



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE ATHLON ENERGY, INC.
STOCKHOLDER LITIGATION

CONSOLIDATED
C.A. No. 10250-VCG

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement, dated as of December 19, 2014 (the “Stipulation”), is entered into between (a) plaintiffs Gary Shayne, Maxine Phillips, Mandle Rousseau, and The City of Cambridge Retirement System (collectively, “Delaware Plaintiffs”), on behalf of themselves and the Class; and (b) defendants Athlon Energy Inc. (“Athlon” or the “Company”); Robert C. Reeves, Gregory A. Beard, Rakesh Wilson, Ted A. Gardner, Wilson B. Handler, Mark A. Stevens, and Bart Kalsu (collectively, the “Athlon Board” or the “Individual Defendants”); Encana Corporation (“Encana”); Alenco Acquisition Company Inc. (“Merger Sub”); and Apollo Global Management, LLC (“Apollo”) (together with Athlon, the Individual Defendants, Encana and Merger Sub, the “Defendants,” and together with Delaware Plaintiffs, the “Parties”) by and through their respective undersigned counsel. Subject to the approval of the Court of Chancery of the State of Delaware (the “Court”) and the terms and conditions expressly provided herein, this Stipulation is intended to fully, finally, and forever settle and dismiss with prejudice the above-captioned consolidated stockholder class action and all claims asserted therein against Defendants.

WHEREAS:

A. On September 29, 2014, Athlon and Encana jointly announced that they had entered into an Agreement and Plan of Merger, dated as of September 27, 2014 (the “Merger Agreement”), pursuant to which Merger Sub, a wholly owned subsidiary of Encana, would commence a tender offer (the “Offer”) to acquire all of the issued and outstanding shares of Athlon common stock for \$58.50 per share in cash (the “Consideration”) and, following completion of the Offer, Merger Sub would be merged with and into Athlon pursuant to 8 *Del. C.* § 251(h) and shares of Athlon common stock not tendered pursuant to the Offer (other than any Cancelled Shares and any Dissenting Shares as specified in § 4.01 of the Merger Agreement) would be cancelled and converted into the right to receive the Consideration (the “Proposed Transaction”).

B. On October 6, 2014, plaintiff Matt Youdall (the “Texas Plaintiff”) filed a complaint in the District Court of Tarrant County, Texas styled *Youdall v. Encana Corp., et al.*, Cause No. 342-274894-14 (the “Texas Action”), alleging, among other things, that the Individual Defendants breached their fiduciary duties in connection with their consideration and approval of the Proposed Transaction, and that Encana and Merger Sub aided and abetted those breaches of fiduciary duty.

C. On October 9, 2014, plaintiff Gary Shayne filed a complaint in the Court styled *Shayne v. Athlon Energy, Inc., et al.*, C.A. No. 10218-VCG (the “Shayne Action”), alleging, among other things, that that the Individual Defendants breached their fiduciary duties in connection with their consideration and approval of the Proposed Transaction, and that Athlon, Encana and Merger Sub aided and abetted those breaches of fiduciary duty.

D. On October 10, 2014, Encana filed with the United States Securities and Exchange Commission (the “SEC”) a Schedule TO (the “Schedule TO”), containing Merger Sub’s offer to purchase in connection with the Offer, which, among other things, referenced that Encana and Merger Sub had entered into tender support agreements with certain “Supporting Stockholders” listed therein (the “Tender Support Agreements”), and attached as exhibits Form of Tender Support Agreements.

E. On October 10, 2014, Athlon filed the Schedule 14D-9 Recommendation Statement with the SEC, recommending that Athlon’s stockholders accept the Offer and tender their shares to Merger Sub, and providing, among other things, information concerning the background of the Proposed Transaction.

F. On October 17, 2014, plaintiffs Maxine Phillips and Mandle Rousseau filed separate complaints in the Court styled *Phillips v. Athlon Energy Inc., et al.*,

C.A. No. 10246-VCG and *Rousseau v. Athlon Energy Inc., et al.*, C.A. No. 10250-VCG (the “Phillips Action” and “Rousseau Action,” respectively), alleging, among other things, that the Individual Defendants breached their fiduciary duties in connection with their consideration and approval of the Proposed Transaction (including through alleged misleading or omitted disclosures in the Recommendation Statement), and that Encana and Merger Sub (and, in the Phillips Action, Athlon) aided and abetted those breaches of fiduciary duty.

G. On October 17, 2014, plaintiff in the Rousseau Action also filed his First Request for the Production of Documents directed to all defendants.

