

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

<b>IN RE OPTICAL DISK DRIVE</b>	)	<b>Case No. 3:10-MD-2143-RS</b>
<b>PRODUCTS ANTITRUST LITIGATION</b>	)	
	)	<b>MDL 2143</b>
<b>THIS DOCUMENT RELATES TO:</b>	)	
<b>ALL DIRECT-PURCHASER ACTIONS</b>	)	

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made and entered into this 19th day of August, 2015 by and between Pioneer Electronics (USA) Inc.; Pioneer North America, Inc.; Pioneer Corporation; and Pioneer High Fidelity Taiwan Co., LTD. (together, “Pioneer”), and the direct-purchaser plaintiff class representatives (“Plaintiffs”), both individually and on behalf of a settlement class of direct purchasers of Optical Disk Drives (“ODDs”) (“the Class”) as more particularly defined in Paragraph 1 below.

WHEREAS, Plaintiffs are prosecuting the above *In Re Optical Disk Drive Products Antitrust Litigation*, MDL No. 2143 (N.D. Cal.) and *JLK Systems Group, Inc., et al. v. Pioneer Corporation., et al.*, Case No. 3:14-cv-03748-LB (N.D. Cal.) (the “Actions”) on their own behalf and on behalf of the Class against, among others, Pioneer;

WHEREAS, Plaintiffs allege that Pioneer participated in an unlawful conspiracy to raise, fix, maintain, or stabilize the price of ODDs at artificially high levels in violation of Section 1 of the Sherman Act;

WHEREAS, Pioneer denies Plaintiffs’ allegations and has asserted a number of defenses to Plaintiffs’ claims;

WHEREAS, Plaintiffs have conducted an investigation into the facts and the law

regarding the Action and have concluded that resolving claims against Pioneer according to the terms set forth below is in the best interest of Plaintiffs and the Class;

WHEREAS, Pioneer, despite its belief that it is not liable for the claims asserted and has substantial defenses thereto, has nevertheless agreed to enter into this Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, and to obtain the releases, orders, and judgment contemplated by this Agreement, and to put to rest with finality all claims that have been or could have been asserted against Pioneer, based on the allegations of the Actions, as more particularly set out below;

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned that the Actions be settled, compromised, and dismissed on the merits with prejudice as to Releasees, as defined below, and except as hereinafter provided, without costs as to Plaintiffs, the Class, or Pioneer, subject to the approval of the Court, on the following terms and conditions:

A. Definitions.

1. For purposes of this Agreement, “the Class” and “Class Period” are defined in Plaintiffs’ Third Consolidated Direct Purchaser Class Action Complaint in *In Re Optical Disk Drive Products Antitrust Litigation*, MDL No. 2143 (N.D. Cal.) (the “Complaint”). The parties to this Agreement hereby stipulate for purposes of this settlement only that the requirements of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure are satisfied.

2. For purposes of this Agreement, “ODDs” shall have the meaning as defined in the Complaint.

3. “Releasees” shall refer to Pioneer and to all of its respective past and present, direct

and indirect, parents, subsidiaries, and affiliates; the predecessors, successors and assigns of any of the above; and each and all of the present and former principals, partners, officers, directors, supervisors, employees, agents, representatives, insurers, attorneys, heirs, executors, administrators, and assigns of each of the foregoing. “Releasees” does not include any defendant in the Action other than Pioneer.

4. “Class Member” means each member of the Class who has not timely elected to be excluded from the Class.

5. “Releasers” shall refer to the direct-purchaser plaintiff Class representatives and the direct-purchaser plaintiff Class Members, and to their past and present officers, directors, employees, agents, stockholders, attorneys, servants, representatives, parents, subsidiaries, affiliates, partners, insurers and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and the predecessors, successors, heirs, executives, administrators and assigns of any of the foregoing.

6. “The Settlement Fund” shall be US \$4,200,000 specified in Paragraph 16 plus accrued interest on said deposits set forth in Paragraph 17.

