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22 UNITED STATES DISTRICT COURT

23 NORTHERN DISTRICT OF CALIFORNIA

24 SAN JOSE DIVISION

25 In re FINISAR CORPORATION
26 SECURITIES LITIGATION

27 Case No. 5:11-CV-01252-EJD

28 CLASS ACTION

**STIPULATION AND AGREEMENT
OF SETTLEMENT**

1 This Stipulation and Agreement of Settlement (the “Stipulation”) is made and entered into
2 by and between (a) Lead Plaintiff Oklahoma Firefighters Pension and Retirement System
3 (“Oklahoma Firefighters,” “Lead Plaintiff,” or “Plaintiff”), on behalf of itself and the Settlement
4 Class (defined below); and (b) defendants Finisar Corporation (“Finisar”), Jerry S. Rawls
5 (“Rawls”), and Eitan Gertel (“Gertel”) (collectively, the “Defendants”), by and through their
6 counsel of record in the above-captioned litigation (the “Action”) pending in the United States
7 District Court for the Northern District of California (the “Court”).¹ This Stipulation is intended
8 by the parties to fully, finally, and forever resolve, discharge, and settle the Released Claims
9 (defined below), upon and subject to the terms and conditions hereof and subject to the Court’s
10 approval.

11 WHEREAS:

12 A. On March 15, 2011, a class action complaint was filed in the Court, styled *Derchi-*
13 *Russo v. Finisar Corp., et al.*, No. 5:11-CV-1252-EJD (the “*Derchi-Russo* Complaint”). A related
14 class action complaint was filed in the Court on April 4, 2011, styled *Wade v. Finisar Corp., et al.*,
15 No. 5:11-CV-1635-EJD (the “*Wade* Complaint”).

16 B. On October 27, 2011, the Court entered an order consolidating the cases and
17 appointing Oklahoma Firefighters as Lead Plaintiff in the Action; and approved Oklahoma
18 Firefighters selection of Abraham, Fruchter & Twersky, LLP as Lead Counsel in the Action. By
19 order dated November 7, 2011, the case was recaptioned as *In re Finisar Corporation Securities*
20 *Litigation*, No. 5:11-CV-1252-EJD.

21 C. On January 20, 2012, Lead Plaintiff filed a Consolidated Class Action Complaint
22 (“Consolidated Complaint”) asserting securities fraud claims under Section 10(b) of the Securities
23 Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder, against
24 Finisar, Rawls, Gertel and Kurt Adzema; as well as claims under Section 20(a) of the Exchange
25 Act against Rawls, Gertel, and Adzema. Kurt Adzema was dismissed with prejudice as a defendant
26 in this Action and is not a party to this Stipulation.

27
28 ¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in Section 1 herein entitled “Definitions.”

1 D. On March 23, 2012, Finisar, Rawls, Gertel and Adzema filed a motion to dismiss
2 the Consolidated Complaint. On April 23, 2012, Lead Plaintiff filed its opposition to the motion
3 to dismiss, and on May 18, 2012, Finisar, Rawls, Gertel and Adzema filed their reply in further
4 support of their motion to dismiss.

5 E. On January 16, 2013, the Court granted the motion to dismiss the Consolidated
6 Complaint with leave to amend.

7 F. On February 6, 2013, Lead Plaintiff filed the First Amended Consolidated Class
8 Action Complaint for Violation of the Federal Securities Laws (the “First Amended Complaint”)
9 against Finisar, Rawls, Gertel and Adzema.

10 G. On February 20, 2013, Finisar, Rawls, Gertel and Adzema filed a motion to dismiss
11 the First Amended Complaint. On March 20, 2013, Lead Plaintiff filed its opposition to the motion
12 to dismiss, and on April 3, 2013, Finisar, Rawls, Gertel and Adzema filed their reply in further
13 support of their motion to dismiss.

14 H. On September 30, 2013, the Court entered an order granting dismissal of the First
15 Amended Complaint, with prejudice, and entered judgment closing the Action. On October 25,
16 2013, Lead Plaintiff filed a Notice of Appeal of the dismissal of the Action to the Ninth Circuit
17 Court of Appeals (the “Ninth Circuit”). On February 3, 2014, Lead Plaintiff filed its opening
18 appellate brief in the Ninth Circuit. On April 3, 2014, Finisar, Rawls, Gertel and Adzema filed
19 their opposition brief, and on May 16, 2014, Lead Plaintiff filed its reply in further support of its
20 appeal. On December 10, 2015, the Ninth Circuit held oral arguments on Lead Plaintiff’s appeal.

21 I. On January 8, 2016, the Ninth Circuit entered a Memorandum Order reversing the
22 judgment and dismissal and remanding to the Court for further consideration and leave to amend.
23 On January 22, 2016, Finisar, Rawls, Gertel and Adzema filed a petition for Panel rehearing. On
24 March 25, 2016, the Ninth Circuit amended, in part, the Memorandum Order reversing dismissal
25 and remanding to the Court for further consideration and leave to amend, and then entered Mandate
26 returning the Action to the Court. By order dated June 20, 2016, the Court ordered the Clerk to
27 reopen the Action, and set a schedule for filing an amended complaint and motion to dismiss
28 briefing.

1 J. On July 15, 2016, Lead Plaintiff filed the Second Amended Consolidated Class
2 Action Complaint for Violations of the Federal Securities Laws (“Second Amended Complaint”)
3 against Defendants Finisar, Rawls and Gertel. On August 19, 2016, Defendants filed their motion
4 to dismiss the Second Amended Complaint. On September 23, 2016, Lead Plaintiff filed its
5 opposition to the motion to dismiss, and on October 20, 2016, Defendants filed their reply in
6 further support of their motion to dismiss. On November 10, 2016, the Court held oral arguments
7 on Defendants’ motion to dismiss the Second Amended Complaint. On January 17, 2017, Lead
8 Plaintiff filed a motion to lift the stay of discovery pursuant to the Private Securities Litigation
9 Reform Act of 1995 (“PSLRA”) (the “Motion to Lift Stay”). On January 31, 2017, Defendants
10 filed their opposition to the Motion to Lift Stay, and on February 1, 2017, Lead Plaintiff filed its
11 reply in further support of the Motion to Lift Stay.

12 K. On May 1, 2017, the Court entered an Order denying Defendants’ motion to dismiss
13 the Second Amended Complaint and denying as moot Lead Plaintiff’s Motion to Lift Stay. On
14 May 31, 2017, Defendant Rawls filed a motion for leave to file a motion for reconsideration, which
15 Lead Plaintiff opposed on June 1, 2017. On September 11, 2017, the Court denied Defendant
16 Rawls motion for leave to file a motion for reconsideration.

17 L. Discovery commenced in the Action in June 2017. The Parties served initial
18 disclosures under Fed. R. Civ. P. 26(a)(1) and served and responded to document requests;
19 Defendants responded to interrogatories propounded by Lead Plaintiff; and the Parties engaged in
20 extensive correspondence and numerous meet and confer sessions over search terms and
21 custodians for their respective document searches and productions. Following a discovery motion
22 to Magistrate Howard R. Lloyd and the resulting order entered on November 2, 2017, Lead
23 Plaintiff was permitted to take the Rule 30(b)(6) deposition of Finisar covering two of the noticed
24 topics, during which Lead Plaintiff took the deposition of three different designated witnesses of
25 Finisar. The Parties also produced numerous documents in response to document requests, with
26 Finisar producing nearly 200,000 pages of documents, which Lead Counsel analyzed and
27 reviewed, with additional rolling productions being negotiated and processed at the time the Action
28 was stayed. Lead Counsel also reviewed documents from various third-party financial analyst

1 firms that covered Finisar, which were produced in response to document subpoenas issued by
2 Lead Plaintiff.

