

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

IN RE PENN WEST PETROLEUM LTD.
SECURITIES LITIGATION

Master File No. 14-cv-6046-JGK

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement, dated as of February 12, 2016 (the “Stipulation”) is entered into between (a) the City of Miami Fire Fighters’ and Police Officers’ Retirement Trust and Avi Rojany (collectively, “Lead Plaintiffs”), on behalf of themselves and the Settlement Class (defined below); and (b) defendant Penn West Petroleum Ltd. (“Penn West”), and defendants Todd H. Takeyasu, Jeffery Curran, David E. Roberts, William E. Andrew and Murray R. Nunns (the “Individual Defendants” and, together with Penn West, the “Defendants”), and embodies the terms and conditions of the settlement of the above-captioned action (the “Action”).¹ Subject to the approval of the Court and the terms and conditions expressly provided herein, this Stipulation is intended to fully, finally and forever compromise, settle, release, resolve, and dismiss with prejudice the Action and all claims asserted therein against the Defendants.

WHEREAS:

A. On August 4, 2014, the Action was commenced with the filing of a securities class action complaint in the United States District Court for the Southern District of New York, styled *Frechter v. Penn West Petroleum, et al.*, No. 14-cv-06046-JGK. Dkt. No. 2.

¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in ¶ 1 herein.

B. By Order dated October 29, 2014, the Court appointed the City of Miami Fire Fighters' and Police Officers' Retirement Trust and Avi Rojany as Lead Plaintiffs for the Action, approved Lead Plaintiffs' selection of Bernstein Litowitz Berger & Grossmann LLP and Glancy Binkow & Goldberg LLP (now known as Glancy Prongay & Murray LLP) as Co-Lead Counsel, and consolidated all related actions. Dkt. No. 61. By that same Order, the Court amended the caption of the Action to be: *In re Penn West Petroleum Ltd. Securities Litigation*, No. 14-cv-06046-JGK.

C. On December 19, 2014, Lead Plaintiffs filed and served their Consolidated Amended Class Action Complaint (the "Complaint") asserting claims against all Defendants under Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated thereunder, and against the Individual Defendants under Section 20(a) of the Exchange Act. Dkt. No. 71. The Complaint alleges, among other things, that Defendants made materially false and misleading statements about Penn West's reported financial results, including its operating costs. The Complaint further alleges that the price of Penn West common stock was artificially inflated as a result of Defendants' allegedly false and misleading statements and omissions, and declined when the truth was revealed.

D. On March 6, 2015, Defendants served motions to dismiss the Complaint. Dkt. Nos. 82, 85, 88. On April 24, 2015, Lead Plaintiffs served their papers in opposition (Dkt. No. 94) and, on May 15, 2015, Defendants served their reply papers. Dkt. Nos. 102, 103, 105. The Court had not ruled on the motions to dismiss when the Parties reached their agreement in principle to settle the Action.

E. While Defendants' motions to dismiss were pending, Lead Plaintiffs, the plaintiffs in the related Canadian actions, and Penn West retained the Honorable Judge Daniel Weinstein

(Ret.) of Judicial Arbitration & Mediation Services, Inc. to act as a mediator. On November 24, 2015, Lead Plaintiffs, the plaintiffs in the related Canadian actions, and Penn West submitted extensive mediation statements to Judge Weinstein, and, on December 8, 2015, participated in an all-day mediation. A settlement was not, however, reached. Thereafter, settlement discussions continued, and Judge Weinstein issued a mediator's recommendation on December 18, 2015.

F. The Parties accepted Judge Weinstein's recommendation on or about January 4, 2016, and reached an agreement in principle to settle the Action that was memorialized in a confidential term sheet (the "Term Sheet") executed on February 5, 2016. The Term Sheet set forth, among other things, the Parties' agreement to settle and release all claims referenced therein in return for a cash payment of Can\$26,500,000 that Penn West will cause to be paid from insurance proceeds for the benefit of the Settlement Class, subject to certain terms and conditions and the execution of a customary "long form" stipulation and agreement of settlement and related papers.

G. This Stipulation (together with the exhibits hereto) supersedes the Term Sheet and reflects the final and binding agreement between the Parties.

H. Based upon their investigation and prosecution of the case to date, Lead Plaintiffs and Co-Lead Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to Lead Plaintiffs and the other members of the Settlement Class, and in their best interests. Based on Lead Plaintiffs' direct oversight of the prosecution of this matter and with the advice of their counsel, Lead Plaintiffs have agreed to settle and release the claims raised in the Action pursuant to the terms and provisions of this Stipulation, after considering, among other things: (a) the substantial financial benefit that Lead Plaintiffs and the other members of the Settlement Class will receive under the proposed Settlement; (b) the significant deterioration of

Penn West's financial condition; and (c) the significant risks and costs of continued litigation, a potential trial, and appeals.

I. 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 protracted litigation. Each of the Defendants expressly denies that Lead Plaintiffs have asserted any valid claims as to any of them, and expressly denies any and all allegations of fault, liability, wrongdoing or damages with respect to the claims asserted in this Action. Similarly, this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of Lead Plaintiffs of any infirmity in any of the claims or allegations asserted in the 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 Action has been initiated, filed, prosecuted and settled by Lead Plaintiffs in good faith and defended by Defendants in good faith, that the 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 Lead Plaintiffs (individually and on behalf of all other members of the Settlement Class) and Defendants, by and through their respective undersigned attorneys and subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, 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.

DEFINITIONS

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

(a) “Action” or “U.S. Action” means the consolidated securities class action in the matter styled *In re Penn West Petroleum Ltd. Securities Litigation*, Case No. 14-cv-6046-JGK, pending in the United States District Court for the Southern District of New York, and includes all actions consolidated therein.