7. “Chairman of the Executive Committee for the Direct Purchaser Plaintiffs” (“Chairman”) shall refer to the law firm of:

Guido Saveri  
R. Alexander Saveri  
Saveri & Saveri, Inc.  
706 Sansome Street  
San Francisco, CA 94111

B. Approval of this Agreement and Dismissal of Claims Against Pioneer.

8. Plaintiffs and Pioneer shall use their best efforts to effectuate this Agreement, including cooperating in seeking the Court’s approval for the establishment of procedures (including the giving of class notice under Federal Rules of Civil Procedure 23(c) and (e)) to

secure the prompt, complete, and final dismissal with prejudice of the Actions as to Pioneer.

9. At a time mutually agreed upon by Plaintiffs and Pioneer, Plaintiffs shall submit to the Court a motion for authorization to disseminate notice of the settlement and final judgment contemplated by this Agreement to all Class members identified by Pioneer (the “Motion”). If notice to the Class is given jointly with any other settling defendant, for purposes of Paragraph 19 below, the costs of notice and claims administration shall be prorated with any other such defendant based on their respective settlement amounts. The Motion shall include (i) a proposed form of, method for, and date of dissemination of notice; and (ii) a proposed form of order and final judgment. The text of the foregoing items (i) and (ii) shall be agreed upon by Plaintiffs and Pioneer before submission of the Motion, with the understanding that, among other things, individual notice of the settlement shall be mailed by regular mail or email, with appropriate notice by publication (in the event required by the Court), with all expenses paid from the Settlement Fund subject to Paragraph 19(a). Pioneer will supply to the Chairman the names and addresses of putative Class members to the extent reasonably accessible in Pioneer’s records. Pioneer, however, shall not be required to bear any undue burden or expense in providing such list. The Motion shall recite and ask the Court to find that the mailing of the notice of settlement to all members of the Class who can be identified upon reasonable effort constitutes valid, due and sufficient notice to the Class, constitutes the best notice practicable under the circumstances, and complies fully with the requirements of Federal Rule of Civil Procedure 23.

10. Plaintiffs shall seek, and Pioneer will not object unreasonably to the entry of, an order and final judgment, the text of which Plaintiffs and Pioneer shall agree upon. The terms of that order and final judgment will include, at a minimum, the substance of the following provisions:

(a) certifying the Class described in Paragraph 1, pursuant to Rule 23 of the Federal Rules of Civil Procedure, solely for purposes of this settlement as a settlement class;

(b) as to the Actions, approving finally this settlement and its terms as being a fair, reasonable and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms;

(c) as to Pioneer, directing that the Actions be dismissed with prejudice and, except as provided for in this Agreement, without costs;

(d) reserving exclusive jurisdiction over the settlement and this Agreement, including the administration and consummation of this settlement, to the United States District Court for the Northern District of California; and

(e) determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to Pioneer shall be final.

11. This Agreement shall become final when (i) the Court has entered a final order certifying the Class described in Paragraph 1 and approving this Agreement under Federal Rule of Civil Procedure 23(e) and a final judgment dismissing the Actions with prejudice as to Pioneer and Releasees against all Class Members and without costs other than those provided for in this Agreement, and (ii) the time for appeal or to seek permission to appeal from the Court's approval of this Agreement and entry of a final judgment as to Pioneer and Releasees described in (i) hereof has expired or, if appealed, approval of this Agreement and the final judgment as to Pioneer have been affirmed in their entirety by the Court of last resort to which such appeal has

been taken and such affirmance has become no longer subject to further appeal or review. It is agreed that the provisions of Rule 60 of the Federal Rules of Civil Procedure shall not be taken into account in determining the above-stated times. On the date that Plaintiffs and Pioneer have executed this Agreement, Plaintiffs and Pioneer shall be bound by its terms and this Agreement shall not be rescinded except in accordance with Paragraphs 17(h), 19(a), 28, or 29 of this Agreement.