3 M. On August 14, 2017, Lead Plaintiff filed its motion for class certification. On
4 September 27, 2017, Defendants filed their opposition to the motion for class certification, and on
5 November 3, 2017, Lead Plaintiff filed its reply in further support of class certification. On
6 November 8, 2017, Defendants filed a motion for leave to file a sur-reply in further opposition to
7 class certification, which Lead Plaintiff opposed on November 10, 2017. The Court granted
8 Defendants leave to file the sur-reply which was filed on November 20, 2017.

9 N. On December 5, 2017, the Court entered an order denying Lead Plaintiff's motion
10 for class certification. On December 19, 2017, Lead Plaintiff filed a motion for leave to file a
11 motion for reconsideration of the December 5, 2017 order. The Court granted the motion for leave
12 on December 27, 2017, and, accordingly, Lead Plaintiff filed the motion for reconsideration on
13 January 2, 2018. On January 16, 2018, Defendants filed their opposition to the motion for
14 reconsideration. On January 18, 2018, the Court denied the motion for reconsideration. On
15 February 5, 2018, Lead Plaintiff filed a Rule 23(f) petition to the Ninth Circuit requesting
16 permission to file an interlocutory appeal of the Court's December 5, 2017 order denying class
17 certification. On February 12, 2018, Defendants filed an Answer In Opposition To Rule 23(f)
18 Petition. On February 14, 2018, the Court entered an order staying the Action pending the ruling
19 by the Ninth Circuit on Lead Plaintiff's Rule 23(f) petition. On July 16, 2018, the Ninth Circuit,
20 in its discretion, denied Lead Plaintiff's petition for permission to appeal the Court's December 5,
21 2017 order.

22 O. On August 20, 2018, the Court entered an order granting Lead Plaintiff leave to file
23 a renewed motion for class certification. On October 10, 2018, Lead Plaintiff filed its renewed
24 motion for class certification. On November 29, 2018, Defendants filed their opposition to the
25 renewed motion for class certification and also filed a motion for judgment on the pleadings on
26 the securities fraud requirement of reliance. On January 25, 2019, Lead Plaintiff filed its reply in
27 further support of its renewed motion for class certification, and its opposition to Defendants'
28 motion for judgment on the pleadings. On January 25, 2019, Defendants filed a supplemental brief

1 in further support of their position on class certification. On February 21, 2019, Defendants filed
2 their reply in support of the motion for judgment on the pleadings. On May 13, 2019, the Court
3 held oral arguments on Lead Plaintiff's motion for class certification and Defendants' motion for
4 judgment on the pleadings.

5 P. On May 24, 2019, the Court entered an order striking Lead Plaintiff's renewed
6 motion for class certification and granting Defendants' motion for judgment on the pleadings and
7 entered judgment on June 14, 2019.

8 Q. On June 20, 2019, Lead Plaintiff filed a Notice of Appeal to the Ninth Circuit
9 appealing the Court's December 5, 2017 and May 24, 2019 orders (the "Appeal").

10 R. By order from the Ninth Circuit's Mediation Program, the Parties continued
11 previously started private mediation efforts with Mediator Michelle Yoshida of Phillips ADR and
12 periodically reported the progress of their mediation efforts to the Ninth Circuit's Mediator, Steven
13 J. Saltiel. Through the extensive exchange of information at in-person and telephonic meetings
14 concerning, the merits of the case, defenses, damages, and the risks for both sides inherent in the
15 pending appeal on the issue of price impact at that class certification stage (including disputes as
16 to the law on the issue in the Ninth Circuit and other Circuits), counsel for Lead Plaintiff and
17 Defendants engaged in a series of arm's-length negotiations pursuant to which the Parties reached
18 an agreement in principle to settle and release all claims against Defendants in the Action in return
19 for a cash payment of \$6,800,000 to be paid by Finisar on behalf of all Defendants for the benefit
20 of the Settlement Class, subject to the execution of a customary "long form" stipulation and
21 agreement of settlement and related papers. This Stipulation (together with the exhibits hereto)
22 constitutes the final and binding agreement between the Parties.

23 S. Based upon their investigation and prosecution of the case since March 2011, Lead
24 Plaintiff and Lead Counsel have concluded that the terms and conditions of this Stipulation are
25 fair, reasonable, and adequate to Lead Plaintiff and the other members of the Settlement Class, and
26 in their best interests. Based on Lead Plaintiff's oversight of the prosecution of this matter and
27 with the advice of their counsel, Lead Plaintiff has agreed to settle and release the Released
28 Plaintiffs' Claims pursuant to the terms and provisions of this Stipulation, after considering, among

1 other things: (a) the substantial financial benefit that Plaintiff and the other members of the
2 Settlement Class will receive under the proposed Settlement; and (b) the significant risks and costs
3 of continued appeal, further litigation, and trial.

4 T. Lead Plaintiff and Defendants agree that there is good cause and legal support for
5 the Court to certify a Settlement Class, solely for the purposes of this Settlement. The Ninth Circuit
6 has long recognized that courts may certify class actions for the purposes of settlement only. *See*
7 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1023-24 (9th Cir. 1998). Moreover, the Ninth Circuit
8 has held that “[t]he criteria for class certification are applied differently in litigation classes and
9 settlement classes.” *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 556–57 (9th Cir. 2019)
10 (citing *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997)); *see also In re Am. Int’l Grp.,*
11 *Inc. Sec. Litig.*, 689 F.3d 229, 232 (2d Cir. 2012) (“a settlement class ordinarily need not
12 demonstrate that the fraud-on-the-market presumption applies to its claims in order to satisfy the
13 predominance requirement”). Rule 23(c)(1)(C) of the Federal Rules of Civil Procedure also states
14 that “an order that grants or denies class certification may be altered or amended” by the Court.
15 The Court’s December 5, 2017 Order found, and Defendants do not dispute, that Lead Plaintiff’s
16 proposed Class satisfies the numerosity, commonality, typicality and adequacy requirements under
17 Rule 23(a). The Court further found, and Defendants do not dispute, that Lead Plaintiff made a
18 sufficient showing to invoke the fraud-on-the-market presumption of reliance which would satisfy
19 the predominance requirement of Rule 23(b)(3) on the element of reliance. Although the Court
20 found that the presumption of reliance had been rebutted due to a lack of price impact, Lead
21 Plaintiff had taken an appeal of the judgment based on the ruling in the motion to certify a class
22 and the issues concerning class certification were pending Appeal to the Ninth Circuit and thus the
23 ultimate resolution of the issue remains uncertain. *See Officers for Justice v. Civil Serv. Comm’n*
24 *and Cty. of San Francisco*, 688 F.2d 615, 633-34 (9th Cir. 1982) (finding that “certification issues
25 raised by class action litigation that is resolved short of a decision on the merits must be viewed in
26 a different light,” and noting the class action determinations are often closely tied to legal issues
27 of the case).