(b) “Alberta Action” means *Allen v. Penn West Petroleum Ltd., et al.*, Court File No. 1401-08454, Court of Queen’s Bench of Alberta.

(c) “Authorized Claimant” means a Settlement Class Member who submits a Proof of Claim Form to the Claims Administrator that is approved by the Court for payment from the Net Settlement Fund.

(d) “Canadian Actions” means the Ontario Action, Alberta Action and Quebec Action.

(e) “Claim” means a Proof of Claim Form submitted to the Claims Administrator.

(f) “Claim Form” or “Proof of Claim Form” means the form, substantially in the form attached hereto as Exhibit 2 to Exhibit A, that a Claimant or Settlement Class Member must complete and submit should that Claimant or Settlement Class Member seek to share in a distribution of the Net Settlement Fund.

(g) “Claimant” means a person or entity who or which submits a Claim Form to the Claims Administrator seeking to be eligible to share in the proceeds of the Settlement Fund.

(h) “Claims Administrator” means the firm retained by Lead Plaintiffs and Co-Lead Counsel, subject to approval of the Court, to provide all notices approved by the Court to potential Settlement Class Members and to administer the Settlement.

(i) “Class Distribution Order” means an order entered by the Court authorizing and directing that the Net Settlement Fund be distributed, in whole or in part, to Authorized Claimants.

(j) “Co-Lead Counsel” means the law firms of Bernstein Litowitz Berger & Grossmann LLP and Glancy Prongay & Murray LLP.

(k) “Complaint” means the Consolidated Amended Class Action Complaint filed by Lead Plaintiffs in the Action on December 19, 2014.

(l) “Court” or “U.S. Court” means the United States District Court for the Southern District of New York.

(m) “Defendants” means Penn West and the Individual Defendants.

(n) “Defendants’ Counsel” means Sullivan & Cromwell LLP, Lankler Siffert & Wohl LLP, Baker Botts L.L.P., Morvillo Abramowitz Grand Iason & Anello PC, and Covington & Burling LLP.

(o) “Defendants’ Releasees” means Defendants; the current and former employers, officers, directors, employees, agents, servants, representatives, parents, affiliates, subsidiaries, successors, predecessors, assigns, assignees, advisors, attorneys, and insurers of Penn West and the Individual Defendants; and each of their respective heirs, executors, administrators, successors and assigns; *provided, however*, that KPMG, and its parents, affiliates, subsidiaries, successors, and predecessors, as well as any current or former officers, directors and partners thereof, shall not be a Defendants’ Releasee and shall not be released in this Settlement.

(p) “Effective Date” with respect to the Settlement means the first date by which all of the events and conditions specified in ¶ 34 of this Stipulation have been met and have occurred or have been waived.

(q) “Escrow Account” means an account maintained at Valley National Bank wherein the Settlement Amount shall be deposited and held in escrow under the control of Co-Lead Counsel.

(r) “Escrow Agent” means Valley National Bank.

(s) “Escrow Agreement” means the agreement between Co-Lead Counsel and the Escrow Agent setting forth the terms under which the Escrow Agent shall maintain the Escrow Account.

(t) “Excluded Claims” means (a) any claims against KPMG, its parents, affiliates, subsidiaries, successors, or predecessors, or current or former officers, directors and partners thereof; (b) any claims relating to the enforcement of the Settlement; or (c) any claims of any person or entity that submits a request for exclusion from the Settlement Class that is accepted by the Court.

(u) “Final,” with respect to the Judgment or any other court order, means: (i) if no appeal is filed, the expiration date of the time provided for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) days after entry 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 an 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 (i) attorneys' fees, costs or expenses, or (ii) the plan of allocation of Settlement proceeds (as submitted or subsequently modified), shall not in any way delay or preclude a judgment from becoming Final.

(v) "Immediate Family" means children, stepchildren, parents, stepparents, spouses, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law. As used in this paragraph, "spouse" shall mean a husband, a wife, or a partner in a state-recognized domestic relationship or civil union.

(w) "Individual Defendants" means Todd H. Takeyasu, Jeffery Curran, David E. Roberts, William E. Andrew and Murray R. Nunns.

(x) "Judgment" means the final judgment, substantially in the form attached hereto as Exhibit B, to be entered by the Court approving the Settlement

(y) "KPMG" means KMPG LLP and KPMG LLP (Canada).

(z) "Lead Plaintiffs" means the City of Miami Fire Fighters' and Police Officers' Retirement Trust and Avi Rojany.

(aa) "Litigation Expenses" means costs and expenses incurred in connection with commencing, prosecuting and settling the Action (which may include the costs and expenses of Lead Plaintiffs directly related to their representation of the Settlement Class), for which Co-Lead Counsel intend to apply to the Court for reimbursement from the Settlement Fund.

(bb) The "Mediator" means the Honorable Daniel Weinstein (Ret.) of Judicial Arbitration & Mediation Services, Inc.

(cc) “Net Settlement Fund” means the Settlement Fund less: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any Litigation Expenses awarded by the Court; and (iv) any attorneys’ fees awarded by the Court.

(dd) “Notice” means the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, substantially in the form attached hereto as Exhibit 1 to Exhibit A, which is to be mailed to Settlement Class Members.

(ee) “Notice and Administration Costs” means the reasonable costs, fees and expenses that are incurred by the Claims Administrator and/or Co-Lead Counsel in connection with: (i) providing notices to the Settlement Class; and (ii) administering the Settlement, including but not limited to the Claims process, as well as the reasonable costs, fees and expenses incurred in connection with the Escrow Account.

(ff) “NYSE” means the New York Stock Exchange.

(gg) “Ontario Action” means *Middlemiss v. Penn West Petroleum Ltd., et al.*, Court File No. CV-15-525189-00CP, Ontario Superior Court of Justice.

(hh) “Parties” means Defendants and Lead Plaintiffs, on behalf of themselves and the Settlement Class.

