

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re:)	
OCEAN POWER TECHNOLOGIES,)	Case No. 14-3799 (FLW) (LHG)
INC. SECURITIES LITIGATION)	
)	<u>CLASS ACTION</u>
This Document Applies to All Cases)	
)	

STIPULATION AND AGREEMENT OF CLASS SETTLEMENT

This Stipulation and Agreement of Class Settlement (the “Stipulation”), dated as of May 5, 2016, is entered into among Lead Plaintiff FiveMore Special Situations Fund Ltd. (“Lead Plaintiff”), individually and on behalf of the Class, and Defendants Ocean Power Technologies, Inc. (“OPT” or the “Company”), Charles F. Dunleavy (“Dunleavy”), and Roth Capital Partners, LLC (“Roth Capital”) (collectively, the “Defendants”) by and through their respective counsel of record relating to the above-captioned litigation. This Stipulation is intended to fully, finally and forever resolve, discharge and settle all claims asserted in this Action against Defendants subject to the approval of the United States District Court for the District of New Jersey (the “Court”).

I. WHEREAS

a. The Action was commenced on June 13, 2014. This federal securities fraud class action lawsuit has been brought on behalf of investors of OPT (i) from

January 14, 2014 through July 29, 2014, inclusive (the “Class Period”) for alleged violations of § 10(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) against Defendants OPT and Dunleavy and § 20(a) of the Exchange Act against Defendant Dunleavy, and /or (ii) investors who purchased or otherwise acquired OPT securities pursuant to and/or traceable to OPT’s public stock offering on April 4, 2014 for alleged violations of § 12 of the Securities Act of 1933, as amended (the “Securities Act”) against Defendants OPT, Dunleavy, and Roth Capital and § 15 of the Securities Act against Defendant Dunleavy.

b. On March 17, 2015, the Court appointed FiveMore Special Situations Fund Ltd. as Lead Plaintiff and Levi & Korsinsky LLP as Lead Counsel. An amended complaint was filed on May 18, 2015. Defendant OPT filed a motion to dismiss on July 17, 2015, which was not fully briefed.

c. On August 28, 2015, Lead Plaintiff and Defendants met with Bruce Friedman for a lengthy confidential mediation process in the Action. The initial mediation process was not successful.

d. On September 3, 2015, Lead Plaintiff filed a Second Amended Class Action Complaint, and then the operative Third Amended Class Action Complaint (the “Complaint”) on October 9, 2015. Defendants filed motions to dismiss on November 5 and 6, 2015, which were fully briefed.

e. Following the initial mediation process, the Parties’ counsel, mediator,

and/or principals engaged in numerous follow up discussions, which resulted in this Settlement.

NOW, THEREFORE, without any admission or concession whatsoever by Lead Plaintiff of any lack of merit to the claims alleged in the Action, and without any admission or concession whatsoever by Defendants of any liability or wrongdoing or lack of merit in their defenses, and in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is hereby agreed by and among the Lead Plaintiff (individually and on behalf of the Class) and Defendants that, subject to the approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Action be forever resolved, settled, and compromised, and dismissed with prejudice on the following terms and conditions:

I. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

A. Introduction

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Lead Plaintiff, the Class, and each of them, and Defendants, and each of them, by and through their respective undersigned counsel or attorneys of record that, subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the Parties from the Settlement set forth herein, the Action and the Released Claims (defined below) shall

be finally and fully compromised, settled and released, and the Action shall be dismissed with prejudice, as to all Parties, upon and subject to the terms and conditions of this Stipulation.

B. Definitions

As used in this Stipulation, the following terms have the meanings specified below:

1.0 “Action” means *In re Ocean Power Technologies, Inc. Securities Litigation*, No. 14 Civ. 3799 (FLW)(LHG), and includes all actions consolidated therein.

1.1 “Authorized Claimant” means any member of the Class who is a Claimant (as defined in ¶ 1.4) and whose claim for recovery has been allowed pursuant to the terms of this Stipulation.

1.2 “Bar Date” means the date of the Settlement Hearing.

1.3 “Business Day” means any day except a Saturday or Sunday or other day on which national banks are authorized by law or executive order to close in the State of New Jersey.

1.4 “Claimant” means any Class Member (as defined in ¶ 1.7) who files a Proof of Claim (defined below) in such form and manner, and within such time, as the Court shall prescribe.

1.5 “Claims Administrator” means the firm of Epiq Class Action & Claims Solutions, Inc. which shall administer the Settlement.

1.6 “Class” means all persons or entities who purchased or otherwise acquired (i) OPT securities between January 14, 2014 and July 29, 2014; and/or (ii) purchased or otherwise acquired OPT securities pursuant to and/or traceable to OPT’s April 4, 2014 common stock offering. Excluded from the Class are Defendants, all directors and officers of OPT during the Class Period, and any family member, trust, company, entity or affiliate controlled or owned by any of the excluded persons and entities referenced above. Also excluded from the Class are those Persons (defined below) who timely and validly request exclusion from the Class pursuant to the Notice (defined below) to be sent to Class Members.

1.7 “Class Member” or “Class Members” means any person or entity that falls within the definition of the Class as set forth in ¶ 1.6.

1.8 “Class Period” means the period from January 14, 2014 to July 29, 2014, both dates inclusive.

1.9 “Court” means the United States District Court for the District of New Jersey.

1.10 “Defendants” means OPT, Dunleavy, and Roth Capital.

1.11 “Defendants’ Counsel” means the law firms of Bressler, Amery & Ross P.C., Cooley LLP, Dechert LLP, Sills Cummis & Gross, P.C. and Stroock & Stroock & Lavan LLP.

1.12 “Derivative Action” shall mean the consolidated derivative action entitled *Labare v. Dunleavy, et al.* (D.N.J. Case No. 3:15-cv-01980-FLW-LHG).

1.13 “Effective Date” means the first date by which all of the events and conditions specified in ¶ 8.0 of the Stipulation have been met and have occurred.

1.14 “Escrow Account” means, collectively, the Notice Administration Fund and the Settlement Fund.

1.15 “Escrow Agent” means Epiq Class Action & Claims Solutions, Inc.

1.16 “Exchange Act” means the Securities Exchange Act of 1934, as amended.

1.17 “Final” means (1) the Court has entered a Judgment approving the Settlement in all material respects, including but not limited to, *inter alia*, (a) certifying a Class for settlement purposes only, (b) approving the scope of the Releases, and (c) ordering the Clerk of the Court to enter final judgment in the form set forth in Exhibit B pursuant to Federal Rule 54(b), finding that there is no just reason for delay of enforcement or appeal of the order, and (2) the Judgment has been affirmed in all respects on any appeal or review and is no longer subject to further appeal or review. Notwithstanding any provision to the contrary in this

Settlement, “Final” shall not include (and the Settlement is expressly not conditioned upon) the Court's approval of attorneys’ fees and the reimbursement of expenses sought by Lead Counsel, or the approval of payment of a compensatory award for the time and expenses expended by Lead Plaintiff, or any appeals solely related thereto; nor resolution of the claims asserted in the Derivative Action.

1.18 “Insurer” means AIG and is inclusive of its respective reinsurers.

1.19 “Judgment” means the proposed final order and judgment to be entered by the Court approving the Settlement, substantially in the form attached hereto as Exhibit B or in such other form as may be approved in writing by all of the Parties acting by and through their respective counsel of record in the Action.

1.20 “Lead Plaintiff” means Lead Plaintiff FiveMore Special Situations Fund Ltd.

1.21 “Lead Counsel” means Levi & Korsinsky LLP.

1.22 “Net Settlement Fund” means the balance of the Settlement Fund after payment of the items set forth in ¶ 6.0.

1.23 “Notice” means the Notice Of Pendency And Proposed Settlement Of Class Action, which is to be sent to Class Members substantially in the form attached hereto as Exhibit A-1.

1.24 “Notice Administration Fund” means an interest bearing escrow account established to receive funds pursuant to ¶ 2.11.

1.25 “OPT” means Defendant Ocean Power Technologies, Inc.

1.26 “OPT Settlement Stock” means the shares of OPT common stock, par value \$0.001 per share, that will be issued and delivered pursuant to section 3(a)(10) of the Securities Act and in accordance with ¶ 2.5 hereof and that have been approved for listing on The NASDAQ Stock Market.

1.27 “Order of Preliminary Approval” means the order certifying the Class for settlement purposes only, preliminarily approving the Settlement, and authorizing notice thereof and related matters set forth as Exhibit A hereto.

1.28 “Parties” means Lead Plaintiff and Defendants.

1.29 “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assigns.

1.30 “Plan of Allocation” means a plan or formula for allocating the Net Settlement Fund to Authorized Claimants after payment of expenses of notice and administration of the Settlement, Taxes and Tax Expenses (each defined below) and such attorneys’ fees, expenses and interest and amounts to the Lead Plaintiff as may be awarded by the Court. Any Plan of Allocation is not part of this Stipulation and Defendants shall have no responsibility or liability with respect thereto.

1.31 “Proof of Claim” means the Proof of Claim and Release to be submitted by Claimants, substantially in the form attached as Exhibit A-2.

1.32 “Publication Notice” means the summary notice thereon to be published on a national business newswire, substantially in the form attached as Exhibit A-3.

1.33 “Released Claims” means all claims, rights, actions, suits or causes of action of every nature and description, whether known or unknown (including Unknown Claims, as defined below), whether the claims arise under federal, state, statutory, regulatory, common, foreign or other law, whether foreseen or unforeseen, and whether asserted individually, directly, representatively, derivatively, or in any other capacity, that the Releasing Plaintiff Parties (defined below): (1) asserted in the Complaint or the Action as against the Released Defendant Parties (defined below); (2) have asserted, could have asserted, or could assert in the future, in any forum against the Released Defendant Parties that are based upon, arise out of, or relate in any way to the facts, matters, transactions, allegations, claims, losses, damages, disclosures, filings, or statements relating to or arising out of any of the events or matters referred to in the Complaint or at issue in the Action; or (3) have asserted, could have asserted, or could assert in the future relating to the prosecution, defense, or settlement of the action against the Released Defendant Parties. Released

Claim(s) does not include: (1) claims to enforce the Settlement or (2) the rights of OPT in the Derivative Action.

1.34 “Released Defendant Parties” means any and all of the Defendants and/or their current or former officers, directors, employees, partners, subsidiaries, affiliates, attorneys, auditors, related companies, parents, insurers, heirs, executors, representatives, predecessors, successors, assigns, trustees, or other individual or entity in which any Defendant has a controlling interest.

1.35 “Released Defendants’ Claim(s)” means any and all claims and causes of action of every nature and description, including known and unknown claims (including Unknown Claims as defined below), whether arising under federal, state, statutory, regulatory, common, or foreign or other law, that the Defendants asserted or could have asserted against the Released Plaintiff Parties, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (other than claims to enforce the Settlement).

1.36 “Released Parties” means Released Defendant Parties and Released Plaintiff Parties.

1.37 “Released Plaintiff Parties” means any and all of the Lead Plaintiff, Class Members, Lead Counsel, and their respective partners, employees, attorneys, heirs, executors, administrators, trustees, successors, predecessors, and assigns.

1.38 “Releasing Plaintiff Parties” means (i) Lead Plaintiff; (ii) all Class Members; (iii) the Lead Plaintiff’s and each Class Member’s present or past heirs, executors, administrators, successors, assigns, and predecessors; and (iv) any person or entity who claims by, through, or on behalf of the Lead Plaintiff or any Class Member.

1.39 “Securities Act” means the Securities Act of 1933, as amended.

1.40 “Settlement” means the settlement contemplated by this Stipulation.

1.41 “Settlement Fund” means the total settlement consideration of \$3,000,000 in cash, plus any interest earned thereon and the OPT Settlement Stock. The Settlement Fund will be paid pursuant to ¶¶ 2.0-2.3 below.

1.42 “Taxes” means taxes arising with respect to the income earned by the cash portion of the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Defendants or their respective counsel with respect to any income earned by the cash portion of the Settlement Fund for any period during which the cash portion of the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes.

1.43 “Tax Expenses” means expenses and costs incurred in connection with the operation and implementation of ¶ 2.13 of the Stipulation (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing, or failing to file the returns described in ¶ 2.13).