12. Neither this Agreement (whether or not it should become final) nor the final judgment, nor any and all negotiations, documents and discussions associated with them, shall be deemed or construed to be an admission by Pioneer or evidence of any violation of any statute or law or of any liability or wrongdoing whatsoever by Pioneer, or of the truth of any of the claims or allegations contained in any complaint or any other pleading filed in the Actions, and evidence thereof shall not be discoverable or used directly or indirectly, in any way, whether in the Actions or in any other action or proceeding. Neither this Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any other action taken to carry out this Agreement by any of the settling parties shall be referred to, offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceedings, except in a proceeding to enforce this Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

C. Release, Discharge, and Covenant Not to Sue.

13. In addition to the effect of any final judgment entered in accordance with this Agreement, upon this Agreement becoming final as set out in Paragraph 11 of this Agreement, and in consideration of payment of the Settlement Amount, as specified in Paragraph 16 of this Agreement, into the Settlement Fund, and for other valuable consideration, Pioneer and the

Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits, causes of action, whether class, individual, or otherwise in nature (whether or not any Class Member has objected to the settlement or makes a claim upon or participates in the Settlement Fund, whether directly, representatively, derivatively or in any other capacity) that Releasers, or each of them, ever had, now has, or hereafter can, shall, or may have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, claims, causes of action, injuries, damages, and the consequences thereof in any way arising out of or relating in any way to any act or omission of Pioneer or the Releasees (or any of them) that is alleged in the Complaint up to the date of the execution of this Agreement or that could have been alleged in the Complaint or in any other class action complaint filed in the Actions (the “Released Claims”). The Released Claims do not include claims for product defect or personal injury or breach of contract arising in the ordinary course of business or indirect purchaser claims for ODDs that were not purchased directly from Defendants or their alleged co-conspirators. However, the Released Claims shall not preclude Plaintiffs from pursuing any and all claims against other defendants for sales by those defendants, or their co-conspirators, of products which contain Pioneer’s ODDs. Releasers shall not, after the date of this Agreement, sue or otherwise seek to establish liability against Pioneer or any Releasee based, in whole or in part, upon any of the Released Claims or conduct at issue in the Released Claims. For purposes of clarity, the Released Claims include any claims under foreign antitrust or competition laws or state antitrust or competition laws (including indirect purchaser claims) that relate to or arise out of the sale of any of the ODDs or any of the products containing ODDs that are the subject of the Plaintiffs’ Complaint, but do not include any foreign antitrust or competition law claims or any

state law indirect purchaser claims that relate to or arise out of the sale of ODDs or products containing ODDs that: (a) were not purchased from a Defendant or alleged co-conspirator in the Action; or (b) were not sold in the United States.

14. In addition to the provisions of Paragraph 13 of this Agreement, Releasors hereby expressly waive and release, upon this Agreement becoming final, any and all provisions, rights, and benefits conferred by § 1542 of the California Civil Code, which states:

CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. 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;

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code. Each Releasor may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the Released Claims which are the subject matter of the provisions of Paragraph 13 of this Agreement, but each Releasor hereby expressly waives and fully, finally, and forever settles and releases, upon this Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim with respect to the subject matter of the provisions of Paragraph 13 of this Agreement, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

15. The release, discharge, and covenant not to sue set forth in Paragraph 13 of this Agreement does not include claims by any of the Class Members other than the Released Claims and does not preclude Class Members from pursuing claims based on indirect sales or foreign sales of ODDs so long as such claims are not based on the same purchases included as part of the Released Claims defined in Paragraph 13. The Releasors hereby covenant and agree that they



shall not, hereafter, sue or otherwise seek to establish liability against any of the Releasees based, in whole or in part, upon any of the Released Claims.

D. Settlement Amount.

16. Subject to the provisions hereof, and in full, complete and final settlement of the Action as provided herein, Pioneer shall pay the Settlement Amount of US \$4,200,000 (the “Settlement Amount”). The Settlement Amount shall be paid into an escrow account in United States Dollars to be administered in accordance with the provisions of Paragraph 17 of this Agreement (the “Escrow Account”) within thirty (30) days after execution of this Agreement.

17. Escrow Account.

(a) The Escrow Account will be established at Citibank N.A.— Citi Private Bank, San Francisco, California, with such Bank serving as escrow agent (“Escrow Agent”) subject to escrow instructions mutually acceptable to the Chairman and Pioneer, such escrow to be administered under the Court’s continuing supervision and control.

(b) The Escrow Agent shall cause the funds deposited in the Escrow Account to be invested in short-term instruments backed by the full faith and credit of the United States Government or fully insured in writing by the United States Government, or money market funds rated Aaa and AAA, respectively by Moody’s Investor Services and Standard and Poor’s, invested substantially in such instruments, and shall reinvest any income from these instruments and the proceeds of these instruments as they mature in similar instruments at their then current market rates.