1 U. This Stipulation constitutes a compromise of all matters that are in dispute between
2 the Parties. Defendants are entering into this Stipulation solely to eliminate the uncertainty,
3 burden, and expense of further protracted litigation and appeals. Each of the Defendants denies
4 any wrongdoing, and this Stipulation shall in no event be construed or deemed to be evidence of
5 or an admission or concession on the part of any of the Defendants with respect to any claim or
6 allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the
7 defenses that Defendants have, or could have, asserted in this Action. Defendants expressly deny
8 that Lead Plaintiff has asserted any valid claims as to any of them, and expressly deny any and all
9 allegations of fault, liability, wrongdoing, or damages whatsoever. Similarly, this Stipulation shall
10 in no event be construed or deemed to be evidence of or an admission or concession on the part of
11 Lead Plaintiff of any infirmity or any lack of merit in any of the claims asserted in the Action
12 whatsoever, or an admission or concession that any of the Defendants' defenses to liability had
13 any merit. In addition, by stipulating to the certification of a class for settlement purposes,
14 Defendants in no way concede that the putative class is certifiable for litigation purposes.

15 NOW, THEREFORE, without any admission or concession on the part of Lead Plaintiff
16 of any lack of merit of the Action whatsoever, and without any admission or concession on the
17 part of Defendants of liability or wrongdoing, or lack of merit of any defenses to any of Lead
18 Plaintiff's claims, IT IS HEREBY STIPULATED AND AGREED, by and among Lead Plaintiff
19 (on behalf of itself and the Settlement Class) and Defendants, that, subject to the approval of the
20 Court, in consideration of the benefits flowing to the Settling Parties from the Settlement set forth
21 herein, the Action shall be dismissed fully, finally and with prejudice and all Released Plaintiffs'
22 Claims as against Defendants and the Defendants' Releasees and all Released Defendants' Claims
23 as against the Lead Plaintiff and Plaintiff's Releasees shall be settled and released, upon and
24 subject to the following terms and conditions.

25 **1. DEFINITIONS**

26 As used in this Stipulation and any exhibit attached hereto and made a part hereof, the
27 following capitalized terms shall have the following meanings:
28

1 1.1 “Action” means the consolidated securities class action entitled *In re Finisar*
2 *Corporation Securities Litigation*, Case No. 5:11-CV-01252-EJD, pending in the United States
3 District Court for the Northern District of California before the Honorable Edward J. Davila.

4 1.2 “Alternative Judgment” means a form of final judgment that may be entered by the
5 Court herein that is not materially different from the Judgment provided for in this Stipulation.

6 1.3 “Appeal” means Lead Plaintiff’s appeal of the Court’s December 5, 2017 and May
7 24, 2019 orders to the Ninth Circuit Court of Appeals (the “Ninth Circuit”), Case No. 19-16246.

8 1.4 “Authorized Claimant” means a Settlement Class Member who submits a Claim to
9 the Claims Administrator that is approved by the Court for payment from the Net Settlement Fund.

10 1.5 “Claim” means a paper claim submitted on a Proof of Claim Form or an electronic
11 claim that is submitted to the Claims Administrator.

12 1.6 “Claim Form” or “Proof of Claim Form” means the form, substantially in the form
13 attached hereto as Exhibit A-2, that a Claimant must complete and submit should that Claimant
14 seek to share in a distribution of the Net Settlement Fund.

15 1.7 “Claimant” means a person or entity who submits a Claim to the Claims
16 Administrator seeking to be eligible to share in the proceeds of the Net Settlement Fund.

17 1.8 “Claims Administrator” means the firm retained by Lead Counsel, subject to
18 approval of the Court, to provide all notices approved by the Court to potential Settlement Class
19 Members and to administer the Settlement.

20 1.9 “Class Distribution Order” means an order entered by the Court authorizing and
21 directing that the Net Settlement Fund be distributed, in whole or in part, to Authorized
22 Claimants.

23 1.10 “Class Period” means the period from December 2, 2010 through March 8, 2011,
24 inclusive.

25 1.11 “Complaint” or “Second Amended Complaint” means the operative Second
26 Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws,
27 filed by Lead Plaintiff on July 15, 2016 (Dkt. No. 93). “Complaints” means collectively, the
28

1 Complaint, the Consolidated Complaint, the First Amended Complaint, *Derchi-Russo* Complaint,
2 and the *Wade* Complaint.

3 1.12 “Court” means the United States District Court for the Northern District of
4 California.

5 1.13 “Defendants” means Finisar Corporation, Jerry S. Rawls, and Eitan Gertel.

6 1.14 “Defendants’ Counsel” means the law firm of DLA Piper LLP (US).

7 1.15 “Defendants’ Releasees” means Defendants, together with their past, present, or
8 future affiliates, divisions, joint ventures, assigns, assignees, direct or indirect parents or
9 subsidiaries, controlling shareholders, successors, predecessors, and entities in which a Defendant
10 has a controlling interest, and each of their past, present, or future officers, directors, agents,
11 employees, partners, attorneys, controlling shareholders, advisors, investment advisors, auditors,
12 accountants, insurers (including reinsurers and co-insurers), and Immediate Family Members, and
13 the legal representatives, heirs, successors in interest, or assigns of any of the foregoing.

14 1.16 “Effective Date” with respect to the Settlement means the first date by which all of
15 the events and conditions specified in ¶10.3 of this Stipulation have been met and have occurred
16 or have been waived in writing by the Parties.

17 1.17 “Escrow Account” means an account maintained by the Escrow Agent wherein the
18 Settlement Amount shall be deposited and held in escrow under the control of Lead Counsel.

19 1.18 “Escrow Agent” means Angeion Group, LLC.

20 1.19 “Final,” with respect to the Judgment or, if applicable, the Alternate Judgment, or
21 any other court order, means: (i) the expiration of the time to alter or amend the Judgment,
22 Alternate Judgement, or other court order under Federal Rule of Civil Procedure 59(e) without any
23 such motion having been filed; (ii) if no appeal is filed, the expiration date of the time provided
24 for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30)
25 days after entry of the judgment or order; or (iii) if there is an appeal from the Judgment, Alternate
26 Judgment, or other court order, including from the denial of a Rule 59(e) motion to alter or amend
27 the judgment or order, (a) the date of final dismissal of all such appeals, or the final dismissal of
28 any proceeding on certiorari or otherwise, or (b) the date the judgment or order is finally affirmed

1 on an appeal, and the time to file a petition for a writ of certiorari or other form of review has
2 expired, or the denial of a writ of certiorari or other form of review, and, if certiorari or other form
3 of review is granted, the date of final affirmance following review pursuant to that grant. However,
4 any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued
5 with respect to (i) attorneys' fees, Litigation Expenses, or award to Lead Plaintiff; or (ii) the Plan
6 of Allocation of the Settlement proceeds (as submitted or subsequently modified), shall not in any
7 way delay or affect the time set forth above for the Judgment or Alternative Judgment to become
8 Final or otherwise preclude the Judgment or Alternative Judgment from becoming Final.

9 1.20 "Finisar" means defendant Finisar Corporation (acquired by II-VI Incorporated on
10 September 24, 2019).

11 1.21 "Gertel" means defendant Eitan Gertel.

12 1.22 "Immediate Family Members" means children, stepchildren, parents, stepparents,
13 spouses, siblings, step-siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law,
14 brothers-in-law, and sisters-in-law. As used in this paragraph, "spouse" shall mean a husband, a
15 wife, or a partner in a state-recognized domestic relationship or civil union.