1.44 “Unknown Claims” shall collectively mean (i) any and all Released Claims that any of the Releasing Plaintiff Parties does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties which, if known by him, her or it might have affected his, her or its settlement with and release of the Released Defendant Parties, or might have affected his, her, or its decision(s) with respect to the Settlement (including the decision not to object or exclude himself, herself, or itself from the Settlement); and (ii) any Released Defendants’ Claims that any Defendant does not know to exist in his, her, or its favor at the time of the release of the Released Plaintiff Parties, which, if known by him, her or it might have affected his, her, or its settlement with and release of the Released Plaintiff Parties, or might have affected his, her, or its decision(s) with respect to the Settlement. Moreover, with respect to any and all Released Claims and any and all Released Defendants’ Claims, upon the Effective Date, the Releasing Plaintiff Parties and Defendants, respectively, shall be deemed to have, and by operation of the Final Judgment shall have waived any and all provisions, rights and benefits of 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.

The Releasing Plaintiff Parties, or any of them, may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be

true with respect to the subject matter of the Released Claims, but each of the Releasing Plaintiff Parties hereby expressly waives and fully, finally, and forever settles and releases, upon the Effective Date, any known or unknown, suspected or unsuspected, contingent or noncontingent Released Claim. Likewise, the Defendants, or any one of them, may hereafter discover facts other than or different than those which he, she, or it knows or believes to be true, but each of the Defendants hereby expressly waives and fully, finally, and forever settles and releases, upon the Effective Date, any known or unknown, suspected or unsuspected, contingent or non-contingent Released Defendants' Claim. The Parties acknowledge that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a key element of the Settlement.

C. The Settlement

(i) Cash Contribution

2.0 Within twenty (20) Business Days after (i) entry of an Order of Preliminary Approval of the Settlement, and (ii) transmission to Defendants' Counsel and the Insurer of payee information for the Escrow Account (including the name, tax identification number, and Form W-9), the Insurer shall cause to be wired or paid by check or draft, at the sole election of the Insurer, to the Escrow Agent the principal amount of Two Million Five Hundred Thousand Dollars (\$2,500,000).

2.1 Within twenty (20) Business Days after (i) entry of an Order of Preliminary Approval of the Settlement, and (ii) transmission to Defendants' Counsel of payee information for the Escrow Account (including name, tax identification number, and Form W-9), OPT shall cause to be wired or paid by check or draft to the Escrow Agent the principal amount of Five Hundred Thousand Dollars (\$500,000).

(ii) OPT Settlement Stock

2.2 The OPT Settlement Stock will consist of three hundred eighty thousand (380,000) freely tradeable shares of OPT common stock, par value \$0.001 per share, which will be issued pursuant to Section 3(a)(10) of the Securities Act and will not constitute "restricted securities." OPT will not provide any price protection for the OPT Settlement Stock and the number of shares will not be adjusted regardless of whether the value of each share later increases or decreases before distribution. However, the number of shares constituting the OPT Settlement Stock will be adjusted to account for stock splits, reverse stock splits and other similar action taken by OPT before distribution to Class Members. If OPT is sold, is acquired, or mergers prior to distribution of the OPT Settlement Stock to Lead Counsel, the shares will be treated for purposes of any corporate transaction as if they had been issued, distributed, and outstanding, and will receive the same proportionate treatment as other shares of OPT common stock.

2.3 OPT will issue and distribute the OPT Settlement Stock to Lead Counsel or, at Lead Counsel's instruction, the Escrow Agent, as fiduciary for and for the benefit of the Class, within ten (10) Business Days after the Court enters a Judgment substantially in the form of Exhibit B. On or after the Effective Date, but under no circumstances before the Effective Date, the OPT Settlement Stock shall be released for the benefit of the Class Members. Until distribution to Class Members, Lead Counsel agrees to vote the shares of OPT Settlement Stock in the same proportion as those voted by the shares that are not OPT Settlement Stock and that are eligible to vote on any matter presented to shareholders for such a vote and, if requested by OPT, to enter into a voting trust agreement so providing. After OPT distributes the OPT Settlement Stock to Lead Counsel, Released Defendant Parties have no responsibility for, and no liability whatsoever with respect to, any action taken by Lead Counsel with respect to the OPT Settlement Stock. Lead Counsel is authorized to sell any or all shares of the OPT Settlement Stock after OPT distributes the OPT Settlement Stock to Lead Counsel; provided, however, that such sales can not occur before the Effective Date. Upon receipt of the OPT Settlement Stock, Lead Counsel will have the right to take any measures they deem appropriate to protect the overall value of the OPT Settlement Stock prior to distribution to Class Members including, but not limited to, sales of all or part of the OPT Settlement Stock into the market or in a private sale transaction. Lead Counsel shall also have

the right to use the cash component of the Settlement Fund to protect the overall value of the Settlement Fund.

2.4 All costs associated with the delivery or distribution of the OPT Settlement Stock shall be borne by OPT. The Parties further understand, agree, and accept that OPT alone will be responsible for issuance and delivery of the OPT Settlement Stock as provided for in ¶¶ 1.26 and 2.2-2.6 of the Stipulation.

2.5 The OPT Settlement Stock shall be exempt from the registration requirements of the Securities Act under Section 3(a)(10) of the Securities Act. The OPT Settlement Stock shall not constitute “restricted securities” under the Securities Act and may be sold or transferred by recipients thereof who are not affiliates of OPT (as the term is defined in Rule 144 of the Securities Act) or recipients deemed to be underwriters under the Securities Act without registration under Section 5 of the Securities Act or compliance with Rule 144.

2.6 The OPT Settlement Stock shall be approved for listing on The NASDAQ Stock Market (or on such other national securities exchange on which the shares of common stock of OPT shall then be authorized for listing), such that the OPT Settlement Stock shall be “covered securities” within the meaning of Section 18(b) of the Securities Act.

(iii) The Escrow Agent

2.7 Upon receipt, the Escrow Agent shall invest the cash portion of the Settlement Fund deposited pursuant to ¶¶ 2.0-2.1 above in instruments backed by the full faith and credit of the United States Government or insured by the United States Government or an agency thereof and shall reinvest the proceeds of those instruments as they mature in similar instruments at their then current market rates.

2.8 The Escrow Agent shall not disburse the Settlement Fund except as provided in the Stipulation, by an order of the Court, or with the written agreement of counsel for Lead Plaintiff and Defendants.

2.9 Subject to further order and/or direction as may be made by the Court, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of the Stipulation.

2.10 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court and shall remain subject to the jurisdiction of the Court.

2.11 The Escrow Agent shall establish the Notice Administration Fund and deposit One Hundred Fifty Thousand Dollars (\$150,000) from the cash portion of the Settlement Fund into it. The Notice Administration Fund shall be used to pay costs and expenses reasonably and actually incurred in connection with providing notice to the Class, identifying and locating Class Members, assisting with the filing

of claims, administering and distributing the Net Settlement Fund to Authorized Claimants, processing Proof of Claim and Release forms and paying escrow fees and costs, if any. The Notice Administration Fund shall also be invested and earn interest as provided for in ¶ 2.7 of this Stipulation. Any portion of the Notice Administration Fund remaining after payment of the aforesaid costs and expenses shall revert to the Settlement Fund and become part of the Net Settlement Fund.

(iv) Taxes, Tax Expenses and Related Matters

2.12 The Parties and the Escrow Agent agree to treat the Settlement Fund as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. §§ 1.46B-1 through 1.468B-5. In addition, the Escrow Agent shall timely make such elections as are necessary or advisable to carry out the provisions of this ¶ 2.12, including the “relation-back election” (as defined in Treas. Reg. § 1.46B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filings to occur.

2.13 For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational

and other tax returns necessary or advisable with respect to the cash portion of the Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)(1)). Such returns (as well as the election described in ¶ 2.12) shall be consistent with this ¶ 2.13 and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the cash portion of the Settlement Fund shall be paid out of the cash portion of the Settlement Fund as provided in ¶ 2.13(a) hereof.

a) All (i) Taxes (including any estimated Taxes, interest or penalties), and (ii) Tax Expenses shall be paid out of the cash portion of the Settlement Fund; in all events the Defendants and their respective counsel shall not have any liability or responsibility for any Taxes or any Tax Expenses or the filing of any tax returns or other documents with the Internal Revenue Service or any other state or local taxing authority. The Escrow Agent shall indemnify and hold harmless the Defendants, and their respective counsel for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court. The Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such Taxes and Tax

Expenses including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)); neither the Defendants nor their respective counsel are responsible to pay such Taxes and Tax Expenses, nor shall they have any liability or responsibility therefor. The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶ 2.13.

b) For the purpose of this ¶ 2.13, references to the Settlement Fund shall include both the cash portion of the Settlement Fund, if any, and the Notice Administration Fund and shall also include any interest thereon.

(v) Termination of Settlement

2.14 In the event that the Effective Date does not occur or the Settlement is not approved or is terminated for any reason, the Settlement Fund shall be refunded as described in ¶ 8.2 below.

D. Class Certification

3.0 The Parties hereby stipulate to certification of the Class, pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure, solely for purposes of this Settlement. The certification of the Class shall be binding only with respect to the Settlement and only if the Judgment becomes Final.

E. Preliminary Approval, Preliminary Approval Orders and Final Approval Hearing

4.0 Promptly after execution of this Stipulation by all parties hereto, Lead Counsel and Defendants' Counsel shall jointly submit this Stipulation together with its Exhibits to the Court and shall request entry of an Order of Preliminary Approval (substantially in the form of Exhibit A) that will, *inter alia*, grant preliminary approval to the Settlement; certify the Class for settlement purposes only; and authorize notification of the Settlement Class substantially in the form of Exhibits A-1 and A-3 hereto, along with provision of a Proof of Claim form substantially in the form of Exhibit A-2. Lead Counsel shall be responsible for overseeing the notice provided to the Class.

4.1 Following provision of Notice to the Class Members, the Court shall hold the Settlement Hearing to consider whether to approve the Settlement as fair, reasonable and adequate and Final Judgment should be entered thereon dismissing the Action with prejudice. At or after the Settlement Hearing, Lead Counsel also will request that the Court approve the Plan of Allocation and Lead Counsel and their proposed application for an award of attorneys' fees and expenses and Lead Plaintiff Compensatory Awards.

F. Releases and Bar Orders

5.0 Upon the Effective Date, the Releasing Plaintiff Parties shall be deemed to have, and by operation of the Judgment entered in the Action shall have, fully,

finally, and forever released, relinquished and discharged any and all Released Claims against each and every one of the Released Defendant Parties, and shall forever be barred and enjoined, without the necessity of any of the Released Defendant Parties posting a bond, from commencing, instituting, prosecuting, or maintaining any of the Released Claims. Upon the Effective Date, and without any further action, the Lead Plaintiff further agrees not to knowingly and voluntarily assist in any way any third party in commencing or prosecuting any suit against the Released Defendant Parties relating to any Released Claim, including any derivative suit not otherwise released, except as required by law.

5.1 Upon the Effective Date, Defendants, on behalf of themselves, and their heirs, executors, trustees, administrators, predecessors, successors, and assigns, for good and valuable consideration the receipt and adequacy of which is hereby acknowledged, shall fully, finally, and forever release, relinquish, and discharge any and all Released Defendants' Claims against each and every one of the Released Plaintiff Parties, and shall forever be barred and enjoined, without the necessity of any of the Released Plaintiff Parties, posting a bond, from commencing, instituting, prosecuting, or maintaining any of the Released Defendants' Claims against any of the Released Plaintiff Parties.

5.2 The Judgment in the Action will contain a Bar Order as required by section 21D(f)(7) of the Exchange Act, 15 U.S.C. § 78u-4(f)(7). In accordance with

15 U.S.C. § 78u-4(f)(7), claims for contribution arising out of any Released Claim, including but not limited to, any claims that arise out of the Action (i) by any Person against a Released Defendant, and (ii) by any Released Defendant against any Person other than as set out in 15 U.S.C. § 78u-4(f)(7)(A)(ii) will be permanently barred, extinguished, discharged, satisfied, and unenforceable.

5.3 Pending the Court's determination of whether the Settlement should be approved, neither Lead Plaintiff, nor any of the Class Members shall commence, maintain or prosecute against the Defendants, any action or proceeding in any court or tribunal asserting any of the Released Claims.

G. Administration and Calculation of Claims, Final Awards, And Supervision and Distribution of the Settlement Fund

6.0 The Claims Administrator, subject to such supervision and direction of the Court and/or Lead Counsel as may be necessary or as circumstances may require, shall administer and calculate the claims submitted by Class Members and shall oversee distribution of the Net Settlement Fund to Authorized Claimants. The Class Settlement Fund shall be applied as follows:

(i) to pay all the costs and expenses reasonably and actually incurred in connection with providing notice, identifying and locating Class Members, assisting with the filing of claims, administering and distributing the Settlement Fund to Authorized Claimants, processing Proof of Claim and Release forms and

paying escrow fees and costs, if any, to the extent these costs and expenses are not paid by the Class Notice and Administration Fund;

(ii) to pay the Taxes and Tax Expenses described in ¶¶ 2.12 and 2.13 above.