H. On October 23, 2014, plaintiffs’ counsel in the Shayne, Phillips, and Rousseau Actions entered into a stipulation and proposed order consolidating those three actions into one action designated as *In re Athlon Energy, Inc. Stockholder Litigation*, Consol. C.A. No. 10250-VCG (the “Delaware Action,” and together with the Texas Action, the “Actions”) and appointing lead counsel and Delaware counsel (the “Consolidation Stipulation”), which the Court entered as an order on October 31, 2014. The Consolidation Stipulation also designated the complaint in the Rousseau Action as the operative complaint and deemed all documents as filed in the Delaware Action.

I. On October 23, 2014, plaintiffs’ counsel and defendants’ counsel in the Shayne, Phillips, and Rousseau Actions entered into a stipulation and proposed

scheduling order providing for expedited discovery, a briefing schedule for plaintiffs' motion for a preliminary injunction, and a tentative hearing date for that motion of November 6, 2014 (the "Scheduling Stipulation").

J. On October 23, 2014, plaintiff The City of Cambridge Retirement System filed a complaint styled *The City of Cambridge Retirement System v. Reeves, et al.*, C.A. No. 10277-VCG (the "Cambridge Action"), alleging, among other things, that the Individual Defendants breached their fiduciary duties in connection with their consideration and approval of the Proposed Transaction (including through alleged misleading or omitted disclosures in the Recommendation Statement), and that Encana, Merger Sub and Apollo had aided and abetted those breaches of fiduciary duty. Pursuant to an amendment to the Consolidation Stipulation, which was entered as an order by the Court on December 5, 2014, the Cambridge Action has been consolidated into the Delaware Action.

K. On October 27, 2014, the Texas Plaintiff entered into an agreement with counsel for Athlon and the Individual Defendants, in which plaintiff agreed, among other things, to stay defendants' deadlines to file any responsive pleading until the Monday following the expiration of 30 days prior written notice from the Texas Plaintiff, and not to take any action, seek any discovery, or move for any relief, including injunctive relief, until after defendants filed responsive pleadings.

L. Pursuant to the Scheduling Stipulation, Delaware Plaintiffs engaged in expedited fact discovery, including the (i) taking of depositions by Plaintiffs' Counsel of (a) Robert C. Reeves, Athlon's President and Chief Executive Officer, as well as Chairman of Athlon's Board of Directors, (b) Ted A. Gardner, an independent director of Athlon's Board of Directors, (c) Hank Hilliard, a representative of Goldman, Sachs & Co. ("Goldman Sachs"), and (d) Shaun Finnie, a representative of Evercore Group L.L.C. ("Evercore"); and (ii) production of over 23,000 pages of confidential non-public documents by Athlon, Goldman Sachs, and Evercore concerning, among other things, the process leading up to the Proposed Transaction and the valuation of Athlon, including emails and other electronic documents, Athlon Board minutes, Athlon Board presentations, and Goldman Sachs' financial analyses.

M. On October 31, 2014, the Court entered the Scheduling Stipulation as an order and provided for a hearing date for plaintiffs' motion for a preliminary injunction of November 6, 2014 at 2:00 p.m.

N. Co-Lead Counsel and Defendants' Counsel engaged in arm's-length negotiations concerning a possible settlement of the Actions, which culminated in an agreement in principle to settle the Actions that was memorialized in a memorandum of understanding (the "MOU") executed on November 3, 2014. As consideration for the settlement, the parties to the Merger Agreement agreed to

promptly take all necessary actions: (a) to reduce the Company Termination Fee (as defined in § 1.01 of the Merger Agreement) from \$207,500,000 to \$59,300,000; (b) to waive the requirement that Athlon provide prior written notice to, and negotiate in good faith with, Encana in the event of a Change of Board Recommendation or Athlon termination of the Merger Agreement to enter into an Alternative Acquisition Agreement with respect to a Superior Proposal (as contemplated under § 7.03(e) of the Merger Agreement); (c) to fully release each of the Supporting Stockholders from its obligations under its Tender Support Agreement; (d) to cause the Company to publicly disclose any bona fide proposal to acquire all of Athlon's shares of common stock or all or substantially all of Athlon's assets within 24 hours of receipt, regardless of whether the Athlon Board affirmatively deems it a Superior Proposal (as defined in § 1.01 of the Merger Agreement); (e) to extend the Offer until 12:00 midnight, New York City time, on Wednesday, November 12, 2014 (one minute after 11:59 P.M. New York City time, on Wednesday, November 12, 2014) (together with (i)-(iv), the "Merger Term Modifications"); and (f) to make supplemental disclosures to the Recommendation Statement (the "Supplemental Disclosures"), which Supplemental Disclosures are incorporated herein as Exhibit A, and to file the Supplemental Disclosures with the SEC.

