.

6. With respect to the releases provided in Sections IX.B.2 and IX.B.3, each individual and entity providing such release stipulates and agrees that, by the terms of the Final Judgment, each such individual and entity shall have and be deemed to have waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by Section 1542 of the California Civil Code or any federal, state, or foreign law, rule, regulation or common law doctrine that is similar, comparable, equivalent, or identical to, or which has the effect of, Section 1542 of the California Civil Code, which provides:

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

Notwithstanding the provisions of Section 1542 and any similar provisions, rights and benefits conferred by any law, rule, regulation or common law doctrine of California or in any federal, state or foreign jurisdiction, each individual and entity providing a release in either Section IX.B.2 or Section IX.B.3 above understands and agrees that the ERISA Release is intended to include all Claims and/or Unknown Claims that he, she or it has or may have that relate in any way to any or all acts directly or indirectly relating to the prosecution, defense or settlement of the ERISA Actions or to this Settlement Agreement, including such Claims that are Unknown Claims. Each such individual and entity hereby stipulates and agrees that he, she or it shall have and be deemed to have, on or after the date on which all of the payments required by Sections II.C.2.a and II.C.3 have been made into the Cash Settlement ERISA Subaccount, fully, finally and forever settled and released any and all Claims that relate in any way to any or all acts directly or indirectly relating to the prosecution, defense or settlement of the ERISA Actions, the Securities Action or to this Settlement Agreement whether or not they are Unknown Claims.

7. The releases and waivers contained in this Section IX.B were separately bargained for and are essential elements of this Settlement Agreement.

### **C. Order of Dismissal**

1. The Settling Parties will seek and obtain from the Court a Final Judgment and an Order Approving Settlement as further described in Section XII below. The Final Judgment and Order Approving Settlement shall, among other things, (i) approve this Settlement Agreement as fair, reasonable and adequate, (ii) dismiss the Actions with prejudice and on the merits, (iii) enter the Bar Orders, and (iv) incorporate the Securities Release and the ERISA Release.