(c) All funds held in the Escrow Account shall be deemed and considered to be in custodia legis of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Agreement and/or

further order(s) of the Court.

(d) Plaintiffs and Pioneer agree to treat the Settlement Fund as being at all times a qualified settlement fund within the meaning of Treas. Reg. §1.468B-1. In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph 17, including the relation-back election (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(e) For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated there under, the administrator shall be the Escrow Agent. The Escrow Agent or its designee shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)(l)). Such returns (as well as the election described in Paragraph 17(d)) shall be consistent with Paragraph 17(d) and in all events shall reflect that all Taxes, as defined below (including any estimated Taxes, interest or penalties), on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in Paragraph 17(f) hereof.

(f) All (i) taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed upon Pioneer or any other Releasee with respect to any

income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a qualified settlement fund for federal or state income tax purposes (“Taxes”); and (ii) expenses and costs incurred in connection with the operation and implementation of Paragraphs 17(d) through 17(f) (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this Paragraph 17(f) (“Tax Expenses”)), shall be paid out of the Settlement Fund.

(g) Neither Pioneer nor any other Releasee nor their respective counsel shall have any liability or responsibility for the Taxes or the Tax Expenses. Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any claimants authorized by the Court any funds necessary to pay such amounts including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)). Neither Pioneer nor any other Releasee is responsible nor shall they have any liability therefor. Plaintiffs and Pioneer agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of Paragraphs 17(d) through 17(f).

(h) If this Agreement does not receive final Court approval, including final approval of “the Class” as defined in Plaintiffs’ Complaint or, if that complaint is amended, the operative complaint at the time this Agreement is signed, or if the Action is

not certified as a class action for settlement purposes, then all amounts paid by Pioneer into the Settlement Fund (other than costs expended in accordance with Paragraph 19(a)) shall within thirty (30) calendar days be returned to Pioneer from the Escrow Account by the Escrow Agent along with any interest accrued thereon. If there is a conflict between the terms of the Escrow Account and this Agreement, the terms of this Agreement shall control.

18. Exclusions.

Within ten (10) business days after the end of the period to request exclusion from the Class, the Chairman will cause copies of timely requests for exclusion from the Class to be provided to counsel for Pioneer. With respect to any potential Class member who requests exclusion from the Class, Pioneer reserves all of its legal rights and defenses, including, but not limited to, any defenses relating to whether the excluded Class member is a direct purchaser of any allegedly price fixed product and/or has standing to bring any claim.

19. Payment of Expenses.

(a) Pioneer agrees to permit use of a maximum of US \$200,000 of the Settlement Fund towards notice to the class and the costs of administration of the Settlement Fund set forth in Paragraph 17. The US \$200,000 in notice and administration expenses are not recoverable if this settlement does not become final to the extent such funds are expended for notice and administration costs. Other than as set forth in this Paragraph 19(a), and subject to the joint notice provisions of Paragraph 9 if applicable, Pioneer shall not be liable for any of the costs or expenses of the litigation of the Action, including attorneys' fees; fees and expenses of expert witnesses and consultants; and costs and expenses associated with discovery, motion practice, hearings

before the Court or any Special Master, appeals, trials or the negotiation of other settlements, or for Class administration and costs.

(b) If the Chairman enters into any other settlements on behalf of the Class before notice of this Agreement is given to the Class, the Chairman shall use its reasonable best efforts to provide a single notice to prospective Class members of all of the settlements.

E. The Settlement Fund.

20. Releasors shall look solely to the Settlement Fund for settlement and satisfaction against the Pioneer Releasees of all Released Claims, and shall have no other recovery against Pioneer or any other Releasee.

21. After this Agreement becomes final within the meaning of Paragraph 11, the Settlement Fund shall be distributed in accordance with a plan to be submitted at the appropriate time by Plaintiffs, subject to approval by the Court. In no event shall any Releasee have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such distribution and administration, with the sole exception of the provisions set forth in Paragraph 19(a) of this Agreement.