O. On November 3, 2014, Encana filed an amendment to Schedule TO that, among other things, disclosed the MOU, the Merger Term Modifications, the pendency of the Supplemental Disclosures, and extended the Offer until 12:00 midnight, New York City time, on Wednesday, November 12, 2014 (one minute after 11:59 P.M. New York City time, on Wednesday, November 12, 2014).

P. On November 4, 2014, Athlon filed an amendment to the Recommendation Statement that contained the Supplemental Disclosures.

Q. On November 5, 2014, the Texas Plaintiff voluntarily dismissed the Texas Action.

R. At 12:00 midnight, New York City time, on Wednesday, November 12, 2014 (one minute after 11:59 P.M. New York City time, on Wednesday, November 12, 2014) the Offer expired at which time 88,025,770 shares of Athlon common stock had been validly tendered to the Offer and 4,487,330 shares of Athlon common stock had been delivered to the Offer by guarantee, which in total represents 91.3% of the shares of Athlon common stock on a fully diluted basis.

S. On the morning of November 13, 2014, Merger Sub accepted for payment all shares validly tendered or delivered by guarantee to the Offer and thereafter on November 13, 2014 the Proposed Transaction was consummated pursuant to 8 *Del. C.* § 251(h).

T. In connection with the settlement negotiations, the Parties did not discuss the amount of any potential application by Plaintiffs' Counsel for attorneys' fees and expenses.

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

V. Based upon their investigation and prosecution of the Actions, Delaware Plaintiffs and Co-Lead Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to Delaware Plaintiffs and the other members of the Class, and in their best interests. Based on Delaware Plaintiffs' direct oversight of the prosecution of this matter and with the advice of their counsel, each of Delaware Plaintiffs has agreed to settle and release the claims raised in the Delaware Action pursuant to the terms and provisions of this Stipulation, after considering: (a) the substantial benefits and protections provided under the proposed Settlement; (b) the significant risks of continued litigation and trial; and (c) the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation.

W. This Stipulation constitutes a compromise of matters that are in dispute between the Parties. Defendants are entering into this Stipulation solely to eliminate the uncertainty, burden and expense of further litigation. Each of the

Defendants has denied, and continues to deny, any wrongdoing, and this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Defendants, or any other of the Defendants' Releasees, with respect to any claim or allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Defendants have, or could have, asserted. Defendants expressly deny that Delaware Plaintiffs have asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, liability, wrongdoing or damages whatsoever. Similarly, this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any Delaware Plaintiff of any infirmity in any of the claims asserted in the Delaware Action, or an admission or concession that any of the Defendants' defenses to liability had any merit. Each of the Parties recognizes and acknowledges, however, that the Delaware Action has been initiated, filed and prosecuted by Delaware Plaintiffs in good faith and defended by Defendants in good faith, that the Delaware Action is being voluntarily settled with the advice of counsel, and that the terms of the Settlement are fair, adequate and reasonable.

NOW THEREFORE, it is hereby STIPULATED AND AGREED, by and among Delaware Plaintiffs (individually and on behalf of the Class) and Defendants, by and through their respective undersigned attorneys and subject to

the approval of the Court, that, in consideration of the benefits flowing to the Parties from the Settlement, all Released Plaintiffs' Claims as against the Defendants' Releasees and all Released Defendants' Claims as against the Plaintiffs' Releasees shall be settled and released, upon and subject to the terms and conditions set forth below.

CERTAIN DEFINITIONS

1. As used in this Stipulation and all exhibits attached hereto and made a part hereof, the following capitalized terms shall have the following meanings:

(a) "Actions" means the Delaware Action and the Texas Action.

(b) "Apollo" means Apollo Global Management, LLC.

(c) "Athlon" or the "Company" means Athlon Energy Inc.

(d) "Co-Lead Counsel" means Robbins Geller Rudman & Dowd LLP and Bernstein Litowitz Berger & Grossmann LLP.

(e) "Co-Delaware Counsel" means Andrews & Springer LLC and Friedlander & Gorris, P.A.

(f) "Class" means all persons and entities who or which held Athlon common stock at any time from September 29, 2014 through and including November 13, 2014. Excluded from the Class are Defendants and their immediate family members, any entity in which any Defendant has or had a controlling interest, and any successors in interest thereto.