16 1.23 "Individual Defendants" means Jerry S. Rawls and Eitan Gertel.

17 1.24 "Judgment" means the final judgment, substantially in the form attached hereto as
18 Exhibit B, to be entered by the Court approving the Settlement.

19 1.25 "Lead Counsel" means the law firm of Abraham, Fruchter & Twersky, LLP.

20 1.26 "Lead Plaintiff" means Oklahoma Firefighters Pension and Retirement System.

21 1.27 "Litigation Expenses" means costs and expenses incurred in connection with
22 commencing, prosecuting, and settling the Action (which may include the costs and expenses of
23 Lead Plaintiff directly related to its representation of the Settlement Class), for which Lead
24 Counsel intends to apply to the Court for reimbursement from the Settlement Fund.

25 1.28 "Net Settlement Fund" means the Settlement Fund less: (i) any Taxes; (ii) any
26 Notice and Administration Costs; (iii) any Litigation Expenses awarded by the Court; (iv) any
27 attorney fees' awarded by the Court; (v) any award to Lead Plaintiff; and (vi) any other costs or
28 fees approved by the Court.

1 1.29 “Notice” means the Notice of (I) Pendency of Class Action and Proposed
2 Settlement; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys’ Fees and
3 Reimbursement of Litigation Expenses, substantially in the form attached hereto as Exhibit A-1,
4 which is to be mailed to Settlement Class Members.

5 1.30 “Notice and Administration Costs” means the costs, fees and expenses that are
6 incurred in connection with providing notice to the Settlement Class and the administration of the
7 Settlement, including but not limited to: (i) providing notice of the pendency of the Action and
8 the Settlement by mail, publication, and other means to the Settlement Class; (ii) assisting with the
9 filing of claims; (iii) receiving, reviewing, and processing claims; (iv) administering and
10 distributing the Net Settlement Fund to Authorized Claimants; and (v) fees, taxes and costs related
11 to the Escrow Account.

12 1.31 “Opt-Out” means any one of, and “Opt-Outs” means all of, any Persons who
13 otherwise would be Settlement Class Members and have timely and validly requested exclusion
14 from the Settlement Class in accordance with the provisions of the Preliminary Approval Order
15 and the Notice given pursuant thereto.

16 1.32 “Person” means an individual, corporation, partnership, limited partnership,
17 association, joint stock company, joint venture, limited liability company, professional
18 corporation, estate, legal representative, trust or trustee, unincorporated association, government
19 or any political subdivision or agency thereof, and any other type of legal, business or political
20 entity and their spouses, heirs, predecessors, successors, representatives, or assignees.

21 1.33 “Plaintiff” means Lead Plaintiff Oklahoma Firefighters Pension and Retirement
22 System.

23 1.34 “Plaintiff’s Releasees” means Lead Plaintiff, all other Settlement Class Members,
24 and their respective attorneys, together with their past, present, or future affiliates, divisions, joint
25 ventures, assigns, assignees, direct or indirect parents or subsidiaries, controlling shareholders,
26 successors, predecessors, and entities in which a Settlement Class Member has a controlling
27 interest, and each of their past, present, or future officers, directors, agents, employees, partners,
28 attorneys, controlling shareholders, members, trusts, trustees, advisors, investment advisors,

1 auditors, accountants, insurers (including reinsurers and co-insurers), and Immediate Family
2 Members, and the legal representatives, heirs, successors in interest, or assigns of any of the
3 foregoing.

4 1.35 “Plan of Allocation” means the proposed plan of allocation of the Net Settlement
5 Fund set forth in the Notice.

6 1.36 “Preliminary Approval Order” means the order, substantially in the form attached
7 hereto as Exhibit A, to be entered by the Court preliminarily approving the Settlement and directing
8 that notice of the Settlement be provided to the Settlement Class.

9 1.37 “Rawls” means defendant Jerry S. Rawls.

10 1.38 “Released Claims” means all Released Defendants’ Claims and all Released
11 Plaintiffs’ Claims.

12 1.39 “Released Defendants’ Claims” means any and all claims, debts, demands, rights,
13 and causes of action of every nature and description (including, but not limited to, any claims for
14 damages, interest, attorney’s fees, expert, or consulting fees, and any other costs, expenses, or
15 liability whatsoever), whether known claims or Unknown Claims, whether arising under federal,
16 state, common, or foreign law or any other law, rule, or regulation, whether fixed or contingent,
17 accrued or un-accrued, liquidated or unliquidated, at law or in equity, matured or unmatured, that
18 arise out of or relate in any way to the institution, prosecution, or settlement of the claims asserted
19 in the Action against Defendants. Released Defendants’ Claims do not include: (i) any claims
20 relating to the enforcement of the Settlement; or (ii) any claims against any person or entity who
21 submits a request for exclusion from the Settlement Class that is accepted by the Court (“Excluded
22 Defendants’ Claims”).

23 1.40 “Released Plaintiffs’ Claims” means any and all claims, debts, demands, rights, and
24 causes of action of every nature and description (including, but not limited to, any claims for
25 damages, interest, attorney’s fees, expert, or consulting fees, and any other costs, expenses, or
26 liability whatsoever), whether known claims or Unknown Claims, whether arising under federal,
27 state, common, or foreign law or any other law, rule, or regulation, whether fixed or contingent,
28 accrued or un-accrued, liquidated or unliquidated, at law or in equity, matured or unmatured,

1 whether class or individual in nature, that Plaintiff or any other member of the Settlement Class:
2 (i) asserted in the Complaints, or (ii) could have asserted in any forum that concern, arise out of,
3 relate to, involve, or are based upon any of the allegations, circumstances, events, transactions,
4 facts, matters, representations, or omissions involved, set forth, or referred to in the Complaints
5 and that relate to the purchase, acquisition, beneficial interest or ownership of Finisar common
6 stock during the Class Period. Released Plaintiffs' Claims do not include: (i) any claims relating
7 to the enforcement of the Settlement; or (ii) any claims of any person or entity who submits a
8 request for exclusion that is accepted by the Court ("Excluded Plaintiffs' Claims").

9 1.41 "Releasee(s)" means each and any of the Defendants' Releasees and each and any
10 of the Plaintiff's Releasees.

11 1.42 "Releases" means the releases set forth in ¶¶4.1-4.4 of this Stipulation.

12 1.43 "Settlement" means the settlement between Lead Plaintiff on behalf of itself and all
13 other members of the Settlement Class and Defendants on the terms and conditions set forth in this
14 Stipulation.

15 1.44 "Settlement Amount" means the total principal amount of \$6,800,000 in cash.

16 1.45 "Settlement Class" means all persons and entities who purchased or otherwise
17 acquired the common stock of Finisar from December 2, 2010 through March 8, 2011, inclusive
18 (the "Class Period"), and who were allegedly damaged thereby. Excluded from the Settlement
19 Class are: (i) Defendants; (ii) any person who was an officer or director of Finisar during the Class
20 Period; (iii) the Immediate Family Members of all individual persons excluded in (i) or (ii); (iv)
21 the parents, subsidiaries, and affiliates of Finisar; (v) any entity in which any person or entity
22 excluded in (i), (ii), (iii) or (iv) has, or had during the Class Period, a controlling interest; and (vi)
23 the legal representatives, heirs, affiliates, successors, or assigns of any such excluded person or
24 entity identified above. Also excluded from the Settlement Class are any persons and entities who
25 exclude themselves by submitting a request for exclusion that is accepted by the Court.