(iii) to pay Lead Counsel's attorneys' fees and expenses with interest thereon (the "Fee and Expense Award"), to the extent allowed by the Court;

(iv) to pay Compensatory Awards to the Lead Plaintiff as provided in ¶ 7.6, to the extent allowed by the Court; and

(v) to pay the Claims Administrator's fees and expenses reasonably incurred in the claims administration of the Settlement; and

(vi) upon court approval, to distribute the Net Settlement Fund to the Authorized Claimants as allowed by this Stipulation, the Plan of Allocation, or the Court.

6.1 Upon the Effective Date and thereafter, and in accordance with the terms of the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants subject to and in accordance with the following:

(i) Within one hundred and twenty (120) days after the dissemination of the Notices or such other time as may be set by the Court, each

Person claiming to be an Authorized Claimant shall be required to submit to the Claims Administrator a completed Proof of Claim and Release, substantially in the form of Exhibit A-2, attached hereto, signed under penalty of perjury and supported by such documents as specified in the Proof of Claim and Release and as are reasonably available to the Authorized Claimant.

(ii) Except as otherwise ordered by the Court, all Class Members who fail to timely submit a Proof of Claim and Release within such period, or such other period as may be ordered by the Court, or otherwise allowed, and all Class Members whose claims are not approved by the Court (in the event the same are rejected in whole or in part by the Claims Administrator and the Court resolves the dispute involved) shall be forever barred from receiving any payment pursuant to this Stipulation and the Settlement set forth herein, but will in all other respects be subject to and bound by the provisions of this Stipulation, the releases contained herein, and the Judgment and be enjoined and barred from bringing any action against any of the Released Defendant Parties asserting any of the Released Claims.

6.2 The Net Settlement Fund shall be distributed to the Authorized Claimants substantially in accordance with a Plan of Allocation to be described in the Class Notice and approved by the Court. However, if there is any balance remaining in the Net Settlement Fund after six (6) months from the date of distribution of such Net Settlement Fund (whether by reason of tax refunds,

uncashed checks or otherwise), to the extent Lead Counsel determines it is economically feasible such balance shall be reallocated among and distributed to Authorized Claimants in an equitable and economic fashion. Thereafter, any remaining balance should be donated to an appropriate 501(c)(3) non-profit organization(s) to be selected by Lead Counsel, subject to Court approval.

6.3 The Plan of Allocation shall be proposed by Lead Counsel, and the Defendants shall take no position with respect to the proposed Plan of Allocation or such plan as may be approved by the Court except as provided in this paragraph.

6.4 No Person shall have any claim against Lead Plaintiff, Lead Counsel, any claims administrator, Defendants, any agent designated by Defendants, Defendants' Counsel, or Insurer or their respective counsel, based on the investment or distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or further orders of the Court.

6.5 It is understood and agreed by the Parties that the proposed Plan of Allocation including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a part of the Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Judgment approving the

Stipulation and the Settlement set forth therein, or any other orders entered pursuant to the Stipulation.

H. Lead Counsel's Attorneys' Fees and Reimbursement of Expenses of Lead Plaintiff

7.0 Lead Counsel may submit an application or applications (the "Fee and Expense Application") for payments to Lead Counsel from the Settlement Fund for: (a) an award of attorneys' fees; plus (b) reimbursement of actual costs and expenses, including experts or consultants, incurred in connection with prosecuting the Action as may be awarded by the Court; plus (c) any interest on such attorneys' fees and expenses at the same rate and for the same periods as earned by the Settlement Fund (until paid) as may be awarded by the Court; plus (d) reimbursement of the time and expenses of Lead Plaintiff in prosecuting the Action; and (e) reimbursement of Lead Counsel's fees and expenses in administering the Settlement. Lead Counsel reserves the right to make additional applications for fees and expenses incurred, if necessary. Defendants will take no position with respect to the Fee and Expense Application and such matters are not the subject of any agreement between the Parties other than the terms set forth in the Stipulation.

7.1 The Fee and Expense Award shall be transferred to Lead Counsel from the Settlement Fund as ordered, immediately after the Court executes a written order awarding such fees and expenses, notwithstanding the existence of any timely filed objections thereto, or potential appeal therefrom, subject to the obligation of each

counsel to make appropriate repayments to the Settlement Fund as particularly set forth below in ¶ 7.2. Lead Counsel shall allocate the attorneys' fees amongst counsel in the Action in a manner in which Lead Counsel in good faith believe reflects the respective contributions of such counsel to the prosecution and settlement of the Action.

7.2 In the event that the Effective Date does not occur, or the order making the Fee and Expense Award is reversed or modified, or the Stipulation is terminated for any reason, and in the event that the Fee and Expense Award has been paid to any extent, then any of the Lead Plaintiff's counsel who has received a payment shall, within five (5) business days from Lead Counsel receiving notice from Defendants' Counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund the fees and expenses previously paid to them from the Settlement Fund, plus interest thereon at the same rate as earned by the Settlement Fund, in an amount consistent with such reversal or modification. The return obligation set forth in this paragraph is the obligation of all Lead Plaintiff's counsel who receive a payment in the Action. Each such Lead Plaintiff's counsel's law firm, as a condition of receiving such fees and expenses, on behalf of itself and each partner and/or shareholder of it, agrees that the law firm and its partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this subparagraph. Without limitation, each such law firm and its partners and/or

shareholders agree that the Court may, upon application of Defendants on notice to Lead Counsel, summarily issue orders, including, but not limited to, judgments and attachment orders, and may make appropriate findings of or sanctions for contempt, against them or any of them should such law firm fail to timely repay fees, expenses and interest pursuant to this ¶ 7.2 of this Stipulation.

7.3 The procedure for and allowance or disallowance by the Court of any application by Lead Counsel for attorneys' fees and expenses, including the fees and expenses of experts and consultants, to be paid out of the Settlement Fund, are not part of the Settlement set forth in this Stipulation and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in this Stipulation, and any order or proceedings relating to the Fee and Expense Application, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to modify, terminate or cancel this Stipulation, or affect or delay the finality of the Judgment approving this Stipulation and the Settlement of the Action.

7.4 Released Defendant Parties shall have no responsibility for, and no liability whatsoever with respect to, any payment to Lead Counsel or any other Plaintiffs' counsel and/or any other Person who receives payment from the Settlement Fund.

7.5 Released Defendant Parties shall have no responsibility for, and no liability whatsoever with respect to, the allocation among Lead Counsel and/or any other Person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Action.

7.6 Lead Counsel may submit an application to the Court to authorize the payment of a compensatory award from the Settlement Fund for the time and expenses expended by Lead Plaintiff in assisting Lead Counsel in the litigation of this Action (“Compensatory Award”). Subject to the payment terms in ¶ 2.0, payment for any Compensatory Award payable in cash or OPT common stock shall be payable to Lead Plaintiff five (5) days after the Effective Date.

I. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination

8.0 Unless otherwise agreed by Lead Counsel and Defendants’ Counsel in writing, this Stipulation and Effective Date shall be conditioned upon the occurrence of all of the following events:

(a) Defendants shall have caused the contributions to be made to the Settlement Fund, as required by ¶¶ 2.0, 2.1, 2.3 above;

(b) the Court has entered the Order of Preliminary Approval, as required by ¶ 4.0 above;

(c) OPT has not exercised its option to terminate the Stipulation pursuant to ¶ 8.1 hereof;

(d) the Court has entered the Judgment, or a judgment substantially in the form of Exhibit B attached hereto, respectively;

(e) the OPT Settlement Stock are issued pursuant to Section 3(a)(10) of the Securities Act and are not restricted securities;

(f) the OPT Settlement Stock shall have been approved for listing on The NASDAQ Stock Market (or on such other national securities exchange on which the shares of common stock of OPT shall then be authorized for listing), such that the OPT Settlement Stock shall be “covered securities” within the meaning of Section 18(b) of the Securities Act; and

(g) the Judgment has become Final, as defined in ¶ 1.17 hereof.

8.1 OPT shall have the option to terminate the Settlement in the event that Class Members who purchased or otherwise acquired more than a certain number of OPT shares during the Class Period choose to exclude themselves from the Settlement Class, as set forth in the Supplemental Agreement. The Supplemental Agreement will not be filed with the Court unless and until a dispute arises between the Lead Plaintiff and Defendants concerning its interpretation or application.

8.2 In the event the Settlement is not approved or the Stipulation shall terminate or shall not become effective for any reason, within ten (10) business days after written notification of such event is sent by Defendants’ Counsel or Lead Counsel to the Escrow Agent, the cash component of the Settlement Fund (including

accrued interest), plus any amount then remaining in the Notice Administration Fund (including accrued interest), less expenses and any costs which have either been disbursed pursuant to ¶¶ 2.11 to 2.13 hereof, or are chargeable to the Notice Administration Fund, shall be refunded by the Escrow Agent to the Insurer and OPT in proportion to their contribution to the Settlement Fund and the OPT Settlement Stock, together with any proceeds from the sale or other disposition of OPT Settlement Stock pursuant to ¶ 2.3 shall be returned to OPT. At the request of counsel for Defendants, the Escrow Agent or its designee shall apply for any tax refund owed to the Settlement Fund and pay the proceeds, after deduction of any reasonable fees or expenses incurred in connection with such application(s) for refund to OPT, the Insurer and any other contributors in proportion to their contribution to the Settlement Fund.

8.3 Upon the occurrence of the Effective Date, any and all interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished, except as set forth in this Stipulation. The Settlement Fund shall be distributed in accordance with ¶ 6.0 hereof.

8.4 In the event the Stipulation or Settlement is not approved by the Court or the Settlement set forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the Parties shall be restored to their respective positions in the Action immediately as the date of this Stipulation, and all negotiations,

proceedings, documents prepared and statements made in connection herewith shall be without prejudice to the Parties, shall not be deemed or construed to be an admission by any Party of any act, matter or proposition and shall not be used in any manner or for any purpose in any subsequent proceeding in the Action or in any other action or proceeding. In such event, the terms and provisions of the Stipulation, with the exception of ¶¶ 1.1-1.44, 2.7-2.14, 8.0-8.5, 10.2 herein, 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 Judgments or orders entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*.

8.5 If the Effective Date does not occur, or if the Stipulation is terminated for any reason, neither Lead Plaintiff nor Lead Counsel shall have any obligation to repay any amounts actually and properly disbursed from the Notice Administration Fund. In addition, any expenses already incurred and properly chargeable to the Notice Administration Fund pursuant to this Stipulation at the time of such termination or cancellation, but which have not been paid, shall be paid by the Escrow Agent in accordance with the terms of the Stipulation prior to the balance being refunded in accordance with ¶ 2.14.

J. No Admission of Wrongdoing or Lack of Merit

9.0 Lead Plaintiff believes the claims asserted in the Action have merit. Additionally, Lead Counsel has researched the applicable law and believes that any defenses Defendants raise can be refuted. Nonetheless, Lead Plaintiff and Lead Counsel recognize the expense and length of continued prosecution of the Action against Defendants through completion of discovery, trial, and any subsequent appeals, particularly given uncertainty regarding how Defendants could ultimately pay with respect to any Judgment and because of the uncertainty of how the Court would resolve the motion to dismiss. Lead Plaintiff and Lead Counsel believe the Settlement set forth in this Stipulation confers substantial benefits upon the Class, and is fair, reasonable, adequate, and in the best interests of the Class and represents a reasonable compromise of the claims

9.1 Defendants believe that the claims and contentions alleged in the Third Amended Complaint lack legal and factual merit. Defendants have denied and continue to deny each and all of the claims and contentions alleged by the Lead Plaintiff in the Action. Defendants have denied and continue to deny, *inter alia*, that Defendants have engaged in any wrongdoing, including, without limitations, that their public statements were misleading; that they failed to disclose any material information to investors; that they acted in any deceitful manner; and that any investment losses sustained by Lead Plaintiff and the Class were caused by

Defendants' alleged misconduct. Nonetheless, taking into account the uncertainty and risks inherent in any litigation, especially in complex cases such as this one, Defendants have concluded that further litigation of the Action would be protracted, burdensome, and expensive, and that it is desirable and beneficial that the claims asserted in the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Stipulation.