(g) “Class Member” means each person and entity who or which is a member of the Class.

(h) “Class Period” means the period from September 29, 2014 through and including November 13, 2014.

(i) “Court” means the Court of Chancery of the State of Delaware.

(j) “Defendants” means Athlon, the Individual Defendants, Encana, Merger Sub, and Apollo.

(k) “Defendants’ Counsel” means Latham & Watkins LLP; Richards, Layton & Finger, P.A.; Paul, Weiss, Rifkind, Wharton & Garrison LLP; and Akin Gump Strauss Hauer & Feld LLP.

(l) “Defendants’ Releasees” means Defendants, each of Defendants’ insurers, consultants, financial advisors and attorneys, and each of their respective current and former officers, directors, agents, parents, affiliates, subsidiaries, members, partners, successors, predecessors, assigns, assignees and employees.

(m) “Effective Date” with respect to the Settlement means the first date by which all of the events and conditions specified in Paragraph 15 of this Stipulation have been met and have occurred or have been waived.

(n) “Encana” means Encana Corporation.

(o) “Final” with respect to the Judgment or any other court order means: (i) if no appeal is filed, the expiration date of the time for filing or noticing of any appeal of the Judgment or order; or (ii) if there is an appeal from the Judgment or order, (a) the date of final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the Judgment or order is finally affirmed on appeal, the expiration of the time to file a petition for a writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of review, and, if certiorari or other form of review is granted, the date of final affirmance following review pursuant to that grant. However, any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to attorneys’ fees or expenses shall not in any way delay or preclude the Judgment from becoming Final.

(p) “Individual Defendants” or the “Athlon Board” means Robert C. Reeves, Gregory A. Beard, Rakesh Wilson, Ted A. Gardner, Wilson B. Handler, Mark A. Stevens, and Bart Kalsu.

(q) “Judgment” means the final judgment, substantially in the form attached hereto as Exhibit C, to be entered by the Court in approving the Settlement.

(r) “Litigation Expenses” means expenses incurred in connection with commencing, prosecuting and settling the Actions.

(s) “Merger Sub” means Alenco Acquisition Company Inc.

(t) “MOU” means the memorandum of understanding executed by the Parties on November 3, 2014.

(u) “Notice” means the Notice of Pendency and Proposed Settlement of Class Action, Settlement Fairness Hearing, and Right to Appear, substantially in the form attached hereto as Exhibit 1 to Exhibit B, which is to be mailed to Class Members.

(v) “Notice and Administration Costs” means all costs, fees and expenses related to providing and administering notice of the Settlement to the Class.

(w) “Parties” means Defendants and Delaware Plaintiffs, on behalf of themselves and the Class.

(x) “Plaintiffs” means Delaware Plaintiffs and the Texas Plaintiff.

(y) “Plaintiffs’ Counsel” means Robbins Geller Rudman & Dowd LLP; Bernstein Litowitz Berger & Grossmann LLP; Andrews & Springer LLC; Friedlander & Gorris, P.A; Faruqi & Faruqi; Levi & Korsinsky LLP; and Rigrodsky & Long, P.A.

(z) “Plaintiffs’ Releasees” means Delaware Plaintiffs and all other Class Members, each of Plaintiffs’ and the other Class Members’ insurers, consultants, financial advisors and attorneys, and each of their respective current and former officers, directors, agents, parents, affiliates, subsidiaries, members, partners, successors, predecessors, assigns, assignees, employees and attorneys.

(aa) “Recommendation Statement” means the Schedule 14D-9 Athlon filed with the SEC on October 10, 2014, recommending that Athlon’s stockholders accept the Offer and tender their shares to Merger Sub, and providing, among other things, information concerning the background of the Proposed Transaction, and all subsequent amendments thereto.

(bb) “Released Claims” means all Released Defendants’ Claims and all Released Plaintiffs’ Claims.

(cc) “Released Defendants’ Claims” means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under state, local, foreign, federal, statutory, regulatory, common or other law or rule (including, but not limited to, any claims for attorneys’ fees or expenses), that arise out of or relate in any way to the institution, prosecution, or settlement of the claims asserted in the

Actions against the Defendants. Released Defendants' Claims do not include any claims relating to the enforcement of the Settlement.