22. Plaintiffs and Class Counsel shall be reimbursed and indemnified solely out of the Settlement Fund for all expenses. Pioneer shall not be liable for any costs, fees, or expenses of any of Plaintiffs' or the Class' respective attorneys, experts, advisors, agents, or representatives, but all such costs, fees, and expenses as approved by the Court shall be paid out of the Settlement Fund.

23. Class Counsel's Attorneys' Fees And Reimbursement of Expenses.

(a) Class Counsel may submit an application or applications to the Court (the “Fee and Expense Application”) for distribution to them from the Settlement Fund and Pioneer shall not oppose such application for: (i) an award of attorneys’ fees not in excess of one-third of the settlement fund; plus (ii) reimbursement of expenses and costs incurred in connection with prosecuting the Action, plus interest on such attorneys’ fees, costs and expenses at the same rate and for the same period as earned by the Settlement Fund (until paid) as may be awarded by the Court (the “Fee and Expense Award”). Class Counsel reserve the right to make an application for a payment of up to US \$750,000, to which Pioneer will not object, for expenses and costs incurred and reasonably anticipated to be incurred in connection with continued prosecution of the Action, but in no event shall Releasees be responsible to pay any such fees and expenses except to the extent they are paid out of the Settlement Fund. Further, Class Counsel reserve the right to make additional applications for fees and expenses incurred, but in no event shall Releasees be responsible to pay any such additional fees and expenses except to the extent they are paid out of the Settlement Fund.

(b) The Fee and Expense Award, as approved by the Court, shall be paid solely from the Settlement Fund. After this Agreement becomes final within the meaning of Paragraph 11, the Fee and Expense Award shall be paid to the Chairman within ten (10) business days. The Chairman shall allocate the attorneys’ fees among Class Counsel in a manner which he in good faith believes reflects the contributions of such counsel to the prosecution and settlement of the Action.

(c) The procedure for and the allowance or disallowance by the Court of the application by Class Counsel for attorneys’ fees, costs and expenses to be paid out of the

Settlement Fund are not part of this Agreement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement, and any order or proceeding relating to the Fee and Expense Application, or any appeal from any such order shall not operate to terminate or cancel this Agreement, or affect or delay the finality of the judgment approving the settlement.

(d) Neither Pioneer nor any other Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to any payment to Class Counsel of any Fee and Expense Award in the Action.

(e) Neither Pioneer nor any other Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to the allocation among Class Counsel, and/or any other person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Action.

F. Cooperation.

24. Pioneer shall reasonably cooperate with the Chairman as set forth specifically below:

(a) Any documents Pioneer produces to any other party in the Action, Pioneer shall produce to the Chairman within ten (10) days of the production to such other party.

(b) Upon reasonable notice after Final Approval of this Agreement, Pioneer agrees to use reasonable efforts to make available for interviews, depositions, and testimony at hearings or trial, via videoconference or at a mutually agreed upon location or locations (except for testimony at hearings or trial, which shall be at the United States Courthouse of the United States District Court for the Northern District of California), and at Pioneer's expense up to two (2) persons, which may consist of current directors,

officers, and/or employees of Pioneer (or former directors, officers and/or employees of Pioneer, if such former employees agree to cooperate) whom the Chairman, in consultation with counsel for Pioneer, reasonably and in good faith believe to have knowledge regarding the conduct alleged in the Complaint. Interviews shall be limited to the allegations set forth in the Complaint and a total of six (6) hours over one day per interview and can be conducted telephonically from overseas at the witness's choice. Plaintiffs shall bear all costs associated with translation assistance and telephone and video conference charges for the interviews referred to in this Paragraph. Depositions shall be administered according to the rules and limitations of the Federal Rules of Civil Procedure, regardless of the location at which they take place or the citizenship of the deponent. Pioneer agrees to bear reasonable travel expenses incurred by witnesses pursuant to this Paragraph, but reserves all rights to have depositions take place at the location of the witnesses' residence. Pioneer also agrees to use good faith efforts to obtain the cooperation of former directors, officers and/or employees, as part of the two (2) witnesses identified above, if the Chairman asks Pioneer to include such individuals within the list of two (2). The Chairman agrees to not seek any interview or deposition of any Pioneer witness unless he has a reasonable, good-faith belief that the information and/or testimony sought is not cumulative of other information and/or testimony and cannot be provided by some other witness or through some other discovery mechanism available to the Chairman.