9.2 Neither this Stipulation nor any document referred to herein nor any action taken to carry out this Stipulation is, may be construed as, or may be used as an admission by or against the Defendants, or any of them, of any fault, wrongdoing or liability whatsoever. Entering into or carrying out this Stipulation (or the Exhibits hereto) and any negotiations or proceedings related thereto shall not in any event be construed as, or be deemed to be evidence of, an admission or concession with regard to Lead Plaintiff's claims or contrary to the Defendants' denials or defenses, and shall not be offered by any of the Parties or Class Members or received in evidence in any action or proceeding in any court, administrative agency or other tribunal for any purpose whatsoever other than to enforce the provisions of this Stipulation (and the Exhibits hereto) or the provisions of any related agreement or release, or in any subsequent action against or by the Defendants to support a defense of *res judicata*, collateral estoppel, release or other theory of claim or issue preclusion or similar defense.

K. Miscellaneous Provisions

10.0 The Parties (a) acknowledge that it is their intent to consummate the terms and conditions of this Stipulation; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation.

10.1 Each Defendant warrants as to himself or itself that, at the time any of the payments provided for herein are made by or on behalf of himself or itself, the payment will not render him or it insolvent. This representation is made by each Defendant as to himself or itself and is not made by any Defendants' Counsel.

10.2 The Parties intend this Settlement to be a final and complete resolution of all disputes among them with respect to the Action. The Settlement compromises claims that are contested and shall not be deemed as an admission by any Party as to the merits of any claim or defense. While the Defendants deny that the claims advanced in the Action were meritorious, the Parties agree and the Judgment in the Action will state that the Action was filed, prosecuted and defended in good faith and in accordance with the applicable law and Federal Rules of Civil Procedure, including Rule 11 of the Federal Rules of Civil Procedure, and are being settled voluntarily after consultation with competent legal counsel. OPT may issue a press release announcing the Settlement and may make such public disclosures or filings

as it may in good faith determine to be necessary or desirable to comply with its disclosure obligations under federal securities laws and the rules of any stock exchange on which its securities are then listed for trading, but may not contradict the above language.

10.3 Neither the Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claims or of any wrongdoing or liability of the Defendants; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Defendants in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. The Defendants may file the Stipulation and/or the Judgment in related litigation as evidence of the Settlement, or in any action that may brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

10.4 Except as otherwise provided herein, all agreements made and orders entered during the course of the litigation in this Action relating to the confidentiality of information shall survive this Stipulation.

10.5 The Settlement contemplated herein is not subject to or contingent upon confirmatory discovery or other discovery.

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

10.7 The waiver by one party of any breach of this Stipulation by any other party shall not be deemed as a waiver of any other prior or subsequent breaches of this Stipulation.

10.8 All of the Exhibits to this Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

10.9 This Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.10 This Stipulation and the Exhibits attached hereto constitute the entire agreement among the parties hereto and no representations, warranties or inducements have been made to any party concerning this Stipulation or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. Except as otherwise provided, each Party shall bear its own costs.

10.11 Each counsel or other Person executing this Stipulation, any of its Exhibits, or any related settlement documents on behalf of any party hereto hereby

warrants and represents that such Person has 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.

10.12 This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Stipulation all exchange original signed counterparts.

10.13 This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto and the Released Parties.

10.14 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Stipulation, and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Stipulation.

10.15 This Stipulation and the Exhibits thereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of New Jersey and the rights and obligations of the parties to this Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of New Jersey without giving effect to that State's choice of law principles.

10.16 This Stipulation is deemed to have been prepared by counsel for all parties, as a result of arm's length negotiations among the parties. Whereas all parties have contributed substantially and materially to the preparation of this Stipulation, it shall not be construed more strictly against one party than another.

10.17 Whenever this Stipulation requires or contemplates that a Party shall or may give notice to the other, notice shall be provided by electronic mail, or next-day (excluding Saturday and Sunday) express delivery service as follows and shall be deemed effective upon such transmission or delivery to the address set forth below:

If to Lead Plaintiff, then to:

Nicholas I. Porritt
LEVI & KORSINKSY LLP
1101 30th Street, N.W., Suite 115
Washington, D.C. 20007
nporritt@zlk.com

If to Defendants, then to:

Michael L. Kichline
Stuart T. Steinberg
DECHERT LLP
Cira Centre
2929 Arch Street,
Philadelphia, PA 19104
Michael.Kichline@dechert.com
Stuart.Steinberg@dechert.com

Jeffrey J. Greenbaum
**SILLS CUMMIS & GROSS
P.C.**
One Riverfront Plaza
Newark, NJ 07102
jgreenbaum@sillscummis.com

Ian Shapiro

Stephanie B. Turner
COOLEY LLP
1114 Avenue of the Americas,
New York, New York 10036
ishapiro@cooley.com
sturner@cooley.com

Tracey Salmon-Smith, Esq.
**BRESSLER, AMERY & ROSS,
P.C.**
325 Columbia Turnpike
Florham Park, NY 07932
tsmith@bressler.com

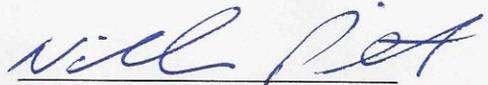
John R. Loftus
**STROOCK & STROOCK &
LAVAN LLP**
2029 Century Park East
Los Angeles, CA 90067
jloftus@stroock.com

10.18 All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Stipulation or by order of the Court, the day of the act, event, or default from which the designated period of time begins to run shall not be included.

10.19 The Parties reserve the right, subject to the Court's approval, to make any reasonable extensions of time that might be necessary to carry out any of the provisions of this Stipulation.

IN WITNESS WHEREOF, the parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys, dated May 5, 2016.

Dated: May 5, 2016



Eduard Korsinsky
LEVI & KORSINKSY LLP
235 Main Street
Hackensack, New Jersey 07601
(973) 265-1600
ek@zlk.com

Nicholas I. Porritt
1101 30th Street N.W.,
Suite 115
Washington, DC 20007
(202) 524-4290
nporritt@zlk.com

Attorneys for Lead Plaintiff

Michelle Hart Yeary
DECHERT LLP
Suite 500
902 Carnegie Center
Princeton, New Jersey 08540-6531
Michelle.Yeary@dechert.com

Michael L. Kichline
Stuart T. Steinberg
Cira Centre

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Dated: May 5, 2016

Eduard Korsinsky
LEVI & KORSINSKY LLP
235 Main Street
Hackensack, New Jersey 07601
(973) 265-1600
ek@zlk.com

Nicholas I. Porritt
1101 30th Street N.W.,
Suite 115
Washington, DC 20007
(202) 524-4290
nporritt@zlk.com

Attorneys for Lead Plaintiff



Michelle Hart Yeary
DECHERT LLP
Suite 500
902 Carnegie Center
Princeton, New Jersey 08540-6531
Michelle.Yeary@dechert.com

Michael L. Kichline
Stuart T. Steinberg
Cira Centre

2929 Arch Street,
Philadelphia, PA 19104
(215) 994-4000
Michael.Kichline@dechert.com
Stuart.Steinberg@dechert.com

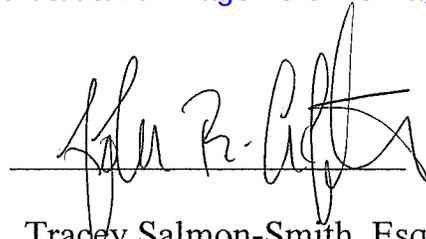
*Attorneys for Defendant Ocean Power
Technologies, Inc.*



Jeffrey J. Greenbaum
SILLS CUMMIS & GROSS P.C.
One Riverfront Plaza
Newark, NJ 07102
(973) 643-5430
jgreenbaum@sillscummis.com

Ian Shapiro
Stephanie B. Turner
COOLEY LLP
1114 Avenue of the Americas,
New York, New York 10036
(212) 479-6000
ishapiro@cooley.com
sturner@cooley.com

*Attorneys for Defendant Charles
Dunleavy*



Tracey Salmon-Smith, Esq.
**BRESSLER, AMERY & ROSS,
P.C.**

325 Columbia Turnpike
Florham Park, NY 07932
(973) 514-1200
tsmith@bressler.com

John R. Loftus
**STROOCK & STROOCK &
LAVAN LLP**

2029 Century Park East
Los Angeles, CA 90067
(310) 556-5954
jloftus@stroock.com

*Attorney for Defendant Roth Capital
Partners LLC*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re:)
OCEAN POWER TECHNOLOGIES,) Case No. 14-3799 (FLW) (LHG)
INC. SECURITIES LITIGATION)
)
This Document Applies to All Cases) EXHIBIT A
)

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF
SETTLEMENT**

WHEREAS, a consolidated class action is pending before the Court entitled *In re Ocean Power Technologies, Inc. Securities Litigation*, Case No. 14-3799 (FLW) (LHG);

WHEREAS, the Court having reviewed and considered Lead Plaintiff's unopposed Motion for Preliminary Approval of Class Action Settlement and Notice to the Settlement Class (the "Motion"); as well as all papers submitted in support thereof; the proposed Settlement as set forth in the Stipulation, which, together with the Exhibits annexed thereto, sets forth the terms and conditions of a proposed settlement of the above-captioned Action, dismissing the Defendants with prejudice upon the terms and conditions set forth therein; a copy of which has been submitted with the Motion and the terms of which are incorporated herewith; and all other prior proceedings in this Action; and good cause for this Order having been shown:

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The provisions of the Stipulation, including definitions of the terms used therein, are hereby incorporated by reference as though fully set forth herein. All capitalized terms used herein have the meanings set forth and defined in the Stipulation.

2. This Court has jurisdiction over the subject matter of this Action and over all parties to this Action, including Class Members.

3. The Court preliminarily approves the Settlement and the proposed Plan of Allocation described in the Notice as fair, reasonable and adequate as to all Class Members, pending a final settlement and fairness hearing (the “Settlement Hearing”). The Court preliminarily finds that the proposed Settlement should be approved as: (i) the result of serious, extensive arm’s-length and non-collusive negotiations; (ii) falling within a range of reasonableness warranting final approval; (iii) having no obvious deficiencies; (iv) not improperly granting preferential treatment to the Lead Plaintiff or segments of the Class; and (v) warranting notice of the proposed Settlement at the Settlement Hearing described below.

Conditional Certification of the Class

4. For purposes of settlement only, and pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3), this Action is conditionally certified as a class action

on behalf of the following persons (the “Class”):

All persons or entities who purchased or otherwise acquired (i) OPT securities between January 14, 2014 and July 29, 2014; and/or (ii) purchased or otherwise acquired Ocean Power Technologies, Inc. (“OPT”) securities pursuant to and/or traceable to OPT’s April 4, 2014 follow-on stock offering. Excluded from the Class are Defendants, all directors and officers of OPT during the Class Period, and any family member, trust, company, entity or affiliate controlled or owned by any of the excluded persons and entities referenced above.

5. The Court preliminarily finds that the prerequisites for a class action under Rule 23 (a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied, and certifies a class solely for purposes of this Settlement, finding that: (a) the number of Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Lead Plaintiff are typical of the claims of the Class; (d) Lead Plaintiff has fairly and adequately represented the interests of the Class; (e) the questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

6. Based on the finding that Lead Plaintiff has fairly and adequately represented the interests of the Class, the Court conditionally appoints Lead Plaintiff as the class representative for the Class. The Court finds that Lead

Counsel has fairly and adequately represented the interests of the Class, and conditionally appoints Lead Counsel as class counsel pursuant to Rule 23(g) of the Federal Rules of Civil Procedure. These conditional appointments are solely for purposes of effectuating the Settlement.

7. If the Stipulation is terminated or is not consummated for any reason, the foregoing conditional certification of the Class shall be void and of no further effect and the parties to the Stipulation shall be returned to the status each occupied before entry of this Order without prejudice to any legal argument that any of the parties to the Stipulation might have asserted in the Action.

8. The Court approves the appointment of Epiq Class Action & Claims Solutions, Inc. as the Escrow Agent to manage the Escrow Account for the benefit of the Settlement Class.

9. The Court approves the appointment of Epiq Class Action & Claims Solutions, Inc. as the Claims Administrator to supervise and administer the notice procedure and the processing of claims.

Stay Order

10. The Court orders the stay of any pending litigation in the Action and enjoins the initiation of any new litigation by any Class Member in any court, arbitration, or other tribunal that includes any Released Claims against the Released Parties generally and the Released Defendant Parties specifically.