(ii) “Penn West” means Penn West Petroleum Ltd.

(jj) “Plaintiffs’ Releasees” means Lead Plaintiffs, all other plaintiffs in the U.S. Action, and their respective attorneys, and all other Settlement Class Members, their respective current and former officers, directors, employees, agents, servants, representatives, parents, affiliates, subsidiaries, successors, predecessors, assigns, assignees, advisors, attorneys, and insurers, and each of their respective heirs, executors, administrators, successors and assigns.

(kk) “Plan of Allocation” means the proposed plan of allocation of the Net Settlement Fund set forth in the Notice.

(ll) “Preliminary Approval Order” means the order, substantially in the form attached hereto as Exhibit A, to be entered by the Court preliminarily approving the Settlement and directing that notice of the Settlement be provided to the Settlement Class.

(mm) “PSLRA” means the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended.

(nn) “Quebec Action” means *Benadiva v. Penn West Petroleum Ltd., et al.*, No. 500-06-000713-145, Superior Court of Quebec.

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

(pp) “Released Defendants’ Claims” means, to the extent permitted by law, all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against the Defendants. Released Defendants’ Claims do not include any claims relating to the enforcement of the Settlement or any claims against any person or entity that submits a request for exclusion from the Settlement Class that is accepted by the Court.

(qq) “Released Plaintiffs’ Claims” means, to the extent permitted by law, all claims and causes of action of every nature and description, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever and wherever incurred, and rights and liabilities of any nature whatsoever, including interest, costs, expenses, administration expenses, penalties, Co-Lead Counsel’s attorneys’ fees, suspected or unsuspected, whether known

claims or Unknown Claims, whether arising under federal, state, common, or foreign law, that Lead Plaintiffs or any other member of the Settlement Class alleged or could have alleged, whether directly or indirectly, arising out of, based upon, or related to (a) (i) the purchase or acquisition of Penn West common stock or trust units on an open market located within the United States, including but not limited to the NYSE or another domestic exchange during the Settlement Class Period, or (ii) the purchase or acquisition of Penn West call options, or sale or writing of Penn West put options, on an open market located within the United States, including but not limited to the NYSE or another domestic exchange, during the Settlement Class Period, and (b) any act, facts, transactions, events, disclosures, statements, or omissions that were or could have been alleged in the U.S. Action. Released Plaintiffs' Claims do not include any of the Excluded Claims.

(rr) "Releasee(s)" means each and any of the Defendants' Releasees and each and any of the Plaintiffs' Releasees.

(ss) "Releases" means the releases set forth in ¶¶ 5-6 of this Stipulation.

(tt) "Settlement" means the settlement between Lead Plaintiffs and Defendants on the terms and conditions set forth in this Stipulation.

(uu) "Settlement Amount" means twenty-six million five hundred thousand Canadian dollars (\$26,500,000.00 CAD) in cash.

(vv) "Settlement Class" means all persons or entities who or which (i) purchased or otherwise acquired Penn West common stock or trust units on an open market located within the United States, including but not limited to the NYSE or another domestic exchange, or (ii) purchased or otherwise acquired Penn West call options, or sold or wrote Penn West put options, on an open market located within the United States, including but not limited to the NYSE or another domestic exchange, from February 18, 2010 through July 29, 2014, inclusive, and who

were damaged thereby. Excluded from the Settlement Class are Defendants, KPMG, the General Counsel, officers, directors and partners of Penn West and KPMG at all relevant times, any entity in which any Defendant or KPMG has or had a controlling interest, and the members of the Immediate Families and the legal representatives, heirs, successors or assigns of any of the foregoing. Also excluded from the Settlement Class are any persons or entities that exclude themselves by submitting a request for exclusion that is accepted by the Court.

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

(xx) “Settlement Class Period” means the period from February 18, 2010 through July 29, 2014, inclusive.

(yy) “Settlement Fund” means the Settlement Amount plus any and all interest earned thereon.

(zz) “Settlement Fairness Hearing” means the hearing set by the Court under Rule 23(e)(2) of the Federal Rules of Civil Procedure to consider final approval of the Settlement.

(aaa) “Summary Notice” means the Summary Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, substantially in the form attached hereto as Exhibit 3 to Exhibit A, to be published as set forth in the Preliminary Approval Order.

(bbb) “Taxes” means: (i) all federal, state and/or local taxes of any kind (including any interest or penalties thereon) on any income earned by the Settlement Fund; (ii) the expenses and costs incurred by Co-Lead Counsel in connection with determining the amount of, and paying, any taxes owed by the Settlement Fund (including, without limitation, expenses of tax attorneys

and accountants); and (iii) all taxes imposed on payments by the Settlement Fund, including withholding taxes.

(ccc) “Unknown Claims” means any Released Plaintiffs’ Claims which any Lead Plaintiff or any other Settlement 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 which 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, Lead Plaintiffs and Defendants shall expressly waive, and each of the other Settlement 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.

Lead Plaintiffs and Defendants acknowledge, and each of the other Settlement 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 Action as a class action pursuant to Rules 23(a) and 23(b)(3)

of the Federal Rules of Civil Procedure on behalf of the Settlement Class; (b) certification of Lead Plaintiffs as Class Representatives for the Settlement Class; and (c) appointment of Co-Lead Counsel as Class Counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

PRELIMINARY APPROVAL OF SETTLEMENT

3. Promptly upon execution of this Stipulation, Lead Plaintiffs will move for preliminary approval of the Settlement, certification of the Settlement Class for settlement purposes only, and the scheduling of a hearing for consideration of final approval of the Settlement, which motion shall be unopposed by Defendants. Concurrently with the motion for preliminary approval, Lead Plaintiffs shall apply to the Court for, and Defendants shall not object to, entry of the Preliminary Approval Order, substantially in the form attached hereto as Exhibit A.