(c) Upon reasonable notice after Final Approval of this Agreement, Pioneer agrees to provide one witness for deposition, and, if necessary at trial, to provide information, to the best of his/her ability, with respect to Pioneer's data regarding sales,



pricing, production, capacity and cost of its ODDs. Pioneer agrees to authenticate and lay a foundation, through affidavit or declarations, for admission into evidence any of Pioneer's produced documents and transaction and/or cost data. If the affidavits or declarations previously identified are insufficient to authenticate and lay the foundation into evidence of any Pioneer produced documents or data, Pioneer shall provide one witness that will authenticate and lay the foundation for admission into evidence any Pioneer produced document or data. The Chairman agrees to not seek authentication of any Pioneer document or data, either through affidavit, declaration or testimony, unless he has a reasonable, good-faith belief that the information contained in the document or data is not cumulative of other documents or data and cannot be provided by some other witness or through some other discovery mechanism available to the Chairman.

(d) If any document protected by the attorney-client privilege, attorney work-product protection, joint defense or any other protection, privilege, or immunity is accidentally or inadvertently produced under this Paragraph, the document shall promptly be destroyed and/or returned to Pioneer, and its production shall in no way be construed to have waived any privilege or protection attached to such document

(e) Plaintiffs and the Chairman agree they will not use the information provided by Pioneer or their representatives under this Paragraph for any purpose other than the pursuit of the Actions, and will not publicize the information beyond what is reasonably necessary for the prosecution of the Actions or as otherwise required by law. Any documents and other information provided will be deemed "Highly Confidential" and subject to the protective order entered in the Action as if they had been produced in response to discovery requests and so designated.

25. In the event that this Agreement fails to receive final approval by the Court as contemplated in Paragraphs 8-11 hereof, including final approval of “the Class” as defined in Plaintiffs’ Complaint or in the event that it is terminated by either party under any provision herein, the parties agree that neither Plaintiffs nor Plaintiffs’ counsel shall be permitted to introduce into evidence, at any hearing, or in support of any motion, opposition or other pleading in the Action or in any other federal or state or foreign action alleging a violation of any law relating to the subject matter of this Action, any deposition testimony or any documents provided by the Releasees, their counsel, or any individual made available by the Releasees pursuant to the cooperation provisions of Paragraph 24.

26. Except as provided in Paragraph 24 of this Agreement, Pioneer need not respond to formal discovery from Plaintiffs or otherwise participate in the Actions during the pendency of the Agreement. Pioneer agrees to withdraw all outstanding discovery served on Plaintiffs and neither Pioneer nor Plaintiffs shall file motions against the other during the pendency of the Agreement.

27. Pioneer and Plaintiffs agree not to disclose publicly or to any other defendant the terms of this Agreement until this Agreement is submitted to the Court for approval.

G. Rescission if this Agreement is Not Approved or Final Judgment is Not Entered.

28. If the Court refuses to approve this Agreement or any part hereof, including if the Court does not certify a settlement class in accordance with the specific class definition set forth in Plaintiffs’ Complaint, or if such approval is modified or set aside on appeal, or if the Court does not enter the final judgment provided for in Paragraph 10 of this Agreement, or if the Court enters the final judgment and appellate review is sought, and on such review, such final judgment is not affirmed in its entirety, then Pioneer and the Plaintiffs shall each, in their sole

discretion, have the option to rescind this Agreement in its entirety. Written notice of the exercise of any such right to rescind shall be made according to the terms of Paragraph 39. A modification or reversal on appeal of any amount of Class Counsel's fees and expenses awarded by the Court from the Settlement Fund shall not be deemed a modification of all or a part of the terms of this Agreement or such final judgment.

29. In the event that this Agreement does not become final, then this Agreement shall be of no force or effect and any and all parts of the Settlement Fund caused to be deposited in the Escrow Account (including interest earned thereon) shall be returned forthwith to Pioneer less only disbursements made in accordance with Paragraph 19(a) of this Agreement. Pioneer expressly reserves all of its rights and defenses in the Actions if this Agreement does not become final.