(dd) "Released Plaintiffs' Claims" means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under state, local, foreign, federal, statutory, regulatory, common or other law or rule (including, but not limited to, any claims under the federal securities laws or state disclosure laws, and any claims for attorneys' fees or expenses except as set forth in this Stipulation), that Plaintiffs or any other Class Member (i) asserted in the complaints filed in the Actions, or (ii) could have asserted in any forum that arise out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the complaints filed in the Actions and that relate to both: (a) a Class Member's ownership of Athlon common stock during the Class Period; and (b) the Proposed Transaction. Released Plaintiffs' Claims do not include: (i) any claims relating to the enforcement of the Settlement; or (ii) any claims solely for statutory appraisal with respect to the Proposed Transaction pursuant to 8 *Del. C.* § 262 by Athlon stockholders who properly perfected such claims for appraisal and have not otherwise waived their appraisal rights.

(ee) “Releasees” means each and any of the Defendants’ Releasees and each and any of the Plaintiffs’ Releasees.

(ff) “Releases” means the releases set forth in Paragraphs 6-7 of this Stipulation.

(gg) “Scheduling Order” means the order, substantially in the form attached hereto as Exhibit B, to be entered by the Court scheduling the Settlement Fairness Hearing and directing notice to be provided to the Class.

(hh) “Settlement” means the settlement between Plaintiffs and Defendants on the terms and conditions set forth in this Stipulation.

(ii) “Settlement Fairness Hearing” means the hearing set by the Court to consider final approval of the Settlement.

(jj) “Summary Notice” means the Summary Notice of Pendency and Proposed Settlement of Class Action, Settlement Fairness Hearing, and Right to Appear, substantially in the form attached hereto as Exhibit 2 to Exhibit B, which is to be published as set forth in the Scheduling Order.

(kk) “Supplemental Disclosures” means the supplemental disclosures to the Recommendation Statement contained in Exhibit A.

(ll) “Texas Action” means the putative class and derivative action filed in the Texas Court styled *Youdall v. Encana Corp., et al.*, Cause No. 342-274894-14.

(mm) “Texas Court” means the District Court of Tarrant County, Texas.

(nn) “Texas Plaintiff” means Matt Youdall.

(oo) “Unknown Claims” means any Released Plaintiffs’ Claims that any Plaintiff or any other Class Member does not know or suspect to exist in his, her or its favor at the time of the release of such claims, and any Released Defendants’ Claims that any Defendant does not know or suspect to exist in his, her or its favor at the time of the release of such claims, which, if known by him, her or it, might have affected his, her or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Delaware Plaintiffs and Defendants shall expressly waive, and each of the other Class Members shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM

OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Delaware Plaintiffs and Defendants acknowledge, and each of the other Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

CLASS CERTIFICATION

2. Solely for purposes of the Settlement and for no other purpose, Defendants stipulate and agree to: (a) certification of the Delaware Action as a non-opt out class action pursuant to Delaware Court of Chancery Rules 23(a), 23(b)(1) and 23(b)(2) on behalf of the Class; (b) appointment of Delaware Plaintiffs as class representatives for the Class; and (c) appointment of Co-Lead Counsel as class counsel for the Class. If the Settlement is terminated pursuant to the terms of this Stipulation, the certification of the Class shall be revoked and Defendants reserve the right to oppose any motion for class certification in future proceedings.

THE SETTLEMENT CONSIDERATION

3. As consideration for the Settlement, the parties to the Merger Agreement made the Merger Term Modifications and the Supplemental Disclosures. Delaware Plaintiffs and Co-Lead Counsel believe that, with the Supplemental Disclosures, the Recommendation Statement is materially complete.

4. Without admitting any wrongdoing or that any of the Supplemental Disclosures were material or required to be made, Defendants acknowledge that the prosecution of the Actions and discussions with Co-Lead Counsel were the cause for (a) the Merger Term Modifications and (b) the Supplemental Disclosures.

RELEASE OF CLAIMS

5. The obligations incurred pursuant to this Stipulation are in consideration of the full and final disposition of the Delaware Action as against Defendants and the Releases provided for herein.

6. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, Delaware Plaintiffs, the Texas Plaintiff and each of the other Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, completely and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Plaintiffs' Claim against the Defendants and the other Defendants' Releasees, and shall forever be barred from instituting, commencing or prosecuting any or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees.

7. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, completely and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants' Claim against Delaware Plaintiffs and the other Plaintiffs' Releasees, and shall forever be barred from instituting, commencing or prosecuting any or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees.

8. Notwithstanding Paragraphs 6-7 above, nothing in the Judgment shall bar any action by any of the Parties to enforce the terms of this Stipulation or the Judgment.