RELEASE OF CLAIMS

4. The obligations incurred pursuant to this Stipulation are in consideration of: (a) the full and final disposition of the Action as against Defendants; and (b) the Releases provided for herein.

5. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, to the extent permitted by law, Lead Plaintiffs and each member of the Settlement Class, on behalf of themselves and their respective past and present directors, officers, employees, agents, trustees, fiduciaries, servants, consultants, underwriters, advisors, representatives, heirs, executors, attorneys, administrators, guardians, estate trustees, successors and assigns, in their capacities as such, and any other person or entity legally entitled to bring Released Plaintiffs' Claims on behalf of a Settlement Class Member, in that capacity, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally 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 and enjoined from prosecuting any or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees. This release shall not apply to any Excluded Claims.

6. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, Defendants, on behalf of themselves and their respective past and present directors, officers, employees, agents, trustees, fiduciaries, servants, consultants, underwriters, advisors, representatives, heirs, executors, attorneys, administrators, guardians, estate trustees, successors and assigns, in their capacities as such, and any other person or entity legally entitled to bring Released Defendants' Claims on behalf of a Defendant, in that capacity, shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants' Claim against Lead Plaintiffs and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees. This release shall not apply to (a) any claims relating to the enforcement of the Settlement; or (b) any claims of any person or entity that submits a request for exclusion from the Settlement Class that is accepted by the Court.

7. Notwithstanding ¶¶ 5-6 above, nothing in the Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of this Stipulation or the Judgment.

THE SETTLEMENT CONSIDERATION

8. In consideration of the settlement of the Released Plaintiffs' Claims against Defendants and the other Defendants' Releasees, Penn West, on behalf of the Defendants, shall cause the Settlement Amount to be deposited into the Escrow Account no later than the earlier of: (a) thirty (30) calendar days after the date of execution of this Stipulation, or (b) the date the

settlement of the Canadian Actions is funded. Lead Plaintiffs acknowledge that the full Settlement Amount will be funded by Penn West's insurance carriers and that the Defendants shall have no individual liability for the Settlement Amount.

USE OF SETTLEMENT FUND

9. The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Notice and Administration Costs; (c) any Litigation Expenses awarded by the Court; and (d) any attorneys' fees awarded by the Court. The balance remaining in the Settlement Fund, that is, the Net Settlement Fund, shall be distributed to Authorized Claimants as provided in ¶¶ 18-29 below.

10. Except as provided herein or pursuant to orders of the Court, the Net Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Stipulation and/or further order of the Court. The Escrow Agent shall invest any funds in the Escrow Account exclusively in United States Treasury Bills (or a mutual fund invested solely in such instruments) and shall collect and reinvest all interest accrued thereon, except that any residual cash balances up to the amount that is insured by the FDIC may be deposited in any account that is fully insured by the FDIC. In the event that the yield on United States Treasury Bills is negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. Additionally, if short-term placement of the funds is necessary, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States.

11. The Parties agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and that Co-Lead Counsel, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Settlement Fund. Co-Lead Counsel shall also be responsible for causing payment to be made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund. The Defendants' Releasees shall not have any liability or responsibility for any such Taxes. Upon written request, Defendants will provide to Co-Lead Counsel the statement described in Treasury Regulation § 1.468B-3(e). Co-Lead Counsel, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a "relation back election," as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

12. All Taxes shall be paid out of the Settlement Fund, and shall be timely paid by the Escrow Agent pursuant to the disbursement instructions to be set forth in the Escrow Agreement, and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous paragraph and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Defendants' Releasees shall have no responsibility or

liability for the acts or omissions of Co-Lead Counsel or their agents with respect to the payment of Taxes, as described herein.

13. The Settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, no Defendant, Defendants' Releasee, or any other person or entity who or which paid any portion of the Settlement Amount shall have any right to the return of the Settlement Fund or any portion thereof for any reason whatsoever, including without limitation, the number of Claim Forms submitted, the collective amount of Recognized Claims of Authorized Claimants, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants from the Net Settlement Fund.

14. Notwithstanding the fact that the Effective Date of the Settlement has not yet occurred, Co-Lead Counsel may pay from the Escrow Account, without further approval from Defendants or further order of the Court, all Notice and Administration Costs reasonably and actually incurred up to \$500,000. Such costs and expenses shall include, without limitation, the reasonable and actual costs of printing and mailing the Notice, publishing the Summary Notice, reimbursements to nominee owners for forwarding the Notice to their beneficial owners, the reasonable administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice, administering the Settlement (including processing the submitted Claims), and the fees, if any, of the Escrow Agent. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all reasonable Notice and Administration Costs incurred, paid or payable, including any related fees, shall not be returned or repaid to Defendants, their insurance carriers, or any other person or entity who or which funded any portion of the Settlement Amount.

ATTORNEYS' FEES AND LITIGATION EXPENSES

15. Co-Lead Counsel will apply to the Court for a collective award of attorneys' fees to be paid from (and out of) the Settlement Fund. Co-Lead Counsel also will apply to the Court for reimbursement of Litigation Expenses, which may include a request for reimbursement of Lead Plaintiffs' costs and expenses directly related to their representation of the Settlement Class, to be paid from (and out of) the Settlement Fund. Co-Lead Counsel's application for an award of attorneys' fees and/or Litigation Expenses is not the subject of any agreement between Defendants and Lead Plaintiffs other than what is set forth in this Stipulation.