30. Further, and in any event, Plaintiffs and Pioneer agree that this Agreement, whether or not it shall become final, and any and all negotiations, documents, and discussions associated with it, shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing whatsoever by Pioneer or the Releasees, or of the truth of any of the claims or allegations contained in the complaint or any other pleading filed in the Action, or by any person or entity in any other action, and evidence thereof shall not be discoverable or used directly or indirectly, in any way, whether in the Actions or in any other action or proceeding.

31. This Agreement shall be construed and interpreted to effectuate the intent of the parties, which is to provide, through this Agreement, for a complete resolution of the relevant claims with respect to each Releasee as provided in this Agreement.

32. The parties to this Agreement contemplate and agree that, prior to final approval

of the settlement as provided for in Paragraphs 8-11 hereof, appropriate notice (1) of the settlement; and (2) of a hearing at which the Court will consider the approval of this Settlement Agreement will be given to Class members.

H. Miscellaneous.

33. This Agreement does not settle or compromise any claim by Plaintiffs or any Class Member asserted in the Complaint or, if amended, any subsequent Complaint, against any defendant or alleged co-conspirator other than the Releasees. All rights against such other defendants or alleged co-conspirators are specifically reserved by Plaintiffs and the Class. Pioneer's sales to the Class shall not be removed from the Action.

34. The United States District Court for the Northern District of California shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement that cannot be resolved by negotiation and agreement by Plaintiffs and Pioneer. This Agreement shall be governed by and interpreted according to the substantive laws of the state of California without regard to its choice of law or conflict of laws principles.

35. This Agreement constitutes the entire, complete and integrated agreement among Plaintiffs and Pioneer pertaining to the settlement of the Action against Pioneer, and supersedes all prior and contemporaneous undertakings of Plaintiffs and Pioneer in connection herewith. This Agreement may not be modified or amended except in writing executed by Plaintiffs and Pioneer, and approved by the Court.

36. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Plaintiffs and Pioneer. Without limiting the generality of the foregoing, each and

every covenant and agreement made herein by Plaintiffs, the Chairman or Class Counsel shall be binding upon all Class Members and Releasors. The Releasees (other than Pioneer which is a party hereto) are third party beneficiaries of this Agreement and are authorized to enforce its terms applicable to them.

37. This Agreement may be executed in counterparts by Plaintiffs and Pioneer, and a facsimile signature shall be deemed an original signature for purposes of executing this Agreement.

38. Neither Plaintiffs nor Pioneer shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

39. Where this Agreement requires either party to provide notice or any other communication or document to the other, such notice shall be in writing, and such notice, communication, or document shall be provided by facsimile or letter by overnight delivery to the undersigned counsel of record for the party to whom notice is being provided.

40. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement, subject to Court approval.

Dated: August 19, 2015

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GUIDO SAVERI  
Email: [guido@saveri.com](mailto:guido@saveri.com)  
R. ALEXANDER SAVERI  
Email: [rick@saveri.com](mailto:rick@saveri.com)  
SAVERI & SAVERI, INC.  
706 Sansome Street  
San Francisco, CA 94111  
Telephone: (415) 217-6810]

every covenant and agreement made herein by Plaintiffs, the Chairman or Class Counsel shall be binding upon all Class Members and Releasors. The Releasees (other than Pioneer which is a party hereto) are third party beneficiaries of this Agreement and are authorized to enforce its terms applicable to them.

37. This Agreement may be executed in counterparts by Plaintiffs and Pioneer, and a facsimile signature shall be deemed an original signature for purposes of executing this Agreement.

38. Neither Plaintiffs nor Pioneer shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

39. Where this Agreement requires either party to provide notice or any other communication or document to the other, such notice shall be in writing, and such notice, communication, or document shall be provided by facsimile or letter by overnight delivery to the undersigned counsel of record for the party to whom notice is being provided.

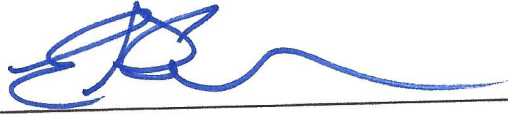
40. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement, subject to Court approval.

Dated: August 19, 2015



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*Chairman of the Executive Committee for the  
Direct Purchaser Plaintiffs*



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