SCHEDULING ORDER AND NOTICE

9. Promptly upon execution of this Stipulation, Plaintiffs and Defendants shall submit this Stipulation to the Court and shall jointly apply for entry of the Scheduling Order, substantially in the form attached hereto as Exhibit B, providing for, among other things: (a) preliminary certification of the Class for purposes of the Settlement only; (b) approval of the form and content of notice of the Settlement; (c) subject to the Court's availability, scheduling the date for the

Settlement Fairness Hearing to be sixty (60) calendar days after the date by which the Company or its successor-in-interest is required to mail out the Notice; and (d) pending final determination by the Court of whether the Settlement should be approved, barring and enjoining Delaware Plaintiffs and all other Class Members from instituting, commencing or prosecuting any of the Released Plaintiffs' Claims against any of the Defendants' Releasees.

10. In accordance with the terms of the Scheduling Order to be entered by the Court, within five (5) business days after the date of entry of the Scheduling Order, the Company or its successor-in-interest shall cause the Notice to be mailed to those Class Members as may be identified through reasonable effort. The Company or its successor-in-interest shall also cause the Summary Notice to be published in accordance with the Scheduling Order to be entered by the Court. The Company or its successor-in-interest shall pay all Notice and Administration Costs regardless of whether the Court approves the Settlement, and in no event shall Delaware Plaintiffs, any other Class Member, or their attorneys be responsible for any Notice and Administration Costs.

TERMS OF THE JUDGMENT

11. If the Settlement contemplated by this Stipulation is approved by the Court, Co-Lead Counsel and Defendants' Counsel shall jointly request that the Court enter a Judgment, substantially in the form attached hereto as Exhibit C.

ATTORNEYS' FEES AND LITIGATION EXPENSES

12. Co-Lead Counsel will apply to the Court for a collective award of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel. Co-Lead Counsel intend to seek Court approval for an award of attorneys' fees and Litigation Expenses in an amount not to exceed \$2,100,000 in the aggregate (the "Fee and Expense Application"). Defendants acknowledge Plaintiffs' Counsel's right to an award of attorneys' fees and Litigation Expenses based on the substantial benefits conferred upon the Class by the prosecution of the Actions and the Settlement. Defendants have agreed not to oppose the Fee and Expense Application.

13. The Company, its successor-in-interest, or their insurers shall (on behalf of all Defendants) pay or cause to be paid to Co-Lead Counsel any attorneys' fees and Litigation Expenses that are awarded by the Court (the "Fee and Expense Award"). The Fee and Expense Award shall be paid in full within ten (10) business days after the later of: (1) entry of an Order by the Court approving the Fee and Expense Award; or (2) the date that Co-Lead Counsel provide complete payment instructions to Defendants' Counsel, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof. The payment of the Fee and Expense Award is subject to Plaintiffs' Counsel's obligation to make appropriate refunds or repayments to the Company or its successor-in-interest or its

insurers if the Settlement is terminated pursuant to the terms of this Stipulation or if, as a result of any appeal or further proceedings on remand or successful collateral attack, the Fee and Expense Award is reduced or reversed and such order reducing or reversing the Fee and Expense Award has become Final. Plaintiffs' Counsel shall make the appropriate refund or repayment in full no later than ten (10) business days after: (a) receiving from Defendants' Counsel notice of the termination of the Settlement; or (b) any order reducing or reversing the Fee and Expense Award has become Final. An award of attorneys' fees and/or Litigation Expenses is not a necessary term of the Settlement and shall not be a condition of the Settlement. Neither Plaintiffs nor Plaintiffs' Counsel may cancel or terminate the Settlement based on the Court's or any appellate court's ruling with respect to attorneys' fees and/or Litigation Expenses. Notwithstanding any of the foregoing, any failure of the Court to approve the Settlement or failure of the Settlement to become Final shall not preclude Plaintiffs' Counsel from applying for an award of attorneys' fees and Litigation Expenses.

14. Co-Lead Counsel shall allocate the Fee and Expense Award amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution and settlement of the Actions. No payment from the Fee and Expense Award shall be made to any counsel other than Plaintiffs' Counsel. Defendants' Releasees shall have no

responsibility for or liability whatsoever with respect to the allocation of the Fee and Expense Award.