16. Any attorneys' fees and Litigation Expenses that are awarded by the Court shall be paid to Co-Lead Counsel immediately upon entry of the Court's order awarding such attorneys' fees and Litigation Expenses, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Co-Lead Counsel's joint and several obligation to make appropriate refunds or repayments to the Settlement Fund, plus accrued interest at the same net rate as is earned by the Settlement Fund, 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 award of attorneys' fees and/or Litigation Expenses is reduced or reversed and such order reducing or reversing the award has become Final. Co-Lead Counsel shall make the appropriate refund or repayment in full no later than thirty (30) days after: (a) receiving from Defendants' Counsel notice of the termination of the Settlement; or (b) any order reducing or reversing the award of attorneys' fees and/or Litigation Expenses has become Final. An award of attorneys' fees and/or Litigation Expenses is not a necessary term of this Stipulation and is not a condition of the Settlement embodied herein. Neither Lead Plaintiffs nor Co-Lead Counsel may cancel or terminate the

Settlement based on this Court's or any appellate court's ruling with respect to attorneys' fees and/or Litigation Expenses.

17. Defendants' Releasees shall have no responsibility for or liability whatsoever with respect to the award or allocation of attorneys' fees or Litigation Expenses. The attorneys' fees and Litigation Expenses that are awarded to Co-Lead Counsel shall be payable solely from the Escrow Account.

NOTICE AND SETTLEMENT ADMINISTRATION

18. As part of the Preliminary Approval Order, Lead Plaintiffs shall seek appointment of a Claims Administrator. The Claims Administrator shall administer the Settlement, including but not limited to the process of receiving, reviewing and approving or denying Claims, under Co-Lead Counsel's supervision and subject to the jurisdiction of the Court. Other than Penn West's obligation to provide its securities holders records as provided in ¶ 19 below, none of the Defendants, nor any other Defendants' Releasees, shall have any involvement in or any responsibility, authority or liability whatsoever for the selection of the Claims Administrator, the Plan of Allocation, the administration of the Settlement, the Claims process, or disbursement of the Net Settlement Fund, and shall have no liability whatsoever to any person or entity, including, but not limited to, Lead Plaintiffs, any other Settlement Class Members or Co-Lead Counsel in connection with the foregoing. Defendants' Counsel shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms.

19. In accordance with the terms of the Preliminary Approval Order to be entered by the Court, Co-Lead Counsel shall cause the Claims Administrator to mail the Notice and Proof of Claim Form to those members of the Settlement Class as may be identified through reasonable effort, including Settlement Class Members located in both the United States and Canada. Co-

Lead Counsel shall also cause the Claims Administrator to have the Summary Notice published in accordance with the terms of the Preliminary Approval Order to be entered by the Court. For the purposes of identifying and providing notice to the Settlement Class, within ten (10) business days of the date of entry of the Preliminary Approval Order, Penn West shall provide or cause to be provided to the Claims Administrator in electronic format (at no cost to the Settlement Fund, Co-Lead Counsel or the Claims Administrator) its securities holders lists (consisting of names and addresses) of the record holders of Penn West common stock and trust units traded on the NYSE or any other domestic exchange during the Settlement Class Period. Lead Plaintiffs acknowledge that these securities holders lists will include securities holder information reasonably accessible, in the possession of Penn West or its present or former transfer agents, and may not be a complete list.

20. The Claims Administrator shall receive Claims and determine first, whether the Claim is a valid Claim, in whole or part, and second, each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant's Recognized Claim compared to the total Recognized Claims of all Authorized Claimants (as set forth in the Plan of Allocation set forth in the Notice attached hereto as Exhibit 1 to Exhibit A, or in such other plan of allocation as the Court approves).

21. The Plan of Allocation proposed in the Notice is not a necessary term of the Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation that any particular plan of allocation be approved by the Court. Lead Plaintiffs and Co-Lead Counsel may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation in this Action. Defendants and the other Defendants' Releasees shall not object in any way to the

Plan of Allocation or any other plan of allocation in this Action. No Defendant or Defendants' Releasee shall have any involvement with or liability, obligation or responsibility whatsoever for the application of the Court-approved plan of allocation.

22. Any Settlement Class Member who does not submit a valid Claim Form will not be entitled to receive any distribution from the Net Settlement Fund, but will otherwise be bound by all of the terms of this Stipulation and Settlement, including the terms of the Judgment to be entered in the Action and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim, or other proceeding of any kind against the Defendants' Releasees with respect to the Released Plaintiffs' Claims in the event that the Effective Date occurs with respect to the Settlement.

23. Co-Lead Counsel shall be responsible for supervising the administration of the Settlement and the disbursement of the Net Settlement Fund subject to Court approval. No Defendant, or any other Defendants' Releasees, shall be permitted to review, contest or object to any Claim Form, or any decision of the Claims Administrator or Co-Lead Counsel with respect to accepting or rejecting any Claim for payment by a Settlement Class Member. Co-Lead Counsel shall have the right, but not the obligation, to waive what it deems to be formal or technical defects in any Claim Forms submitted in the interests of achieving substantial justice.

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

(a) Each Settlement Class Member shall be required to submit a Claim Form, substantially in the form attached hereto as Exhibit 2 to Exhibit A, supported by such documents as are designated therein, including proof of the Claimant's loss, or such other documents or proof as the Claims Administrator or Co-Lead Counsel, in their discretion, may deem acceptable;

(b) All Claim Forms must be submitted by the date set by the Court in the Preliminary Approval Order and specified in the Notice. Any Settlement Class Member who fails to submit a Claim Form by such date shall be forever barred from receiving any distribution from the Net Settlement Fund or payment pursuant to this Stipulation (unless by Order of the Court such Settlement Class Member's Claim Form is accepted), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim or other proceeding of any kind against any Defendants' Releasees with respect to any Released Plaintiffs' Claim. Provided that it is mailed by the claim-submission deadline, a Claim Form shall be deemed to be submitted when postmarked, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Claim Form shall be deemed to have been submitted on the date when actually received by the Claims Administrator;

(c) Each Claim Form shall be submitted to and reviewed by the Claims Administrator who shall determine in accordance with this Stipulation and the plan of allocation the extent, if any, to which each Claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below as necessary;

(d) Claim Forms that do not meet the submission requirements may be rejected. Prior to rejecting a Claim in whole or in part, the Claims Administrator shall communicate with the Claimant in writing, to give the Claimant the chance to remedy any curable deficiencies in the Claim Form submitted. The Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be

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

(e) If any Claimant whose Claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a Claim cannot be otherwise resolved, Co-Lead Counsel shall thereafter present the request for review to the Court.

25. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the Claimant's Claim, and the Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided, however, that such investigation and discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or of the Settlement in connection with the processing of Claim Forms.

26. Co-Lead Counsel will apply to the Court, on notice to Defendants' Counsel, for a Class Distribution Order: (a) approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the Claims submitted; (b) approving payment of any administration fees and expenses associated with the administration of the Settlement from the Escrow Account; and (c) if the Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants from the Escrow Account.

27. Payment pursuant to the Class Distribution Order shall be final and conclusive against all Settlement Class Members. All Settlement Class Members whose Claims are not

approved by the Court for payment shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment to be entered in this Action and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action against any and all Defendants' Releasees with respect to any and all of the Released Plaintiffs' Claims.

28. No person or entity shall have any claim against Lead Plaintiffs, Co-Lead Counsel, the Claims Administrator or any other agent designated by Co-Lead Counsel, or the Defendants' Releasees and/or their respective counsel, arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or any order of the Court. Lead Plaintiffs and Defendants, and their respective counsel, and Lead Plaintiffs' damages expert and all other Releasees shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund, the plan of allocation, or the determination, administration, calculation, or payment of any claim or nonperformance of the Claims Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

29. All proceedings with respect to the administration, processing and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court. All Settlement Class Members and Parties to this Settlement expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations.

TERMS OF THE JUDGMENT

30. If the Settlement contemplated by this Stipulation is approved by the Court, Co-Lead Counsel shall request that the Court enter a Judgment, substantially in the form attached hereto as Exhibit B, and Defendants shall not oppose that request.

31. The Judgment shall contain a Bar Order substantially in the form set forth in Exhibit B that will, upon the Effective Date of the Settlement, permanently bar, extinguish, and discharge any and all claims, action, suits, cause of action, arbitration, or demands in any forum against the Defendants' Releasees for contribution and indemnification for any damages arising from the Complaint or any of the Released Plaintiffs' Claims or any U.S. civil action (a) involving the allegations made in the Complaint; or (b) relating in any way to the Released Plaintiffs' Claims including but not limited to the restatement of Penn West's financial statements in 2014. The Bar Order shall not: (a) bar, impair or affect any other claims, including claims by the Defendants for malpractice and breach of contract and claims concerning damages arising from anything other than a U.S. civil action; or (b) apply to any claims the Individual Defendants may have against Penn West or any insurance carrier for advancement of legal fees or indemnification.

32. The Judgment also shall contain a provision substantially in the form set forth in Exhibit B, providing that: any final verdict or judgment that may be obtained by or on behalf of the Settlement Class or a Settlement Class Member against any person or entity subject to the Bar Order shall be reduced by the greater of: (a) an amount that corresponds to the percentage of responsibility of Defendants for common damages; or (b) the amount paid on behalf of Defendants to the Settlement Class or Settlement Class Member for common damages.

DUE DILIGENCE

33. The Settlement is subject to the completion of reasonable due diligence by Lead Plaintiffs. In connection with this due diligence, Penn West will provide to Lead Plaintiffs:

(a) certain documents relating to Penn West's lack of ability to pay settlement amounts beyond its applicable insurance coverage; (b) certain documents concerning KPMG to be determined by the Parties, provided that this does not cause Penn West to breach any confidentiality obligations owed to KPMG, and that are not unreasonably burdensome for Penn West to produce; and (c) one or two interviews concerning (a) and (b). Information provided by Penn West to Lead Plaintiffs either in written form or during any interviews in connection with the Settlement: (i) shall be treated as strictly confidential and shall not be used against Penn West or any Defendants' Releasee for any purpose whatsoever; (ii) must, to the extent so designated by Penn West, be held by Co-Lead Counsel on an "Attorneys' Eyes Only" basis and not publicly disclosed for any purpose; and (iii) must be destroyed or returned, at Penn West's choosing, upon the Effective Date of the Settlement. Penn West need not provide the information described in (a), (b) or (c) above until the Court has so ordered a protective order submitted by the Parties. To the extent that any person seeks disclosure of documents designated by Penn West as "Attorneys' Eyes Only," Co-Lead Counsel shall immediately notify Penn West's counsel and use its best efforts to prevent such disclosure. Further discussions between the Parties on any issues relating to this ¶ 33 will be under the auspices of the Mediator. Lead Plaintiffs, by and through Co-Lead Counsel, shall have the right to withdraw from the Settlement at any time prior to filing their motion for final approval of the proposed Settlement if the Mediator issues a written determination that the information produced by Penn West renders the proposed Settlement unfair, unreasonable, and inadequate.

**CONDITIONS OF SETTLEMENT AND EFFECT OF
DISAPPROVAL, CANCELLATION OR TERMINATION**

34. 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 Preliminary Approval Order, substantially in the form set forth in Exhibit A attached hereto, as required by ¶ 3 above;

(b) the Settlement Amount has been deposited into the Escrow Account in accordance with the provisions of ¶ 8 above;

(c) Defendants have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation (including the Supplemental Agreement described in ¶ 38 below), and their time to do so has expired;

(d) Lead Plaintiffs have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation; and

(e) the Court has approved the Settlement as described herein, following notice to the Settlement Class and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure, and entered the Judgment and the Judgment has become Final.