26 1.46 "Settlement Class Member" mean each person and entity who is a member of the
27 Settlement Class.

1 1.47 “Settlement Fund” means the Settlement Amount plus any interest or other income
2 earned thereon.

3 1.48 “Settlement Hearing” means the hearing set by the Court under Rule 23(e)(2) of the
4 Federal Rules of Civil Procedure to consider final approval of the Settlement.

5 1.49 “Settling Party” or “Settling Parties” means collectively or individually, as the
6 context requires, Lead Plaintiff, on behalf of itself and the Settlement Class, and Defendants.

7 1.50 “Stipulation” means this Stipulation and Agreement of Settlement, including the
8 exhibits attached hereto.

9 1.51 “Summary Notice” means the Summary Notice of (I) Pendency of Class Action
10 and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys’
11 Fees and Reimbursement of Litigation Expenses, substantially in the form attached hereto as
12 Exhibit A-3, to be published as set forth in the Preliminary Approval Order.

13 1.52 “Taxes” means (i) all federal, state and/or local taxes of any kind (including any
14 interest or penalties thereon) on any income earned by the Settlement Fund; and (ii) the expenses
15 and costs incurred in connection with determining the amount of, and paying, any taxes owed by
16 the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants).

17 1.53 “Unknown Claims” means any Released Plaintiffs’ Claims which the Lead Plaintiff
18 or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at
19 the time of the release of such claims, and any Released Defendants’ Claims which any Defendant
20 does not know or suspect to exist in his, her, or its favor at the time of the release of such claims,
21 which, if known by him, her or it, might have affected his, her or its decision(s) with respect to
22 this Settlement. Lead Plaintiff and Defendants acknowledge, and each of the other Settlement
23 Class Members shall be deemed by operation of law to have acknowledged, that they may hereafter
24 discover facts in addition to or different from those which they now know or believe to be true
25 with respect to the acts or omissions of the Releasees, but it is their intention fully and finally and
26 forever to settle and release any and all claims, matters, disputes and differences, known or
27 unknown, suspected or unsuspected, which now exist, may exist or heretofore have existed with
28 respect to acts or omissions relating to the Released Defendants’ Claims or the Released Plaintiffs’

1 Claims. With respect to any and all Released Claims, the Settling Parties stipulate and agree that,
2 upon the Effective Date of the Settlement, Lead Plaintiff and Defendants shall expressly waive,
3 and each of the other Settlement Class Members shall be deemed to have waived, and by operation
4 of the Judgment or any Alternate Judgment, if applicable, shall have expressly waived, any and all
5 provisions, rights, and benefits conferred by any law of any state or territory of the United States,
6 or principle of common law or foreign law, which is similar, comparable, or equivalent to
7 California Civil Code §1542, which provides:

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

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

14 **2. SETTLEMENT CLASS CERTIFICATION**

15 2.1 Solely for purposes of the Settlement and for no other purpose, Defendants stipulate
16 and agree to: (a) certification of the Action as a class action pursuant to Rules 23(a) and 23(b)(3)
17 of the Federal Rules of Civil Procedure on behalf of the Settlement Class; (b) certification of Lead
18 Plaintiff as Class Representative for the Settlement Class; and (c) appointment of Lead Counsel as
19 Class Counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil
20 Procedure.

21 **3. PRELIMINARY APPROVAL OF SETTLEMENT**

22 3.1 Promptly upon execution of this Stipulation, Lead Plaintiff and Defendants will
23 jointly file in the Ninth Circuit a stipulation to dismiss the Appeal without prejudice to Lead
24 Plaintiff reinstating the Appeal should the Court deny approval of the Settlement or the Settlement
25 is terminated or does not become effective as specified herein.

26 3.2 Promptly following remand to the Court by the Ninth Circuit, Lead Plaintiff will
27 move for preliminary approval of the Settlement, certification of the Settlement Class for
28 Settlement purposes only, and the scheduling of a hearing for consideration of final approval of

1 the Settlement, which motion shall be unopposed by Defendants. In addition, solely for purposes
2 of effectuating the Settlement, Defendants stipulate, agree and consent to Lead Plaintiff moving in
3 connection with its motion for preliminary approval of the Settlement to vacate the judgment
4 against Lead Plaintiff only entered June 14, 2019 (ECF #190); but not the Order Striking Plaintiff's
5 Motion for Class Certification; Granting Defendants' Motion For Judgment On The
6 Pleadings, dated May 24, 2019 (ECF #187) or the Order Denying Motion For Class Certification,
7 dated December 5, 2017 (ECF #150). Concurrently with the motion for preliminary approval,
8 Lead Plaintiff shall apply to the Court for, and Defendants shall agree to, entry of the Preliminary
9 Approval Order, substantially in the form attached hereto as Exhibit A. As set forth in ¶¶10.7-
10 10.8 below, the vacated judgment shall be reinstated *nunc pro tunc* in the event that the Settlement
11 is terminated or otherwise does not become Effective.

12 **4. RELEASE OF CLAIMS**

13 4.1 The obligations incurred pursuant to this Stipulation are in consideration of: (a) the
14 full and final disposition of the Action as against Defendants; and (b) the Releases provided for
15 herein.

16 4.2 Pursuant to the Judgment, or the Alternate Judgment, if applicable, without further
17 action by anyone, upon the Effective Date of the Settlement, Lead Plaintiff and each of the other
18 Settlement Class Members, on behalf of themselves, and their respective heirs, executors,
19 administrators, predecessors, successors, and assigns in their capacities as such only, and on behalf
20 of any other person or entity legally entitled to bring Released Plaintiffs' Claims on behalf of the
21 respective Settlement Class Member in such capacity only, shall be deemed to have, and by
22 operation of law and of the judgment shall have, fully, finally, and forever compromised, settled,
23 released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim
24 against Defendants and the Defendants' Releasees, and shall forever be barred and enjoined from
25 commencing, instituting, maintaining, prosecuting, or continuing to prosecute any or all of the
26 Released Plaintiffs' Claims against any of the Defendants or the Defendants' Releasees. This
27 Release shall not apply to any Excluded Plaintiffs' Claims.
28

1 4.3 Pursuant to the Judgment, or the Alternate Judgment, if applicable, without further
2 action by anyone, upon the Effective Date of the Settlement, Defendants, on behalf of themselves,
3 and their respective heirs, executors, administrators, predecessors, successors, and assigns in their
4 capacities as such only, and on behalf of any other person or entity legally entitled to bring
5 Released Defendants' Claims on behalf of the respective Defendant in such capacity only, shall be
6 deemed to have, and by operation of law and of the judgment shall have, fully, finally, and forever
7 compromised, settled, released, resolved, relinquished, waived, and discharged each and every
8 Released Defendants' Claim against Plaintiff and the other Plaintiff's Releasees, and shall forever
9 be barred and enjoined from commencing, instituting, maintaining, prosecuting, or continuing to
10 prosecute any or all of the Released Defendants' Claims against Plaintiff or any of the other
11 Plaintiff's Releasees. This Release shall not apply to any Excluded Defendants' Claims.

12 4.4 Notwithstanding ¶¶4.2-4.3 above, nothing in the Judgment, or the Alternate
13 Judgment, if applicable, shall bar any action by any of the Parties to enforce or effectuate the terms
14 of this Stipulation or the Judgment, or Alternate Judgment, if applicable.