Form and Timing of Notice

11. The Court hereby approves, as to form and content, the proposed Notice, substantially in the form annexed hereto as Exhibit A-1, and directs that as soon as practicable after entry of this Order, but no later than fourteen (14) days after entry of this Order granting preliminary approval, that the Settlement Administrator provide the Notice to each known Class Member via first class U.S. mail, postage pre-paid. OPT shall cooperate in the identification of Class Members by producing reasonably available information from its shareholder transfer records or transfer agent. The Claims Administrator shall file with the Court proof of mailing of the Notice seven (7) days prior to the Settlement Hearing.

12. Banks, brokerage firms, institutions, and other persons who are nominees who purchased or otherwise acquired OPT securities for the beneficial interest of other persons during the Settlement Class Period are directed to, within ten (10) days after receipt of the Notice: either (a) send the Notice and the Proof of Claim form to all beneficial owners of OPT securities purchased or otherwise acquired during the Class Period; or (b) send a list of the names and addresses of such beneficial owners to the Claims Administrator. The Claims Administrator shall provide the Notice to each Class Member identified through point (b) of this Paragraph via first class U.S. mail, postage pre-paid, no later than sixty (60) days prior to the Settlement Hearing.

13. The cost of providing the Notice to the Settlement Class as specified in this Order shall be paid as set forth in the Stipulation.

14. The Court hereby approves, as to form and content, the proposed form Publication Notice, substantially in the form annexed hereto as Exhibit A-3, and directs that no more than _____, 2016 (“Notice Date”) after entry of this Order granting preliminary approval the Claims Administrator shall cause such Publication Notice to be published on a national business newswire. The Claims Administrator shall file with the Court proof of publication of the Publication Notice seven (7) days prior to the Settlement Hearing.

15. The Court approves the proposed Proof of Claim substantially in the form of Exhibit A-2 hereto.

16. The Court orders that the Notices, Proof of Claim form, Stipulation of Settlement and all papers submitted in support thereof be posted to a website to be maintained by the Claims Administrator.

17. This Court preliminarily finds that the distribution of the Notice and the publication of the Publication Notice, and the notice methodology, contemplated by the Stipulation and this Order:

(a) Constitute the best practicable notice to Settlement Class Members under the circumstances of this Action;

(b) Are reasonably calculated, under the circumstances, to apprise Settlement Class Members of: (i) the proposed Settlement of this Action; (ii) their right to exclude themselves from the Settlement Class; (iii) their right to object to any aspect of the proposed Settlement; (iv) their right to appear at the Settlement Hearing, either on their own or through counsel hired at their own expense, if they did not exclude themselves from the Settlement Class; and (v) the binding effect of the proceedings, rulings, orders, and judgments in this Action, whether favorable or unfavorable, on all persons not excluded from the Settlement Class;

(c) Is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to be provided with notice; and

(d) Fully satisfies all applicable requirements of the Federal Rules of Civil Procedure (including Rules 23(c) and (d)), the United States Constitution (including the Due Process Clause), the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), the Private Securities Litigation Reform Act of 1995, the Rules of Court, and any other applicable law.

Participation and Exclusion

18. Class Members who wish to participate in the Settlement shall complete and submit the Proof of Claim and Release form in accordance with the instructions contained in the Notice. Unless the Court orders otherwise, all Proof

of Claim and Release forms must be submitted no later than _____, 2016, or one hundred and twenty (120) days from the Notice Date.

19. Any Class Member who does not submit a Proof of Claim and Release within the time provided shall be barred from sharing in the distribution of the proceeds of the Net Settlement Fund, unless otherwise ordered by the Court, but shall nevertheless be bound by any final judgment entered by the Court. Notwithstanding the foregoing, Lead Counsel shall have the discretion to accept late-submitted claims for processing by the Claims Administrator so long as distribution of the Net Settlement Fund is not materially delayed thereby.

20. Any person falling within the definition of the Class may seek to be excluded from the Class by submitting to the Settlement Administrator a request for exclusion (“Request for Exclusion”), which complies with the requirements set forth in the Notice and is postmarked no later than fourteen (14) days prior to the date of the Settlement Hearing. Any Request for Exclusion that does not supply the information required by this Paragraph 20 shall be rejected, and any such Class Member shall be bound by the Stipulation and any judgment entered in connection therewith.

21. All persons who submit valid and timely Requests for Exclusion shall have no rights under the Stipulation, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Settlement Stipulation or the

Judgment. However, a Class Member may submit a written revocation of a Request for Exclusion up until five (5) days prior to the date of the Settlement Hearing and still be eligible to receive payments pursuant to the Stipulation provided the Settlement Class Member also submits a valid Proof of Claim prior to the Settlement Hearing (the “Bar Date”).

Settlement Hearing; Right to Appear and Object

22. The Settlement Hearing shall take place before the undersigned, United States District Judge Freda L. Wolfson, in Courtroom 5E, Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Trenton, New Jersey 08608, on _____, 2016, at ____:__.m., to determine:

(a) Whether the Settlement, on the terms and conditions provided for in the Stipulation, should be finally approved by the Court as fair, reasonable, and adequate;

(b) Whether the Action should be dismissed on the merits and with prejudice as to the Defendants;

(c) Whether the Court should permanently enjoin the assertion of any claims that arise from or relate to the subject matter of the Action;

(d) Whether the application for attorneys’ fees and expenses to be submitted by Lead Counsel should be approved;

(e) Whether the Plan of Allocation is fair and reasonable to the members of the Settlement Class;

(f) Whether the application for Compensatory Awards to be submitted on behalf of Lead Plaintiff should be approved; and

(g) Such other matters as the Court may deem necessary or appropriate.

23. The Court may finally approve the Stipulation at or after the Settlement Hearing with any modifications agreed to by the parties and without further notice to the Class Members.

24. Lead Counsel and/or Defendants' Counsel shall submit papers in support of the Settlement, Plan of Allocation and Award of Attorney Fees and Expenses, and Lead Plaintiff's Compensatory Awards no later than twenty one (21) days prior to the Settlement Hearing.

25. Any Class Member and any other interested person may appear at the Settlement Hearing in person or by counsel and be heard, to the extent allowed by the Court, either in support of or in opposition to the matters to be considered at the hearing, provided, however, that no person shall be heard, and no papers, briefs, or other submissions shall be considered by the Court in connection to such matters, unless no later than fourteen (14) days before the Settlement Hearing, such person files with the Court a statement of objection setting forth: (i) whether the person is

a Class Member; (ii) to which part of the Stipulation the Class Member objects; (iii) the specific reason(s), if any, for such objection including any legal support the Class Member wishes to bring to the Court's attention. Such Class Member shall also provide documentation sufficient to establish the amount Ocean Power securities purchased, acquired and sold from January 14, 2014 through July 29, 2014 (including the number of shares, dates, and prices). Failure to provide such information and documentation shall be grounds to void the objection.

26. Objection materials must be sent to:

<u>Lead Counsel:</u>	Nicholas I. Porritt Levi & Korsinsky LLP 1101 30th Street, NW Suite 115 Washington, D.C. 20007 nporritt@zlk.com
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27. Upon receipt of the objection materials, Lead Counsel shall immediately send such materials to Defendants' Counsel.

28. Lead Counsel shall file all objections with the Court seven (7) days prior to the Settlement Hearing. All papers in response to objections or otherwise in support of the Settlement and related matters shall be filed seven (7) days prior to the Settlement Hearing.

29. The Defendants shall have no responsibility for the Plan of Allocation or any Fee and Expense Application, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Stipulation.

30. At or after the Settlement Hearing, the Court shall determine whether the Plan of Allocation and any Fee and Expense Application proposed by Lead Counsel should be approved.

31. All reasonable expenses incurred in identifying and notifying Class Members as well as administering the Settlement Fund shall be paid as set forth in the Stipulation. The Court may adjourn the Settlement Hearing, including the consideration of the motion for attorneys' fees and expenses, without further notice of any kind other than an announcement of such adjournment in open court at the Settlement Hearing or any adjournment thereof.

32. If the Settlement is approved, all Settlement Class Members will be bound by the terms of the Settlement as set forth in the Stipulation, and by any judgment or determination of the Court affecting the Settlement Class, regardless of whether or not a Class Member submits a Proof of Claim. Any member of the Settlement Class who fails to opt out of the Settlement Class or who fails to object in the manner prescribed therein shall be deemed to have waived, and shall be foreclosed forever from raising objections or asserting any claims arising out of, related to, or based in whole or in part on any of the facts or matters alleged, or which could have been alleged, or which otherwise were at issue in the Action.

Other Provisions

33. Upon payment of the Settlement consideration to the Escrow Account

by Defendants and Insurer, the Settlement Fund 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 Settlement Fund is distributed or returned to the Defendants and Insurer pursuant to the Stipulation and/or further order of this Court. There shall be no distribution of any part of the Net Settlement Fund to the Class until the Plan of Allocation is finally approved and the Court issues the Settlement Fund Distribution Order.

34. Except for the obligation to cooperate in the production of reasonably available information with respect to the identification of Class Members from OPT's shareholder transfer records, in no event shall the Released Defendant Parties have any responsibility for the administration of the Settlement, and the Released Defendant Parties shall not have any obligation or liability to the Releasing Plaintiff Parties in connection with such administration.

35. No Person shall have any claim against Released Plaintiff Parties, the Settlement Administrator, the Escrow Agent or any other agent designated by Lead Counsel based on distribution determinations or claim rejections made substantially in accordance with this Stipulation and the Settlement, the Plan of Allocation, or further orders of the Court, except in the case of fraud or willful misconduct. No person shall have any claim under any circumstances against the

Released Parties, based on any distributions, determinations, claim rejections or the design, terms, or implementation of the Plan of Allocation.

36. The Defendants have denied, and continue to deny, any and all allegations and claims asserted in the Action, and the Defendants have represented that they entered into the Settlement solely to eliminate the burden, expense, and uncertainties of further litigation.

37. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Defendants or Released Defendant Parties of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind.

38. The Released Parties, and each of their counsel may file the Stipulation and/or the Order and Final Judgment in any action that may be brought against them in order to support a defense or counterclaim based on the principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction of any other theory of claim preclusion or issues preclusion or similar defense or counterclaim.

39. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, this Order shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be

vacated, and in such event, all orders entered and releases delivered in connection therewith shall be null and void to the extent provided by and in accordance with the Settlement, and without prejudice to the rights of the parties to the Stipulation before it was executed.

40. The Court reserves the right to alter the time or the date of the Settlement Hearing without further notice to the Class Members, provided that the time or the date of the Settlement Hearing shall not be set at a time or date earlier than the time and date set forth in Paragraph 22 above, and retains jurisdiction to consider all further applications arising out of or connected with the settlement.

SO ORDERED in the District of New Jersey on _____, 2016

THE HON. FREDA L. WOLFSON
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re:) Case No. 14-3799 (FLW) (LHG)
OCEAN POWER TECHNOLOGIES,)
INC. SECURITIES LITIGATION)
) EXHIBIT A-1
This Document Applies to All Cases)
)
)

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF
CLASS ACTION**

TO: ALL PERSONS OR ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED OCEAN POWER TECHNOLOGIES, INC. (“OPT”) SECURITIES BETWEEN JANUARY 14, 2014 AND JULY 29, 2014, INCLUSIVE, AND/OR PURCHASED OR OTHERWISE ACQUIRED OPT SECURITIES PURSUANT TO AND/OR TRACEABLE TO OPT’S APRIL 4, 2014 FOLLOW-ON STOCK OFFERING (THE “CLASS”).

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS ACTION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THE PROCEEDS OF THE SETTLEMENTS, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM (“PROOF OF CLAIM”) **POSTMARKED OR SUBMITTED ONLINE ON OR BEFORE [INSERT DATE]**

A federal court authorized this Notice. This is not a solicitation from a lawyer.

Securities and Time Period: Ocean Power Technologies, Inc. (“OPT”) common stock (CUSIP: _____) purchased/acquired between January 14, 2014 and July 29, 2014, and/or purchased or otherwise acquired pursuant to and/or traceable to OPT’s April 4, 2014 follow-on stock offering.

Settlement Fund: \$3,000,000 in cash and 380,000 shares of OPT common stock.

Your recovery will depend on the amount of securities purchased and the timing of your purchases and any sales. Depending on the number of eligible securities that participate in the settlement and when those securities were purchased and sold, Lead Plaintiff estimates the average cash recovery per share of common stock will

be approximately \$0.192 per share (assuming claims representing 19.4 million shares are filed and the value of the OPT common stock has a value of \$1.92 per share) before deduction of court-approved fees and expenses.

Reasons for Settlement: Avoids the costs and risks associated with continued litigation, including the danger of no recovery for Class Members.