35. Upon the occurrence of all of the events referenced in ¶ 34 above, any and all remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished and the Releases herein shall be effective.

36. If (i) Defendants exercise their rights to terminate the Settlement as provided in this Stipulation; (ii) Lead Plaintiffs exercise their right to terminate the Settlement as provided in this Stipulation; (iii) the Court disapproves the Settlement; or (iv) the Effective Date as to the Settlement otherwise fails to occur, then:

(a) The Settlement and the relevant portions of this Stipulation shall be canceled and terminated.

(b) Lead Plaintiffs and Defendants shall revert to their respective positions in the Action as of January 4, 2016.

(c) The terms and provisions of this Stipulation, with the exception of this ¶ 36 and ¶¶ 14, 16, 40 and 62, shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*.

(d) Within five (5) business days after joint written notification of termination is sent by Penn West's Counsel and Co-Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest thereon and any funds received by Co-Lead Counsel consistent with ¶ 16 above), less any Notice and Administration Costs actually incurred, paid or payable and less any Taxes paid, due or owing shall be refunded by the Escrow Agent to Penn West (or such other persons or entities as Penn West may direct) in US\$ calculated using the Can\$/US\$ exchange rate as of the date of funding of the Settlement Amount. In the event that the funds received by Co-Lead Counsel consistent with ¶ 16 above have not been refunded to the Settlement Fund within the five (5) business days specified in this paragraph, those funds shall be refunded by the Escrow Agent to Defendants (or such other persons or entities as Defendants may direct) immediately upon their deposit into the Escrow Account consistent with ¶ 16 above.

37. It is further stipulated and agreed that Lead Plaintiffs and Penn West 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 to this Stipulation within thirty (30) days of: (a) the Court's final refusal to enter the Preliminary Approval Order in any material respect; (b) the Court's final refusal to approve the Settlement or any material part thereof; (c) the Court's final refusal to enter the Judgment in any material respect as to the Settlement; or (d) the date upon which the Judgment is modified or reversed in any material respect by the United States

Court of Appeals for the Second Circuit or the United States Supreme Court, and the provisions of ¶ 36 above shall apply. However, any decision or proceeding, whether in this Court or any appellate court, with respect to an application for attorneys' fees or reimbursement of Litigation Expenses or with respect to any plan of allocation shall not be considered material to the Settlement, shall not affect the finality of any Judgment and shall not be grounds for termination of the Settlement.

38. In addition to the grounds set forth in ¶ 37 above, each of (a) Penn West, and (b) all of the Individual Defendants by unanimous consent, shall have the unilateral right to terminate the Settlement in the event that either of the following occurs:

(a) Settlement Class Members timely and validly requesting exclusion from the Settlement Class meet the "Opt-Out Threshold" set forth in Defendants' confidential supplemental agreement with Lead Plaintiffs (the "Supplemental Agreement"), in accordance with the terms of that agreement. The Supplemental Agreement, which is being executed concurrently herewith, shall not be filed with the Court and its terms shall not be disclosed in any other manner (other than the statements herein and in the Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) unless and until the Court otherwise directs or a dispute arises concerning its interpretation or application; or

(b) The Canadian Actions are not settled.

39. If Defendants so elect, Defendants must exercise their right to terminate pursuant to ¶ 38 above on or before ten (10) calendar days prior to the Settlement Fairness Hearing scheduled by the Court.

NO ADMISSION OF WRONGDOING

40. Neither the Term Sheet, this Stipulation (whether or not consummated), including the exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Term Sheet and this Stipulation, nor any proceedings taken pursuant to or in connection with the Term Sheet, 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 Lead 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, that any of the Defendants' Releasees had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount 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 amount which could be or would have been recovered 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

41. 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.

42. Defendants represent and warrant that the Settlement Amount to be paid by Defendants' insurers is properly paid out under the applicable insurance policies and reduces the available limits under the policies.

43. Penn West warrants that, as to the payments made or to be made on behalf of it, at the time of entering into this Stipulation and at the time of such payment, Penn West, or to its knowledge any persons or entities contributing to the payment of the Settlement Amount, were not insolvent, nor will the payment of the Settlement Amount render Penn West insolvent, within the meaning of and/or for the purposes of the Canadian *Bankruptcy and Insolvency Act*. This representation is made by Penn West and not by its counsel.

44. In the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf

of Penn West to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited into the Settlement Fund by others, then, at the election of Lead Plaintiffs, Lead Plaintiffs and Defendants shall jointly move the Court to vacate and set aside the Releases given and the Judgment entered in favor of Defendants and the other Releasees pursuant to this Stipulation, in which event the releases and Judgment shall be null and void, and the Parties shall be restored to their respective positions in the litigation as provided in ¶ 36 above and any cash amounts in the Settlement Fund (less any Taxes paid, due or owing with respect to the Settlement Fund and less any Notice and Administration Costs actually incurred, paid or payable) shall be returned as provided in ¶ 36.

45. 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 Lead Plaintiffs and any other Settlement Class Members against the Defendants' Releasees with respect to the Released Plaintiffs' Claims. Accordingly, Lead Plaintiffs and their counsel and Defendants and their counsel agree not to assert in any forum that this Action was brought by Lead Plaintiffs or defended by Defendants in bad faith or without a reasonable basis. Defendants and Lead Plaintiffs agree that each have fully complied with the strictures of Rule 11 of the Federal Rules of Civil Procedure relating to the institution, prosecution, defense, and settlement of this Action, and no Party or their counsel shall assert any claims of any violation of Rule 11 in connection therewith. The Parties agree that the amounts paid and the other terms of the Settlement were negotiated at arm's-length and in good faith by the Parties, including through a mediation process supervised and conducted by the Mediator, 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.