15 **5. THE SETTLEMENT CONSIDERATION**

16 5.1 In consideration of the settlement of the Released Plaintiffs' Claims against
17 Defendants and the Defendants' Releasees, within eighteen (18) business days after the Court has
18 entered an order preliminarily approving the Settlement and the Escrow Agent or Lead Counsel
19 has provided Defendants' Counsel with complete wire and transfer information and instructions
20 and a completed Form W-9, Defendants shall cause the payment of the Settlement Amount by
21 wire transfer or check to the Escrow Account, provided that the Escrow Agent or Lead Counsel
22 has provided Defendants' Counsel with complete wire and transfer information and instructions
23 and a completed Form W-9 prior to the date of such payment.

24 5.2 Defendants' sole monetary obligation under the Settlement shall be for Defendants
25 to pay or cause to be paid the Settlement Amount, and Defendants shall not be liable for any other
26 amounts. Notwithstanding any of the foregoing, Defendants shall be responsible for (a) any and
27 all costs associated with providing the security holder records in accordance with ¶8.2 below, and
28

1 (b) any and all costs associated with disseminating notice of the Settlement under the Class Action
2 Fairness Act, 28 U.S.C. § 1715 *et seq.* (“CAFA”), as set forth in ¶8.3 below.

3 **6. USE AND TAX TREATMENT OF SETTLEMENT FUND**

4 6.1 The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Notice and
5 Administration Costs; (c) any Litigation Expenses awarded by the Court; (d) any attorneys’ fees
6 awarded by the Court; (e) any award to Lead Plaintiff; and (f) any other costs or fees approved by
7 the Court. The balance remaining in the Settlement Fund, that is, the Net Settlement Fund, shall
8 be distributed to Authorized Claimants as provided in ¶¶8.10-8.12 below.

9 6.2 Except as provided herein or pursuant to orders of the Court, the Net Settlement
10 Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the Escrow
11 Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction
12 of the Court until such time as the funds shall be expended, distributed or returned pursuant to the
13 terms of this Stipulation and/or further order of the Court. The Escrow Agent shall invest any
14 funds in the Escrow Account exclusively in United States Treasury Bills and shall collect and
15 reinvest all interest accrued thereon, except that any residual cash balances up to the amount that
16 is insured by the Federal Deposit Insurance Corporation (“FDIC”) may be deposited in any account
17 that is fully insured by the FDIC. In the event that the yield on United States Treasury Bills is
18 negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by the
19 Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the
20 full faith and credit of the United States. Additionally, if short-term placement of the funds is
21 necessary, all or any portion of the funds held by the Escrow Agent may be deposited in any
22 account that is fully insured by the FDIC or backed by the full faith and credit of the United States.

23 6.3 The Settling Parties agree to treat the Settlement Fund as being at all times a
24 “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1. In addition,
25 the Escrow Agent shall make such elections as necessary or advisable to carry out the provisions
26 of this paragraph, including the “relation-back election” (as defined in Treasury Regulation §
27 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with
28 the procedures and requirements contained in such regulations. It shall be the responsibility of the

1 Escrow Agent to timely and properly prepare and deliver the necessary documentation for
2 signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

3 (a) For purposes of § 1.468B of the Internal Revenue Code of 1986, as amended, and
4 Treasury Regulation § 1.468B-2(k)(3) promulgated thereunder, the “administrator” shall be the
5 Escrow Agent. The Escrow Agent shall timely and properly file all informational and other tax
6 returns necessary or advisable with respect to the Settlement Fund (including without limitation
7 the returns described in Treasury Regulation § 1.468B-2(k)). Such returns (as well as the election
8 described in this paragraph) shall be consistent with this paragraph and in all events shall reflect
9 that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the
10 Settlement Fund shall be paid out of the Settlement Fund.

11 (b) All Taxes (including any estimated Taxes, interest or penalties) arising with respect
12 to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be
13 imposed upon Defendants or their counsel or their insurers with respect to any income earned by
14 the Settlement Fund for any period during which the Settlement Fund does not qualify as a
15 “qualified settlement fund” for federal or state income tax purposes (“Taxes”), and all expenses
16 and costs incurred in connection with the operation and implementation of this paragraph
17 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and
18 distribution costs and expenses or penalties relating to filing (or failing to file) the returns described
19 in this paragraph) (“Tax Expenses”), shall be paid out of the Settlement Fund, as appropriate.
20 Defendants, Defendants’ Counsel, and the Defendants’ Releasees shall have no liability or
21 responsibility for the Taxes or the Tax Expenses. Taxes and Tax Expenses shall be treated as, and
22 considered to be, a cost of administration of the Settlement and shall be timely paid out of the
23 Settlement Fund without prior order from the Court. The Escrow Agent shall be obligated
24 (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized
25 Claimants any funds necessary to pay such amounts, including the establishment of adequate
26 reserves for any Taxes and Tax Expenses (as well as any amounts that may be withheld under
27 Treasury Regulation § 1.468B-2(1)(2)). Defendants, Defendants’ Counsel, and the Defendants’
28 Releasees shall have no responsibility for, interest in, or any liability whatsoever with respect to

1 the foregoing provided in this paragraph. The Settling Parties agree to cooperate with each other,
2 and their tax attorneys and accountants, to the extent reasonably necessary to carry out the
3 provisions of this paragraph.

4 6.4 The Settlement is not a claims-made settlement. Upon the occurrence of the
5 Effective Date, no Defendant, Defendants' Releasee, or any other person or entity who paid any
6 portion of the Settlement Amount shall have any right to the return of the Settlement Fund or any
7 portion thereof for any reason whatsoever.

8 6.5 Before the Effective Date of the Settlement, the Escrow Agent may, without further
9 approval from Defendants or the Court, disburse at the direction of Lead Counsel up to \$185,000
10 from the Settlement Fund to pay Notice and Administration Expenses actually incurred and paid
11 or payable. Such costs and expenses shall include, without limitation, the actual costs of printing
12 and mailing the Notice, publishing the Summary Notice, reimbursements to nominee owners for
13 forwarding the Notice to their beneficial owners, the administrative expenses incurred and fees
14 charged by the Claims Administrator in connection with providing notice, administering the
15 Settlement (including reviewing and processing the submitted Claims), and the fees, taxes and
16 costs, if any, related to the Escrow Account. After the Effective Date, the Escrow Agent may,
17 without further approval from Defendants or the Court, disburse at the direction of Lead Counsel
18 up to an additional \$50,000 to pay any necessary additional Administrative Costs (including but
19 not limited to administering and distributing the Net Settlement Fund to Authorized Claimants,
20 and the fees, taxes and costs, if any, related to the Escrow Account) actually incurred and paid or
21 payable. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all
22 Notice and Administration Costs paid or incurred, including any related fees, shall not be returned
23 or repaid to Defendants, any of the Defendants' Releasees, or any other person or entity who paid
24 any portion of the Settlement Amount. Lead Plaintiff and Plaintiff 's Releasees shall not be liable
25 to Defendants for such costs.