CONDITIONS OF SETTLEMENT AND EFFECT OF TERMINATION

15. The Effective Date of the Settlement shall be deemed to occur on the occurrence or waiver of all of the following events:

(a) the Court has entered the Scheduling Order, substantially in the form set forth in Exhibit B attached hereto;

(b) Defendants have not exercised their option to terminate the Settlement pursuant to Paragraph 16 below;

(c) Plaintiffs have not exercised their option to terminate the Settlement pursuant to Paragraph 16 below; and

(d) the Court has approved the Settlement as described herein, following notice to the Class and a hearing, and entered the Judgment, substantially in the form set forth in Exhibit C attached hereto, and the Judgment has become Final.

16. Delaware Plaintiffs, provided they unanimously agree, and Defendants, provided they unanimously agree, shall each have the right to terminate the Settlement and this Stipulation, by providing written notice of their election to do so (“Termination Notice”) to the other Parties within thirty (30) calendar days of: (a) the Court’s declining to enter the Scheduling Order in any

material respect; (b) the Court's refusal to approve the Settlement or any material part thereof; (c) the Court's declining to enter the Judgment in any material respect as to the Settlement; or (d) the date upon which an order vacating, modifying, revising or reversing the Judgment becomes Final, and the provisions of Paragraph 17 below shall apply. However, any decision or proceeding, whether in this Court or any appellate court, solely with respect to an application for an award of attorneys' fees or Litigation Expenses shall not be considered material to the Settlement, shall not affect the finality of the Judgment, and shall not be grounds for termination of the Settlement.

17. If Delaware Plaintiffs or Defendants exercise their right to terminate the Settlement pursuant to Paragraph 16 above, then: (a) the Settlement and the relevant portions of this Stipulation shall be canceled; (b) Delaware Plaintiffs and Defendants shall revert to their respective litigation positions in the Delaware Action immediately prior to the date of execution of the MOU; (c) the terms and provisions of the MOU and this Stipulation, with the exception of this Paragraph 17 and Paragraph 18 below, shall have no further force and effect with respect to the Parties and shall not be used in the Delaware Action or in any other proceeding for any purpose, and the Parties shall proceed in all respects as if the MOU and this Stipulation had not been entered; and (d) the Judgment and any other order entered

by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*.

NO ADMISSION OF WRONGDOING

18. Neither the MOU, this Stipulation (whether or not consummated), including the exhibits hereto, the negotiations leading to the execution of the MOU and this Stipulation, nor any proceedings taken pursuant to or in connection with the MOU, this Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants' Releasees with respect to the truth of any fact alleged by Delaware Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Defendants' Releasees or in any way referred to for any other reason as against any of the Defendants' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by any of the Plaintiffs' Releasees that any of their claims are without merit or that any of the Defendants' Releasees had meritorious defenses, or with respect to any liability, negligence, fault or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Plaintiffs' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; or

(c) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given hereunder represents the consideration which could be or would have been achieved after trial;

provided, however, that if this Stipulation is approved by the Court, the Parties and the Releasees and their respective counsel may refer to it to effectuate the protections from liability granted hereunder or otherwise to enforce the terms of the Settlement.

MISCELLANEOUS PROVISIONS

19. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, in the

event that there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any exhibit attached hereto, the terms of the Stipulation shall prevail.

20. Each of Delaware Plaintiffs represents and warrants as to himself, herself or itself, that (a) he, she or it was an Athlon stockholder at all relevant times and held stock in Athlon through November 13, 2014, and (b) none of his, her or its claims or causes of action set forth in any of the complaints challenging the Proposed Transaction filed in the Actions, have been assigned, encumbered or in any manner transferred in whole or in part.

21. The Parties intend this Stipulation and the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Delaware Plaintiffs and any other Class Members against the Defendants' Releasees with respect to the Released Plaintiffs' Claims. Accordingly, Delaware Plaintiffs and their counsel and Defendants and their counsel agree not to assert in any forum that this Action was brought by Plaintiffs or defended by Defendants in bad faith or without a reasonable basis. The Parties agree that the Settlement consideration and the other terms of the Settlement were negotiated at arm's-length and in good faith by the Parties, and reflect the Settlement that was reached voluntarily after extensive negotiations and consultation with experienced legal

counsel, who were fully competent to assess the strengths and weaknesses of their respective clients' claims or defenses.

22. Delaware Plaintiffs and Plaintiffs' Counsel and Defendants and Defendants' Counsel shall not make any accusations of wrongful or actionable conduct by either Party concerning the prosecution, defense, and resolution of the Delaware Action, and shall not otherwise suggest that the Settlement constitutes an admission of any claim or defense alleged.