46. While retaining their right to deny that the claims asserted in the Action were meritorious, Defendants and their counsel, in any statement made to any media representative (whether or not for attribution) will not assert that the Action was commenced or prosecuted in bad faith, nor will they deny that the Action was commenced and prosecuted in good faith. In all events, Lead Plaintiffs and their counsel and Defendants and their counsel shall not make any accusations of wrongful or actionable conduct by either Party concerning the prosecution, defense, and resolution of the Action, and shall not otherwise suggest that the Settlement constitutes an admission regarding any claim or defense alleged.

47. Defendants, Lead Plaintiffs and their respective attorneys agree that prior to the filing of the motion for preliminary approval of the Settlement or public disclosure of the Settlement by Penn West, whichever comes first: (a) this Stipulation and the terms of the Settlement, including the Settlement Amount, are and shall be treated as confidential and shall not be disclosed, described, or characterized to any other person, lawyer, entity, publication or member of the media, except as may be required by law, judicial process, or order of a court, to enforce the terms of this Stipulation or the Settlement, or as otherwise agreed by Defendants and Lead Plaintiffs; and (b) any Party intending to disclose such information as may be required by law, judicial process or order of a court, will notify the other of its intention and give the non-disclosing Party a reasonable opportunity to object. The Parties agree not to disclose the substance of the negotiations that led to the Settlement including the merits of any positions taken by any Party except as necessary to provide the Court with information necessary to consider approval of the Settlement. Notwithstanding the foregoing, any Defendant may disclose such information to a regulatory authority if it determines that disclosure is warranted. Nothing in this ¶ 47 shall affect any obligation as outlined in ¶ 33 above.

48. 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 Lead Plaintiffs and Defendants (or their successors-in-interest).

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

50. 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 Co-Lead Counsel and enforcing the terms of this Stipulation, including the Plan of Allocation (or such other plan of allocation as may be approved by the Court) and the distribution of the Net Settlement Fund to Settlement Class Members.

51. 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.

52. This Stipulation and its exhibits and the Supplemental Agreement constitute the entire agreement among Lead 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 concerning this Stipulation, its exhibits or the Supplemental Agreement other than those contained and memorialized in such documents.

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

54. 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.

55. The construction, interpretation, operation, effect and validity of this Stipulation, the Supplemental Agreement and all documents necessary to effectuate it shall be governed by the internal laws of the State of New York without regard to conflicts of laws, except to the extent that federal law requires that federal law govern.

56. Any action arising under or to enforce this Stipulation or any portion thereof, shall be commenced and maintained only in the Court.

57. 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.

58. 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.

59. Co-Lead Counsel and Defendants' Counsel agree to cooperate fully with one another in seeking Court approval of the Preliminary Approval Order and 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.

60. If any Party is required to give notice 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 or email transmission. Notice shall be provided as follows:

If to Lead Plaintiffs or Co-Lead Counsel:	Bernstein Litowitz Berger & Grossmann LLP Attn: John Rizio-Hamilton, Esq. 1251 Avenue of the Americas New York, New York 10020 Telephone: (212) 554-1400 Facsimile: (212) 554-1444 Email: JohnR@blbglaw.com
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and

	Glancy Prongay & Murray LLP Attn: Lionel Z. Glancy, Esq. 1925 Century Park East, Suite 2100 Los Angeles, California 90067 Telephone: (310) 201-9150 Facsimile: (310) 201-9160 Email: lglancy@glancylaw.com
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If to Defendant Penn West Petroleum Ltd. or Defendant David E. Roberts:	Sullivan & Cromwell LLP Attn: Robert J. Giuffra, Jr., Esq. 125 Broad Street New York, New York 10004 Telephone: (212) 558-4000 Facsimile: (212) 291-9468 Email: giuffrar@sullcrom.com
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If to Defendant Jeffery Curran:	Lankler Siffert & Wohl LLP Attn: Helen Gredd, Esq. 500 Fifth Avenue New York, New York 10110 Telephone: (212) 921-8399 Email: HGredd@lswlaw.com
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If to Defendant William E. Andrew:	Baker Botts L.L.P. Attn: Douglas W. Henkin, Esq. 30 Rockefeller Plaza New York, New York 10112-4498 Telephone: (212) 408-2520 Email: douglas.henkin@bakerbotts.com
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If to Defendant Todd H. Takeyasu: Morvillo Abramowitz Grand Iason & Anello PC
Attn: Richard F. Albert, Esq.
565 Fifth Avenue
New York, New York 10017
Telephone: (212) 880-9560
Email: ralbert@maglaw.com

If to Defendant Murray R. Nunns: Covington & Burling LLP
Attn: Mark P. Gimbel, Esq.
The New York Times Building
620 Eighth Avenue
New York, New York 10018
Telephone: (212) 841-1161
Email: mgimbel@cov.com

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

62. 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.

63. All agreements made and orders entered during the course of this Action relating to the confidentiality of information shall survive this Settlement.

64. No opinion or advice concerning the tax consequences of the proposed Settlement to individual Settlement Class Members is being given or will be given by the Parties or their counsel; nor is any representation or warranty in this regard made by virtue of this Stipulation. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.

IN WITNESS WHEREOF, the Parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys, as of February 12, 2016.

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**



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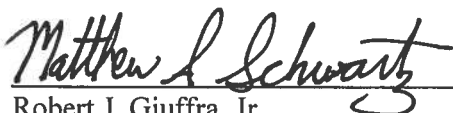
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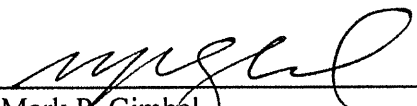
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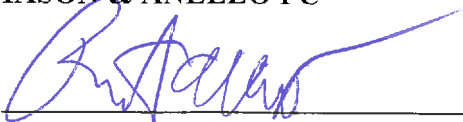
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