26 7. **ATTORNEYS' FEES AND LITIGATION EXPENSES**

27 7.1 Lead Counsel will apply to the Court for an award of attorneys' fees to Lead
28 Counsel to be paid solely from (and out of) the Settlement Fund. Lead Counsel also will apply to

1 the Court for reimbursement of Litigation Expenses, which may include a request for
2 reimbursement of Lead Plaintiff's costs and expenses directly related to their representation of the
3 Settlement Class and an award to Lead Plaintiff for representing the Settlement Class, to be paid
4 solely from (and out of) the Settlement Fund. Lead Counsel's application for an award of
5 attorneys' fees and/or Litigation Expenses is not the subject of any agreement between Defendants
6 and Lead Plaintiff other than what is set forth in this Stipulation. Defendants shall take no position
7 with respect to Lead Counsel's application for an award of attorneys' fees and/or Litigation
8 Expenses.

9 7.2 Any attorneys' fees and Litigation Expenses that are awarded by the Court shall be
10 paid to Lead Counsel immediately upon award, notwithstanding the existence of any timely filed
11 objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any
12 part thereof, subject to Lead Counsel's obligation to refund any awarded attorneys' fees and
13 Litigation expenses to the Settlement Fund, if the Settlement is terminated pursuant to the terms
14 of this Stipulation or to make appropriate refunds or repayments if, as a result of any appeal or
15 further proceedings on remand, or successful collateral attack, the award of attorneys' fees and/or
16 Litigation Expenses is reduced or reversed and such order reducing or reversing the award has
17 become Final. Lead Counsel shall make the appropriate refund or repayment in full no later than
18 thirty (30) days after: (a) receiving from Defendants' Counsel notice of the termination of the
19 Settlement; or (b) any order reducing or reversing the award of attorneys' fees and/or Litigation
20 Expenses has become Final. An award of attorneys' fees, Litigation Expenses and/or award to
21 Lead Plaintiff is not a necessary term of this Stipulation and is not a condition of the Settlement
22 embodied herein. Neither Plaintiffs nor Lead Counsel may cancel or terminate the Settlement
23 based on this Court's or any appellate court's ruling with respect to attorneys' fees, Litigation
24 Expenses and/or award to Lead Plaintiff. Defendants' Releasees shall have no responsibility for
25 or liability whatsoever with respect to the allocation or award of attorneys' fees or Litigation
26 Expenses. The attorneys' fees and Litigation Expenses that are awarded to Lead Counsel, and any
27 award to Lead Plaintiff, shall be payable solely from the Escrow Account.
28

1 **8. NOTICE, SETTLEMENT ADMINISTRATION AND DISTRIBUTION**

2 8.1 As part of the Preliminary Approval Order, Lead Counsel shall seek appointment
3 of a Claims Administrator. The Claims Administrator shall administer the Settlement, including
4 but not limited to the process of receiving, reviewing, and approving or denying Claims, under
5 Lead Counsel's supervision and subject to the jurisdiction of the Court. Other than Defendants'
6 obligation to provide its securities holders records as provided in ¶8.2 below, none of the
7 Defendants, nor any of Defendants' Releasees shall have any involvement in or any responsibility,
8 authority, or liability whatsoever for the selection of the Claims Administrator, the Plan of
9 Allocation, the administration of the Settlement, the Claims process, or the disbursement of the
10 Net Settlement Fund, and shall have no liability whatsoever to any person or entity, including, but
11 not limited to, Plaintiffs, any other Settlement Class Members, or Lead Counsel in connection with
12 the foregoing. Defendants' Counsel shall cooperate in the administration of the Settlement to the
13 extent reasonably necessary to effectuate its terms.

14 8.2 In accordance with the terms of the Preliminary Approval Order to be entered by
15 the Court, Lead Counsel shall cause the Claims Administrator to mail the Notice and Proof of
16 Claim Form to those members of the Settlement Class as may be identified through reasonable
17 effort. Lead Counsel shall also cause the Claims Administrator to have the Summary Notice
18 published in accordance with the terms of the Preliminary Approval Order to be entered by the
19 Court. For the purposes of identifying and providing notice to the Settlement Class, within five
20 (5) business days of the date of entry of the Preliminary Approval Order, Defendants shall provide
21 or cause to be provided to the Claims Administrator in electronic format (at no cost to the
22 Settlement Fund, Lead Counsel, or the Claims Administrator) a list (consisting of names and
23 addresses) of record holders who purchased Finisar common stock during the Class Period to the
24 extent that such information is available.

25 8.3 No later than ten (10) calendar days following the filing of this Stipulation with the
26 Court, Defendants shall serve the notice under the Class Action Fairness Act, 28 U.S.C. § 1715 *et*
27 *seq.* ("CAFA"). Defendants are solely responsible for the costs of the CAFA notice and
28 administering the CAFA notice. At least seven (7) calendar days before the Settlement Hearing,

1 Defendants shall cause to be served on Lead Counsel and filed with the Court proof, by affidavit
2 or declaration, regarding compliance with CAFA § 1715(b).

3 8.4 The Claims Administrator shall receive Claims and determine first, whether the
4 Claim is a valid Claim, in whole or part, and second, each Authorized Claimant's *pro rata* share
5 of the Net Settlement Fund based upon each Authorized Claimant's recognized Claim amount
6 compared to the total recognized Claims of all Authorized Claimants (as set forth in the Plan of
7 Allocation set forth in the Notice attached hereto as Exhibit A-1, or in such other plan of allocation
8 as the Court approves).

9 8.5 The Plan of Allocation proposed in the Notice is not a necessary term of the
10 Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation
11 that any particular plan of allocation be approved by the Court. Lead Plaintiff and Lead Counsel
12 may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any
13 appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation in this
14 Action. Defendants and the Defendants' Releasees shall not object in any way to the Plan of
15 Allocation or any other plan of allocation in this Action. No Defendant, nor any Defendants'
16 Releasees shall have any involvement with or liability, obligation, or responsibility whatsoever for
17 the application of the Court-approved plan of allocation.

18 8.6 Any Settlement Class Member who does not submit a valid Claim will not be
19 entitled to receive any distribution from the Net Settlement Fund, but will otherwise be bound by
20 all of the terms of this Stipulation and the Settlement, including the terms of the Judgment or, the
21 Alternate Judgment, if applicable, to be entered in the Action and the Releases provided for herein
22 and therein, and will be permanently barred and enjoined from bringing, commencing, instituting,
23 maintaining, prosecuting, or continuing to prosecute any action, claim, or other proceeding of any
24 kind against any of the Defendants or the Defendants' Releasees with respect to the Released
25 Plaintiffs' Claims in the event that the Effective Date occurs with respect to the Settlement.

26 8.7 Lead Counsel shall be responsible for supervising the administration of the
27 Settlement and the disbursement of the Net Settlement Fund subject to Court approval. No
28 Defendant or any Defendants' Releasees, shall have any right under this Stipulation, or otherwise,

1 to review, contest, or object to any Claim, or any decision of the Claims Administrator or Lead
2 Counsel with respect to accepting or rejecting any Claim for payment. Lead Counsel shall have
3 the right, but not the obligation, to waive what it deems to be formal or technical defects in any
4 Claims submitted in the interests of achieving substantial justice.