If the Class Action Had Not Settled: Continuing with the case could have resulted in dismissal or loss at trial. The two sides do not agree on the amount of money that could have been won if Lead Plaintiff prevailed at trial. The parties disagree about: (1) the method for determining whether OPT securities were artificially inflated during the relevant period; (2) the amount of any such inflation; (3) the extent that various statements and/or omissions alleged by Lead Plaintiff were materially false or misleading; (4) the extent that various statements and/or omissions alleged by Lead Plaintiff influenced the trading price of OPT securities during the relevant period; and (5) whether the statements and/or omissions alleged were material, false, misleading, or otherwise actionable under the securities laws.

Attorneys' Fees and Expenses: Lead Counsel has not received any payment for their work investigating the facts, conducting this litigation or negotiating the settlement on behalf of Lead Plaintiff and the Class. Court-appointed Lead Counsel

will ask the Court for attorneys' fees of ____ from the Settlement Fund and reimbursement of out-of pocket litigation expenses not to exceed \$_____ to be paid from the Settlement Fund. If the above amounts are requested and approved by the Court, the average cost per share of common stock will be \$_____.

Deadlines:

Submit Claim: _____, 2016
Request Exclusion: _____, 2016
File Objection: _____, 2016

Court Hearing on Fairness of Settlement: _____, 2016

More Information: www._____.com or

Claims Administrator:

Ocean Power Technologies, Inc.
Securities Litigation
Claims Administrator
P.O Box 4259
Portland, OR 97208-4259

Lead Counsel:

Nicholas I. Porritt, Esq
Levi & Korsinsky LLP
1101 30th Street, N.W., Suite 115
Washington, D.C. 20007
nporritt@zlk.com

- Your legal rights are affected whether you act, or do not act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS CLASS ACTION SETTLEMENT:

SUBMIT A CLAIM FORM

The only way to get a payment

EXCLUDE YOURSELF

Get no payment. This is the only option that allows you to participate in

another lawsuit against the Defendants relating to the legal claims in this case.

OBJECT

You may write to the Court if you do not like this Settlement.

GO TO A HEARING

You may ask to speak in Court about the fairness of the settlement.

DO NOTHING

Get no payment

These rights and options – *and the deadlines to exercise them* – are explained in this Notice.

The Court in charge of this case must decide whether to approve the settlement. Payments will be made if the Court approves the settlement and, if there are any appeals, after appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why Did I Get This Notice Package?

You or someone in your family may have purchased or acquired the publicly traded securities of OPT listed above between January 14, 2014 and July 29, 2014, and /or purchased and/or acquired OPT common stock in the April 4, 2014 follow-on stock offering.

The Court ordered that this Notice be sent to you because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the settlement. If the Court approves it and after any objections or appeals are resolved, the Claims Administrator appointed by the Court will make the payments that the settlement allows.

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the District of New Jersey, and the case is known as *Ocean Power Technologies, Inc. Securities Litigation*, Case No. 14-3799 (FLW) (LHG). The person who sued is called the Lead Plaintiff, and the companies and the individuals they sued, OPT, Charles Dunlevy, Roth Capital Partners LLC (“Roth Capital”), are called Defendants. Defendants have agreed to settle the claims made in this case.

2. What is this Lawsuit About?

Lead Plaintiff has filed this lawsuit alleging that OPT and its former Chief Executive Officer Dunleavy violated the federal securities laws by making false and misleading statements and/or omitting statements of material fact regarding OPT’s business, including the capabilities of certain products and the viability of a now-terminated project with the Australian government. In addition, Lead

Plaintiff alleges that OPT, Dunleavy and Roth Capital made materially false and misleading statements regarding OPT's business in connection with an April 4, 2014 follow-on stock offering, of which Roth Capital was the underwriter. The Defendants filed motions to dismiss in November 2015, arguing, among other things, that the statements were forward-looking statements that were accompanied by meaningful cautionary language, that Lead Plaintiff ignored the actual disclosures that Defendants made, and that Lead Plaintiff did not plead the requisite state of mind. The Defendants deny that they did anything wrong.

3. Why Is This a Class Action?

In a class action, one or more people or entities called class representatives (in this case the court-appointed Lead Plaintiff FiveMore Special Situations Fund Ltd.) sue on behalf of people who have similar claims. Here, all these people are called a Class or Class Members. One court resolves the issues for all the Class Members, except for those who exclude themselves from the Class. Judge Freda Wolfson is in charge of this class action.

4. Why Is There a Settlement?

The Court did not decide in favor of the Lead Plaintiff or Defendants. Instead, both sides agreed to a settlement. That way, they avoid the cost of a litigation, and eligible Class Members who make valid claims will get

compensation. Lead Plaintiff and its attorneys think the settlement is best for all Class Members.

WHO IS IN THE SETTLEMENT

To see if you will get money from this settlement, you first have to determine if you are a Class Member.

5. How Do I Know if I Am A Part of the Settlement?

The Class includes *all persons who purchased or otherwise acquired publicly traded securities of OPT between January 14, 2014 and July 29, 2014 and / or purchased or otherwise acquired OPT securities pursuant to and/or traceable to OPT's April 4, 2014 follow-on stock offering, except those persons or entities that are excluded, as described below.*

6. What Are the Exceptions to Being Included?

You are not a Class Member if you are:

- A Defendant;
- A director, officer, or employee of OPT during the Class Period;
- A member of the immediate family, trust, company, entity or affiliate controlled or owned by any excluded party.

If you sold OPT securities between January 14, 2014 and July 29, 2014, that alone does not make you a Class Member. You are a Class Member only if you purchased or acquired OPT securities, as described above.

7. I'm Still Not Sure If I Am Included in the Class Action

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator toll-free at xxx-xxx-xxxx, or you can fill out and return the Proof of Claim form enclosed with this Notice package, to see if you qualify.

THE SETTLEMENT BENEFITS – WHAT YOU GET

8. What Does the Settlement Provide?

Defendants have agreed to pay a total of \$3,000,000 in cash and 380,000 shares of OPT common stock.

OPT Settlement Stock

The OPT Settlement Stock will consist of 380,000 shares of OPT common stock. OPT is not providing any price protection for the OPT Settlement Stock; the number of shares will not be adjusted regardless of whether the value of each share later increases or decreases before distribution to the Class Members. However, the number of shares constituting the OPT Settlement Stock will be adjusted to account for stock splits, reverse stock splits and other similar actions taken by OPT. All costs associated with the delivery or distribution of the OPT Settlement Stock shall be borne by OPT.

The OPT Settlement Stock shall be exempt from the registration requirements of the Securities Act of 1933 under § 3(a)(10) of the Securities Act.

The OPT Settlement Stock shall not constitute “restricted securities” under the Securities Act, and may be sold or transferred by recipients thereof who are not affiliates of OPT (as that term is defined in Rule 144 of the Securities Act) or recipients deemed to be underwriters under the Securities Act without registration under § 5 of the Securities Act or compliance with Rule 144.

Until distribution to Class Members, Lead Counsel agrees to vote the shares of OPT Settlement Stock in the same proportion as those voted by the shares that are not OPT Settlement Stock and that are eligible to vote on any matter presented to shareholders for such a vote and, if requested by OPT, to enter into a voting trust agreement so providing.

The Settlement Fund will be divided among all eligible Class Members who send in valid claim forms, after payment of Court-approved attorneys’ fees and expenses and the costs of claims administration, including the costs of printing and mailing this Notice and the cost of publishing notice (the “Net Settlement Fund”).

9. How Much Will My Payment Be?

Your share of the Net Settlement Fund will depend on several things, including, how many Class Members submit timely and valid Proof of Claim forms, the total recognized losses represented by the valid Proof of Claim forms that Class Members send in, the total number of shares of OPT common stock you

purchased or acquired, how much you paid, when you purchased or acquired, and if you sold your securities and for how much.

By following the instructions in the Plan of Allocation, you can calculate what is called your Recognized Loss. The Plan of Allocation for this Settlement is as follows: Each Class Member that submits a valid Claim (an “Authorized Claimant”) will be assigned a Recognized Loss. An Authorized Claimant’s Recognized Loss depends upon the number of OPT shares held at certain points in time during the Class Period. The following table provides the per-share amount of each Authorized Claimant’s Recognized Loss. These amounts represent the average amount of potential damages per share:

		Date Shares Sold			
Date Shares Purchased		Prior to June 10, 2014	June 10, 2014 to July 15, 2014	July 15, 2014 to July 29, 2014	After July 29, 2014
	Prior to June 10, 2014	\$0/share	\$0.84/share	\$1.18/share	\$1.18/share
	June 10, 2014 to July 15, 2014	N/A	\$0/share	\$0.34/share	\$0.34/share
	After July 15, 2014	N/A	N/A	\$0/share	\$0/share

In addition, for any share of OPT common stock purchased in or traceable to OPT’s April 4, 2014 follow-on stock offering, an Authorized Claimant’s Recognized Loss will be increased by 20% in connection with those shares. This increase is due to the consideration that claims under the Securities Act of 1933 (which apply to

shares purchased in the follow-on stock offering) are stronger than claims under the Securities Exchange Act of 1934 (which apply to all other shares). You will need to submit proof of purchase in the follow-on stock offering in order to receive this bonus.

It is unlikely that you will get a payment for all of your Recognized Loss. After all Class Members have sent in their Proof of Claim forms, the payment you get will be a part of the Net Settlement Fund equal to your Recognized Loss divided by the total of everyone's Recognized Losses. Your payment will be made in cash and OPT Settlement Stock.

HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM

10. How Will I Get a Payment?

To qualify for payment, you must be an eligible Class Member and you must send in a claim form. A claim form is enclosed with this Notice. Read the instructions carefully, fill out the form, include all the documents the form asks for, sign it, and mail it in the enclosed envelope postmarked no later than _____, 2016.

11. When Will I Get My Payment?

The Court will hold a hearing on _____, 2016, to decide whether to approve the settlement. If Judge Wolfson approves the class action settlement, there may be appeals. It is always uncertain whether these appeals can be resolved,

and resolving them can take time, perhaps several years. Everyone who sends in a claim form will be informed of the determination with respect to their claim. Please be patient.

12. What Am I Giving Up to Get a Payment or Stay in the Class?

Unless you exclude yourself, you are staying in the Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants about the same legal issues in this case. It also means that all of the Court's Order will apply to you and legally bind you and you will release your claims in this case against the Defendants. The terms of the release are included in the claim form that is enclosed.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this settlement, but you want to keep the right to sue or continue to sue any of the Defendants on your own about the same legal issues in this case, then you must take steps to get out of the Class. This is called excluding yourself or is sometimes referred to as opting out of the Class.

13. How Do I Get Out of the Settlement Class?

To exclude yourself from the Settlement Class, you must send a letter by mail stating that you want to be excluded from *In re Ocean PowerTechnologies, Inc. Securities Litigation*, Case No. 14-3799. You must include your name, address, telephone number, signature, the number and type of OPT securities you

purchased or acquired between January 14, 2014 and July 29, 2014, the number and type of securities sold during this time period, if any, and the dates of such purchases and sales. You must mail your exclusion request postmarked no later than _____, 2016 to:

Ocean Power Technologies, Inc. Securities Litigation
Claims Administrator
P.O Box 4259
Portland, OR 97208-4259

You cannot exclude yourself by phone or by e-mail. If you ask to be excluded, you are not eligible to get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit.

14. If I Do Not Exclude Myself, Can I Sue the Defendants for the Same Thing Later?

No. Unless you exclude yourself, you give up any right to sue the Defendants for the claims resolved by the class action settlement. If you have a pending lawsuit against any of the Defendants, speak to your lawyer in that case immediately. Remember the exclusion deadline is _____, 2016.

15. If I Exclude Myself, Can I Get Money from This Settlement?

No. If you exclude yourself, do not send in a claim form. But, you may sue, continue to sue, or be part of a different lawsuit against any of the Defendants.

THE LAWYERS REPRESENTING YOU

16. Do I Have a Lawyer in This Case?

The Court asked the law firm Levi & Korsinky LLP to represent you and other Class Members.

These lawyers are called Lead Counsel. You will not be charged for the services of these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How Will the Lawyers Be Paid?

Lead Plaintiff's Counsel will ask the Court for attorneys' fees of ____% of the Settlement Fund and for reimbursement of their out-of-pocket litigation expenses up to \$____, that were advanced in connection with the Action. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

The attorneys' fees and expenses requested will be the only payment to Lead Counsel for their efforts in achieving this settlement and for the risk in undertaking this representation on a wholly contingent basis. To date, Lead Counsel has not been paid for their services for conducting this litigation on behalf of the Lead Plaintiff and Class nor for their substantial out-of-pocket expenses. The fees requested will compensate Lead Counsel for their work in achieving the Settlement Fund and is well within the range of fees awarded to class counsel under similar

circumstances in other cases of this type. The Court may award less than this amount.