23. The terms of the Settlement, as reflected in this Stipulation, may not be modified or amended, nor may any of its provisions be waived except by a writing signed on behalf of both Delaware Plaintiffs and Defendants (or their successors-in-interest).

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

25. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel and enforcing the terms of this Stipulation.

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

27. This Stipulation and its exhibits constitute the entire agreement among Delaware Plaintiffs and Defendants concerning the Settlement and this Stipulation and its exhibits. All Parties acknowledge that no other agreements, representations, warranties, or inducements have been made by any Party hereto concerning this Stipulation or its exhibits other than those contained and memorialized in such documents.

28. This Stipulation may be executed in one or more counterparts, including by signature transmitted via facsimile, or by a .pdf/.tiff image of the signature transmitted via email. All executed counterparts and each of them shall be deemed to be one and the same instrument.

29. This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the Parties, including any and all Releasees and any corporation, partnership, or other entity into or with which any Party hereto may merge, consolidate or reorganize.

30. The construction, interpretation, operation, effect and validity of this Stipulation and all documents necessary to effectuate it shall be governed by the internal laws of the State of Delaware without regard to conflicts of laws, except to

the extent that federal law requires that federal law govern. Any action, suit, or proceeding arising out of or relating to this Stipulation or any transaction contemplated thereby shall be commenced and maintained in this Court, if possible, and otherwise filed exclusively in courts located in the State of Delaware (or, if under applicable law exclusive jurisdiction over the matter is vested in the federal courts, any court of the United States located in the State of Delaware). With respect to any such action, each Party hereto irrevocably and unconditionally: (a) consents to personal jurisdiction in the State of Delaware; (b) waives any objection to venue in the State of Delaware and any claim that Delaware is an inconvenient forum; (c) waives any right to demand a jury trial; and (d) consents to service of process by notice as set forth below in Paragraph 34 below, or any other means permitted by the laws of Delaware.

31. This Stipulation shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that it is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Stipulation.

32. All counsel and any other person executing this Stipulation and any of the exhibits hereto, or any related Settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take

appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

33. Co-Lead Counsel and Defendants' Counsel agree to cooperate fully with one another in seeking Court approval of the Settlement, as embodied in this Stipulation, and to use best efforts to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

34. Any Party may give notice or service to another Party under this Stipulation. Such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery, facsimile, or email transmission, with confirmation of receipt. Notice shall be provided as follows:

If to Delaware Plaintiffs or Co-Lead Counsel: Bernstein Litowitz Berger & Grossmann LLP
Attn: Mark Lebovitch
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 554-1400
Fax: (212) 554-1444
Email: MarkL@blbglaw.com

Robbins Geller Rudman & Dowd LLP
Attn: David T. Wissbroecker
655 West Broadway
Suite 1900
San Diego, California 92101
Telephone: (619) 231-1058
Fax: (619) 231-7423
Email: DWissbroecker@rgrdlaw.com

If to Defendants:

Latham & Watkins LLP
Attn: Blair Connelly
885 Third Avenue
New York, New York 10022-4834
Telephone: (212) 906-1200
Fax: (212) 751-4864
Email: blair.connelly@lw.com

Paul, Weiss, Rifkind, Wharton
& Garrison LLP
Attn: Andrew Gordon
1285 Avenue of the Americas
New York, New York 10019-6064
Telephone: (212) 373-3543
Fax: (212) 492-0543
Email: agordon@paulweiss.com

Akin Gump Strauss Hauer & Feld LLP
Attn: Brian T. Carney
One Bryant Park
Bank of America Tower
New York, New York 10036-6745
Telephone: (212) 872-1000
Fax: (212) 872-1002
Email: bcarney@akingump.com

35. Each Party retains the right to give notice to other Parties about a change of address with respect to the location where notices, requests, claims, or demands hereunder shall be delivered.

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

37. Whether or not the Stipulation is approved by the Court and whether or not the Stipulation is consummated, or the Effective Date occurs, the Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents signed and proceedings in connection with the Stipulation confidential, unless otherwise required by law.

38. Subject to applicable Court rules, all agreements made and orders entered during the course of the Delaware Action relating to the confidentiality of information shall survive this Settlement.

IN WITNESS WHEREOF, the Parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys, as of December 19, 2014.

ANDREWS & SPRINGER LLC

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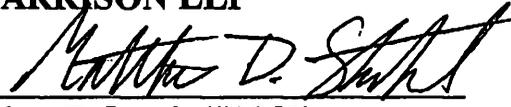
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