Lead Counsel will also request reimbursement of attorneys' fees and expenses for administration of the settlement including costs associated with notice and the fees and expenses of the claims administrator. Those amounts will be requested before distribution of the Net Settlement Fund to Class Members. Again, such sums as may be approved by the Court will be paid from the Settlement Fund.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the settlement or some part of it.

18. How Do I Tell the Court that I Do Not Like the Settlement?

If you are a Settlement Class Member, you can object to the settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the settlement in *In re Ocean Power Technologies, Inc. Securities Litigation*, Case No. 14-3799 (FLW) (LHG). Be sure to include your name, address, telephone number, signature, the OPT common stock purchased and sold between January 14, 2014 and July 29, 2014, and the reasons you object to the settlement. Any objection to the settlement must be mailed or

delivered such that it is received by the following no later than _____, 2016.

Nicholas I. Porritt, Esq.
Levi & Korsinsky LLP
1101 30th Street, N.W., Suite 115
Washington, D.C. 20007

Lead Counsel will then immediately provide to Defendants' Counsel any such objection.

19. What's the Difference Between Objecting and Excluding?

Objecting is simply telling the Court that you do not like something about the settlement. You can object *only if* you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you do not have to.

20. When and Where Will the Court Decide Whether to Approve the Settlement?

The Court will hold a fairness hearing at ____ a.m., on _____, 2016, at the United States Courthouse, Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Courtroom 5E, Trenton, NJ 08608. At this hearing the Court will consider whether the settlement of the Action is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Wolfson will listen to

people who have asked to speak at the hearing. The Court will also consider how much to pay to Lead Counsel. The Court may decide these issues at the hearing or take them under consideration. We do not know how long these decisions will take.

21. Do I Have to Come to the Hearing?

No. Lead Counsel will answer questions Judge Wolfson may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

22. May I Speak at the Hearing?

You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must send a letter saying that it is your intention to appear in *In re Ocean Power Technologies, Inc. Securities Litigation*, Case No. 14-3799 (FLW) (LHG). Be sure to include your name, address, telephone number, signature, and the number and type of OPT securities purchased or acquired between January 14, 2014 and July 29, 2014. Your notice of intention to appear must be received no later than _____, 2016, by Lead Counsel at the address listed in question 19. You cannot speak at the hearing if you exclude yourself from the Class.

IF YOU DO NOTHING

23. What Happens if I Do Nothing At All?

If you do nothing, you will get no money from this Settlement. But, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants about the same legal issues in this case.

GETTING MORE INFORMATION

24. Are There More Details About the Settlement?

This Notice summarizes the proposed settlement. More details are in the Stipulation and Agreement of Class Settlement dated as of _____, 2016. You can get a copy of the Stipulation or more information about the Settlement by visiting www._____.com.

You can also contact the Claims Administrator:

Ocean Power Technologies Inc. Securities Litigation
Claims Administrator
P.O Box 4259
Portland, OR 97208-4259

Or Lead Counsel

Nicholas I. Porritt, Esq.
Levi & Korsinsky LLP
1101 30th Street, N.W., Suite 115
Washington, D.C. 20007

You can also obtain a copy from the Clerk's Office during regular business hours:

Clerk of Court
U.S. Courthouse

402 East State Street, Room 2020
Trenton, NJ 08608

**DO NOT TELEPHONE THE COURT OR DEFENDANTS' COUNSEL
REGARDING THIS NOTICE**

SPECIAL NOTICE TO NOMINEES

If you hold shares of any OPT securities purchased between January 14, 2014 and July 29, 2014, and/or purchased in the April 4, 2014 follow-on stock offering as nominee for a beneficial owner, then, within ten (10) days after you received this Notice, you must either: (1) send a copy of this Notice and Proof of Claim by first class mail to all such beneficial owners; or (2) provide a list of names and addresses of such Persons to the Claims Administrator:

Ocean Power Technologies, Inc. Securities Litigation
Claims Administrator
P.O Box 4259
Portland, OR 97208-4259

If you choose to mail the Notice and Proof of Claim yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for or advancement of reasonable administrative costs actually incurred or expected to be incurred in connection with forwarding the Notice and which would not have been incurred but for the obligation to forward the Notice, upon submission of appropriate documentation to the Claims Administrator.

DATED: _____, 2016

**BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re:)
OCEAN POWER TECHNOLOGIES,) Case No. 14-3799 (FLW) (LHG)
INC. SECURITIES LITIGATION)
) EXHIBIT A-2
This Document Applies to All Cases)
)

PROOF OF CLAIM AND RELEASE

I. GENERAL INSTRUCTIONS

1. To recover as a member of the class based on your claims in the action entitled *In re Ocean Power Technologies, Inc. Securities Litigation*, Case No. 14-3799 (FLW)(LHG) (the “Action”), you must complete and, on pages 5-6 hereof, sign this Proof of Claim and Release. If you fail to file a properly addressed (as set forth in paragraph 3 below) Proof of Claim and Release, your claim may be rejected and you may be precluded from any recovery from the Class Settlement Fund created in connection with the proposed settlement of the Action.¹

2. Submission of this Proof of Claim and Release, however, does not assure that you will share in the proceeds of settlement in the Action.

3. YOU MUST MAIL YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE POSTMARKED ON OR BEFORE _____, 2016, ADDRESSED AS FOLLOWS:

Ocean Power Technologies, Inc. Securities Litigation
Claims Administrator
P.O Box 4259
Portland, OR 97208-4259

4. If you are a Class Member, you are bound by the terms of any judgment entered in the Action, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM

¹ Unless otherwise stated, all terms used in this Proof of Claim and Release shall have the same meanings as set forth in the Stipulation and Agreement of Class Settlement filed with the Court.

AND RELEASE FORM unless you timely and validly request exclusion from the Settlement Class pursuant to the Notice.

II. CLAIMANT IDENTIFICATION

1. If you purchased or acquired OPT securities pursuant and/or traceable to OPT's April 4, 2014 offering; and/or OPT securities during the inclusive of the period January 14, 2014 and July 29, 2014, and held the certificate(s) in your name, you are the beneficial purchaser or acquirer as well as the record purchaser or acquirer. If, however, the certificate(s) were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial purchaser and the third party is a record purchaser.

2. Use Part I of this form entitled "Claimant Identification" to identify each purchaser of record ("nominee"), if different from the beneficial purchaser of OPT securities which form the basis of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER OR PURCHASERS, OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER OR PURCHASERS OF THE OPT SECURITIES UPON WHICH THIS CLAIM IS BASED.**

3. All joint purchasers must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of Persons represented by them; their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification)

number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

III. CLAIM FORM

1. Use Part II of this form entitled “Schedule of Transactions in OPT Securities” to supply all required details of your transaction(s). If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

2. On the schedules, provide all of the requested information with respect to *all* of your purchases or acquisitions and *all* of your sales of OPT securities which took place at any time beginning January 14, 2014 through July 29, 2014, inclusive, whether such transactions resulted in a profit or a loss. You must also provide all of the requested information with respect to all of the shares of OPT securities you held at the close of trading on January 13, 2014 and July 29, 2014. Failure to report all such transactions may result in the rejection of your claim.

3. List each transaction in the Class Period separately and in chronological order by trade date, beginning with the earliest. You must accurately provide the month, day, and year of each transaction you list.

4. Broker confirmations or other documentation of your transactions in

OPT securities should be attached to your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.

5. The above requests are designed to provide the minimum amount of information necessary to process the simplest claims

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

In re Ocean Power Technologies, Inc. Securities Litigation

Case No. 14-3799 (FLW)(LHG)

PROOF OF CLAIM AND RELEASE

Must be Postmarked No Later Than

_____, 2016

Please Type or Print

PART I: CLAIMANT IDENTIFICATION

Beneficial Owner's Name (First, Middle, Last)

Street Address

City

State or Province

Zip Code or Postal Code

Country

Social Security Number or
Taxpayer Identification Number

Individual

Corporation/Other

Area Code

Telephone Number (Work)

Area Code

Telephone Number (Home)

Record Owner's Name (if different from beneficial owner listed above)

PART II: SCHEDULE OF TRANSACTIONS IN OPT SECURITIES

A. Number of shares of OPT securities held at the close of trading on January 13, 2014: _____

B. Purchases or acquisitions of OPT securities between January 14, 2014 and July 29, 2014, inclusive and/or pursuant to or traceable to OPT's April 4, 2014 follow-on stock offering:

	Trade Date Mo. Day Year	Number of Securities Purchased or Acquired	Total Purchase or Acquisition Price
1.			
2.			
3.			

For purchases made pursuant to or traceable to OPT's April 4, 2014 follow-on stock offering, please include your transaction confirmation form(s) with this form.

C. Sales of OPT securities between January 14, 2014 and July 29, 2014, inclusive:

	Trade Date Mo. Day Year	Number of Securities Sold	Total Sales Price
1.			
2.			
3.			

D. Number of shares of OPT securities held at the close of trading on July 29, 2014: _____

If you require additional space, attach extra schedules in the same format as above. Sign and print your name on each additional page.

**YOU MUST READ AND SIGN THE RELEASE ON PAGE ____.
FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY IN
PROCESSING OR THE REJECTION OF YOUR CLAIM.**

IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

I (We) submit this Proof of Claim and Release under the terms of the Stipulation and Agreement of Class Settlement, dated as of May 5, 2016, 2016 (“Stipulation”) described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the District of New Jersey, with respect to my (our claim) as a Class Member (as defined in the Notice) and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Action. I (We) agree to furnish additional information to Lead Counsel to support this claim if required to do so. I (We) have not submitted any other claim covering the same purchases or sales of OPT securities during the Class Period and know of no other Person having done so on my (our) behalf.

V. RELEASE

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, release, relinquish and discharge all of the Released Claims.

2. “Released Claims” means all claims, rights, actions, suits or causes of action of every nature and description, whether known or unknown (including Unknown Claims, as defined herein), whether the claims arise under federal, state, statutory, regulatory, common, foreign or other law, whether foreseen or unforeseen,

and whether asserted individually, directly, representatively, derivatively, or in any other capacity, that the Releasing Plaintiff Parties: (1) asserted in the Complaint or the Action as against the Released Defendant Parties; (2) have asserted, could have asserted, or could assert in the future, in any forum against the Released Defendant Parties that are based upon, arise out of, or relate in any way to the facts, matters, transactions, allegations, claims, losses, damages, disclosures, filings, or statements relating to or arising out of any of the events or matters referred to in the Complaint or at issue in the Action; or (3) have asserted, could have asserted, or could assert in the future relating to the prosecution, defense, or settlement of the action against the Released Defendant Parties. Released Claim(s) does not include: (1) claims to enforce the Settlement or (2) the rights of OPT in the Derivative Action.

3. “Unknown Claims” shall collectively mean (i) any and all Released Claims that any of the Releasing Plaintiff Parties does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties which, if known by him, her or it might have affected his, her or its settlement with and release of the Released Defendant Parties, or might have affected his, her, or its decision(s) with respect to the Settlement (including the decision not to object or exclude himself, herself, or itself from the Settlement); and (ii) any Released Defendants’ Claims that any Defendant does not know to exist in his, her, or its favor at the time of the release of the Released Plaintiff Parties, which, if known by him,

her or it might have affected his, her, or its settlement with and release of the Released Plaintiff Parties, or might have affected his, her, or its decision(s) with respect to the Settlement. Moreover, with respect to any and all Released Claims and any and all Released Defendants' Claims, upon the Effective Date, the Releasing Plaintiff Parties and Defendants, respectively, shall be deemed to have, and by operation of the Final Judgment shall have waived any and all provisions, rights and benefits of 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.

The Releasing Plaintiff Parties, or any of them, may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but each of the Releasing Plaintiff Parties hereby expressly waives and fully, finally, and forever settles and releases, upon the Effective Date, any known or unknown, suspected or unsuspected, contingent or noncontingent Released Claim. Likewise, the Defendants, or any one of them, may hereafter discover facts other than or different than those which he, she, or it knows or believes to be true, but each of the Defendants hereby expressly waives and fully, finally, and forever settles and releases, upon the Effective Date, any known or unknown, suspected or

unsuspected, contingent or non-contingent Released Defendants' Claim. The Parties acknowledge that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a key element of the Settlement.

4. This release shall be of no force or effect unless and until the Court approves the Settlement set forth in the Stipulation and it becomes effective on the Effective Date.

5. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

6. I (We) hereby warrant and represent that I (we) have included information about all of my (our) transactions in OPT securities that occurred during the Class Period as well as the number and type of OPT securities held by me (us) at the opening of trading on January 14, 2014, and the close of trading on July 29, 2014.

7. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code.

Note: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding in the certification above.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this _____ day of _____ in _____
(Month/Year) (City/State/Country)

(Sign your name here)

(Sign your name here)

(Type or print your name here)

(Type or print your name here)

(Capacity of person(s) signing, e.g.,
Beneficial Purchaser, Executor or Administrator)

(Capacity of person(s) signing, e.g.,
Beneficial Purchaser, Executor or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Please sign the above release and declaration. 2. If this Claim is being made on behalf of Joint Claimants, then both must sign. 3. Remember to attach copies of supporting documentation, if available. 4. Do not send originals of certificates. 5. Keep a copy of your claim form and all supporting documentation for your records. | <ol style="list-style-type: none"> 6. If you desire an acknowledgment of receipt of your claim form please send it Certified Mail, Return Receipt Requested. 7. If you move, please send your new address to the address below. 8. Do not use red pen or highlighter on the Proof of Claim and Release form or supporting documentation. |
|--|---|

THIS PROOF OF CLAIM FORM MUST BE MAILED NO LATER THAN

_____, ADDRESSED AS FOLLOWS

Ocean Power Technologies, Inc. Securities Litigation
Claims Administrator
P.O Box 4259
Portland, OR 97208-4259

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re:)
OCEAN POWER TECHNOLOGIES,) Case No. 14-3799 (FLW) (LHG)
INC. SECURITIES LITIGATION)
) EXHIBIT A-3
This Document Applies to All Cases)
)

TO: ALL PERSONS OR ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED OCEAN POWER TECHNOLOGIES, INC. (“OPT”) SECURITIES BETWEEN JANUARY 14, 2014 AND JULY 29, 2014, INCLUSIVE, AND/OR PURCHASED OR OTHERWISE ACQUIRED OPT SECURITIES PURSUANT TO AND/OR TRACEABLE TO OPT’S APRIL 4, 2014 FOLLOW-ON STOCK OFFERING (THE “CLASS”).

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure that a hearing will be held on _____, 2016, at ___:00 p.m., before the Honorable Freda L. Wolfson, United States District Judge, at the Courthouse for the United States District Court, District of New Jersey, Courtroom 5E, Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Trenton, NJ 08608, for the purpose of determining, among other things, whether the following matters should be approved: (1) the proposed Settlement of the claims in the Action for the combined sum of \$3,000,000 in cash and 380,000 shares of OPT common stock should be approved by the Court as fair, reasonable and adequate to the Members of the Class; (2) whether, thereafter, the Action should be dismissed with prejudice as set forth in the Stipulation and Agreement of Class Settlement dated as of May 5, 2016 (“Stipulation”); (3) whether the Plan of Allocation is fair, reasonable and adequate and therefore should be approved; and (4) whether the application of Lead Counsel for the payment of attorneys’ fees and reimbursement of expenses incurred in connection with the Action should be approved.

If you purchased or otherwise acquired OPT securities from January 14, 2014 through July 29, 2014, inclusive, and/or purchased or otherwise acquired OPT securities pursuant to and/or traceable to OPT’s April 4, 2014 follow-on stock offering, your rights may be affected by the settlement of this Class Action. If

you have not received the detailed Notice of Pendency and Proposed Settlement of Class Action (the “Notice”) and a copy of the Proof of Claim and Release Form, you may obtain them free of charge by contacting the Claims Administrator, by mail at: *Ocean Power Technologies, Inc. Securities Litigation*, Claims Administrator, P.O Box 4259, Portland, OR 97208-4259.

If you are a member of the Class and wish to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim no later than _____, 2016 establishing that you are entitled to recovery. As further described in the Notice, you will be bound by any Judgment entered in the Action, regardless of whether you submit a Proof of Claim, unless you exclude yourself from the Class, in accordance with the procedures set forth in the Notice, no later than _____, 2016. Any objections to the Settlement, Plan of Allocation or attorneys’ fees and expenses must be filed and served, in accordance with the procedures set forth in the Notice, no later than _____, 2016.

Inquiries, other than requests for the Notice, may be made to Lead Counsel for the Class: Nicholas I. Porritt, Esq, Levi & Korsinsky LLP, 1101 30th Street, N.W., Suite 115, Washington, D.C. 20007, nporritt@zlk.com.

INQUIRIES SHOULD NOT BE DIRECTED TO THE COURT, THE CLERK’S OFFICE, THE DEFENDANTS, OR DEFENDANTS’ COUNSEL.

If you have any questions about the Settlement, you may contact Lead Counsel at the address listed above.

DATED: _____, 2016

**BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re:)
OCEAN POWER TECHNOLOGIES,) Case No. 14-3799 (FLW) (LHG)
INC. SECURITIES LITIGATION)
) EXHIBIT B
This Document Applies to All Cases)
)

**[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL
WITH PREJUDICE**

WHEREAS, this matter came before the Court for hearing pursuant to an Order of this Court, dated _____, 2016, on the application of the Lead Plaintiff and the Defendants for approval of the Settlement set forth in the Stipulation and Agreement of Class Settlement, dated as of May 5, 2016

(A) For purposes of settlement only, and pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3), the Court conditionally certified this Action as a class action on behalf of the following persons (the “Settlement Class” or the “Class”):

All persons or entities who purchased or otherwise acquired (i) OPT securities between January 14, 2014 and July 29, 2014; and/or (ii) purchased or otherwise acquired OPT securities pursuant to and/or traceable to OPT’s April 4, 2014 follow-on stock offering. Excluded from the Class are Defendants, all directors and officers of OPT during the Class Period, and any family member, trust, company, entity or affiliate controlled or owned by any of the excluded persons and entities referenced above.

(B) Pursuant to the Preliminary Approval Order entered on _____, this Court scheduled a Settlement Hearing for _____, 2016, at ____ p.m., to, *inter alia*, determine, *inter alia*, whether the proposed Settlement, Plan of Allocation, and requests for Lead Counsel’s fees and expenses and Lead Plaintiff’s Compensatory Awards are fair, reasonable, and adequate, and should be approved by the Court (the “Settlement Hearing”);

(C) The Court has received affidavit(s) and/or declaration(s) attesting to compliance with the terms of the Preliminary Approval Order, including the mailing of the Notice and publication of the Publication Notice;

(D) Due to adequate notice having been given to the Class as required by the Preliminary Approval Order, and the Court having held a Settlement Hearing on ____2016, and the Court having considered all papers filed and proceedings in this Action and otherwise being fully informed of the matters herein, and good cause appearing,

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. The provisions of the Stipulation, including definitions of the terms used therein, are hereby incorporated by reference as though fully set forth herein. All capitalized terms used herein have the meanings set forth and defined in the Stipulation.

2. This Court has jurisdiction over the subject matter of this Action and over all parties to this Action, including all Class Members.

3. Excluded from the Class are all persons and/or entities who excluded themselves by filing a Request for Exclusion in accordance with the requirements set forth in the Notice, their names appearing on Exhibit A hereto. They are not bound by this Order and Final Judgment (the “Judgment”), and may not make any claim with respect to or receive any benefit from the Settlement. Such excluded persons and/or entities may not pursue any Released Claims on behalf of those who are bound by this Judgment.

4. This Court finds that the distribution of the Notice and the publication of the Publication Notice, and the notice methodology, all of which were implemented in accordance with the terms of the Settlement Stipulation and the Court’s Preliminary Approval Order:

(a) Constituted the best practicable notice to Settlement Class Members under the circumstances of this Action;

(b) Were reasonably calculated, under the circumstances, to apprise Class Members of: (i) the proposed Settlement of this Action; (ii) their right to exclude themselves from the Class; (iii) their right to object to any aspect of the proposed Settlement; (iv) their right to appear at the Settlement Hearing, either on their own or through counsel hired at their own expense,

if they did not exclude themselves from the Class; and (v) the binding effect of the proceedings, rulings, orders, and judgments in this Action, whether favorable or unfavorable, on all persons not excluded from the Class;

(c) Were reasonable, fair, and constituted due, adequate, and sufficient notice to all persons entitled to be provided with notice; and

(d) Fully satisfied all applicable requirements of the Federal Rules of Civil Procedure (including Rules 23(c) and (d)), the United States Constitution (including the Due Process Clause), the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), the Private Securities Litigation Reform Act of 1995, the Rules of Court, and any other applicable law.

5. The terms and provisions of the Stipulation were negotiated by the parties at arm's length and were entered into by the parties in good faith.

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court finds that the Settlement set forth in the Stipulation is fair, reasonable, and adequate as to all members of the Class, and in the best interests of the Class taking into account, *inter alia*, the benefits to the Class; the complexity, expense, and possible duration of further litigation; the risks of establishing liability and damages; and the costs of continued litigation. The Settlement set forth in the Stipulation is hereby finally approved in all respects, in accordance with the terms and provisions therein, and the Lead Plaintiff and the Class Members, and all and

each of them, are hereby bound by the terms of the Settlement as set forth in the Stipulation.

7. The OPT Settlement Stock is issued pursuant to section 3(a)(10) of the Securities Act, and do not constitute restricted securities under the Securities Act.

8. The Plan of Allocation, as described in the Notice and Publication Notice, is hereby approved as fair, reasonable and adequate. Any order, proceeding, appeal, modification or change relating to the Plan of Allocation or the Fee and Expense Award shall in no way disturb or affect the finality of this Judgment, and shall be considered separate from this Judgment.

9. Upon the Effective Date, the Releasing Plaintiff Parties, shall be deemed to have, and by operation of the Judgment entered in the Action shall have, fully, finally, and forever released, relinquished and discharged any and all Released Claims against each and every one of the Released Defendant Parties, and shall forever be barred and enjoined, without the necessity of any of the Released Defendant Parties posting a bond, from commencing, instituting, prosecuting, or maintaining any of the Released Claims. Upon the Effective Date, and without any further action, the Lead Plaintiff further agrees not to knowingly and voluntarily assist in any way any third party in commencing or prosecuting any

suit against the Released Defendant Parties relating to any Released Claim, including any derivative suit not otherwise released, except as required by law.

10. Upon the Effective Date, Defendants, on behalf of themselves, and their heirs, executors, trustees, administrators, predecessors, successors, and assigns, for good and valuable consideration the receipt and adequacy of which is hereby acknowledged, shall fully, finally, and forever release, relinquish, and discharge any and all Released Defendants' Claims against each and every one of the Released Plaintiff Parties, and shall forever be barred and enjoined, without the necessity of any of the Released Plaintiff Parties, posting a bond, from commencing, instituting, prosecuting, or maintaining any of the Released Defendants' Claims against any of the Released Plaintiff Parties.

11. Lead Plaintiff and all Class Members are hereby forever barred and enjoined from prosecuting the Released Claims against the Released Parties.

12. In accordance with 15 U.S.C. § 78u-4(f)(7), claims for contribution arising out of any Released Claim, including, but not limited to, any claims that arise out of the Action (i) by any Person against a Released Defendant, and (ii) by any Released Defendant against any Person other than as set out in 15 U.S.C. § 78u-4(f)(7)(A)(ii) are hereby permanently barred, extinguished, discharged, satisfied, and unenforceable.

13. Any plan of allocation submitted by Lead Counsel or any other order entered regarding the attorneys' fee and expense application shall in no way disturb or affect this Final Judgment and shall be considered separate from this Final Judgment

14. Neither the Stipulation nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claims, or of any wrongdoing or liability of the Defendants; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal. Defendants may file the Stipulation and/or this Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or similar defense or counterclaim.

15. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining

applications for attorneys' fees and expenses in the Class Action; and (d) all parties hereto for the purpose of construing, enforcing, and administering the Stipulation.

16. The Court finds that during the course of the Action, the Lead Plaintiff and Defendants, and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

17. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation or the Effective Date does not occur, or in the event that the Settlement Fund, or any portion thereof, is returned to the Defendants, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

18. This Action is dismissed with prejudice. The parties are to bear their own costs, except as otherwise provided in the Stipulation or this Judgment.

19. The provisions of this Judgment constitute a full and complete adjudication of the matters considered and adjudged herein, and the Court determines that there is no just reason for delay in the entry of this Judgment. The Clerk is hereby directed to immediately enter this Judgment.

SO ORDERED in the District of New Jersey on _____, 2016.

THE HON. FREDA WOLFSON
UNITED STATES DISTRICT JUDGE