5 8.8 For purposes of determining the extent, if any, to which a Settlement Class Member
6 shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

7 (a) Each Claimant shall be required to submit a Claim, substantially in the form
8 attached hereto as Exhibit A-2, in accordance with the instructions for the submission of such
9 Claims, and supported by such documents as are designated therein, or such other documents or
10 proof as the Claims Administrator or Lead Counsel, in their discretion, may deem acceptable;

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

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

1 (d) Claims that do not meet the submission requirements may be rejected. Prior to
2 rejecting a Claim in whole or in part, the Claims Administrator shall communicate with the
3 Claimant in writing, to give the Claimant the chance to remedy any curable deficiencies in the
4 Claim Form submitted. The Claims Administrator shall notify, in a timely fashion and in writing,
5 all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting
6 forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be
7 rejected has the right to a review by the Court if the Claimant so desires and complies with the
8 requirements of subparagraph (e) below; and

9 (e) If any Claimant whose Claim has been rejected in whole or in part desires to contest
10 such rejection, the Claimant must, within fourteen (14) days after the date of mailing of the notice
11 required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement
12 of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting
13 documentation, and, if such disagreement is not resolved, requesting a review thereof by the Court.
14 If a dispute concerning a Claim cannot be otherwise resolved, the Claimant may thereafter present
15 a request for review to the Court to the extent to conditions for such review set forth herein have
16 been met.

17 8.9 Each Claimant shall be deemed to have submitted to the jurisdiction of the Court
18 with respect to the Claimant's Claim, and the Claim will be subject to investigation and discovery
19 under the Federal Rules of Civil Procedure, provided, however, that such investigation and
20 discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity
21 and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action
22 or of the Settlement in connection with the processing of Claim Forms.

23 8.10 Lead Counsel will apply to the Court for a Class Distribution Order: (a) approving
24 the Claims Administrator's administrative determinations concerning the acceptance and rejection
25 of the Claims submitted; (b) approving payment of any administration fees and expenses
26 associated with the administration of the Settlement from the Escrow Account; and (c) if the
27 Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized
28 Claimants from the Escrow Account.

1 8.11 Payment pursuant to the Class Distribution Order shall be final and conclusive
2 against all Settlement Class Members. All Settlement Class Members whose Claims are not
3 approved by the Court for payment shall be barred from participating in distributions from the Net
4 Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the
5 Settlement, including the terms of the Judgment or Alternate Judgment, if applicable, to be entered
6 in this Action and the Releases provided for herein and therein, and will be permanently barred
7 and enjoined from bringing any action against any and all Defendants' Releasees with respect to
8 any and all of the Released Plaintiffs' Claims.

9 8.12 Distribution checks shall be void 90 days from the date they are issued. If any funds
10 remain in the Net Settlement Fund by reason of uncashed checks or otherwise, then, after the
11 Claims Administrator has made reasonable and diligent efforts to have Settlement Class Members
12 who are entitled to participate in the distribution of the Net Settlement Fund cash their distribution
13 checks, any balance remaining in the Net Settlement Fund 90 days after the initial distribution of
14 such funds shall be re-distributed, after payment of any unpaid costs or fees incurred in
15 administering the Net Settlement Fund for such redistribution, if Lead Counsel after consulting
16 with the Claims Administrator determines such redistribution to be equitable and an efficient use
17 of the funds, to Settlement Class Members who have cashed their checks and who would receive
18 at least \$20.00 from such re-distribution. If any funds shall remain in the Net Settlement Fund 90
19 days after such re-distribution, then such balance shall be contributed to a non-sectarian charity or
20 any not-for-profit successor chosen by Lead Counsel, with the approval of the Court.

21 8.13 No person or entity shall have any claim against Lead Plaintiff, Lead Counsel, the
22 Claims Administrator, or any other agent designated by Lead Counsel, or Defendants' Releasees
23 and/or their respective counsel, arising from distributions made substantially in accordance with
24 the Stipulation, the Plan of Allocation approved by the Court, or any order of the Court. Lead
25 Plaintiff and Defendants, and their respective counsel, and Plaintiff's consultants and all other
26 Releasees shall have no liability whatsoever for the investment or distribution of the Settlement
27 Fund or the Net Settlement Fund, the plan of allocation, or the determination, administration,
28 calculation, or payment of any claim or nonperformance of the Claims Administrator, the payment

1 or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any
2 losses incurred in connection therewith.

3 8.14 All proceedings with respect to the administration, processing and determination of
4 Claims and the determination of all controversies relating thereto, including disputed questions of
5 law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court.

6 **9. TERMS OF THE JUDGMENT**

7 9.1 If the Settlement contemplated by this Stipulation is approved by the Court, Lead
8 Counsel and Defendants' Counsel shall request that the Court enter a Judgment, substantially in
9 the form attached hereto as Exhibit B.

10 **10. CONDITIONS OF SETTLEMENT AND EFFECT OF**
11 **DISAPPROVAL, CANCELLATION, OR TERMINATION**

12 10.1 Lead Plaintiff, on behalf of itself and the Settlement Class, and Defendants shall
13 each have the right to terminate the Settlement and Stipulation by providing written notice of its
14 or their election to do so ("Termination Notice") to all other Settling Parties within seven (7)
15 business days of:

- 16 (i) entry of a Court order declining to enter the Preliminary Approval Order in any
17 material respect;
- 18 (ii) entry of a Court order refusing to approve this Stipulation in any material respect;
- 19 (iii) entry of a Court order declining to enter the Judgment or Alternative Judgment, if
20 applicable, in any material respect;
- 21 (iv) entry of a Court order refusing to dismiss the Action with prejudice;
- 22 (v) entry of an order by which the Judgment or any Alternate Judgment is modified or
23 reversed in any material respect by any appeal or review; or
- 24 (vi) failure on the part of any Settling Party to abide, in material respect, with the terms
25 of this Stipulation.

26 In the absence of any of the events enumerated in the preceding sentence, as well as those
27 enumerated in ¶10.2, ¶10.5 or ¶10.6 below, no Settling Party shall have the right to terminate the
28 Stipulation for any reason.

1 10.2 If the Settlement Amount is not paid into the Escrow Account in accordance with
2 ¶5.1 of this Stipulation, then Lead Plaintiff, on behalf of itself and the Settlement Class, shall have
3 the right, in its sole discretion, to (a) terminate the Settlement and Stipulation by providing written
4 notice to Defendants at any time prior to the Court’s entry of the Judgment or any Alternate
5 Judgment; or (b) enforce the terms of the Settlement and this Stipulation and seek a judgment
6 effecting the terms herein.

7 10.3 The Effective Date of this Settlement and Stipulation (“Effective Date”) shall not
8 occur unless and until each of the following events occurs, and it shall be the date upon which the
9 last in time of the following events occurs:

10 (i) Defendants have not exercised their option to terminate the Settlement pursuant to
11 ¶10.5 below;

12 (ii) The Court has entered the Preliminary Approval Order, substantially in the form
13 set forth in Exhibit A hereto, as required by ¶3.2 above;

14 (iii) The Settlement Amount has been paid into the Escrow Account, as set forth in ¶5.1
15 above;

16 (iv) The Court has approved the Settlement, following notice to Settlement Class
17 Members and the Settlement Hearing, and has entered the Judgment or an Alternate
18 Judgment, if applicable;

19 (v) The Judgment or an Alternate Judgment, if applicable, has become Final as defined
20 in ¶1.19; and

21 (vi) The Action has been dismissed with prejudice.

22 10.4 Upon the occurrence of the Effective Date, any and all interest or right of the
23 Defendants and Defendants’ Releasees in or to the Settlement Fund, if any, shall be absolutely and
24 forever extinguished, except as set forth in this Stipulation.

25 10.5 Prior to issuance of the Judgment or an Alternate Judgment, if applicable, to the
26 extent Opt-Outs in the aggregate purchased securities in an amount greater than the amount
27 specified in a separate Supplemental Agreement between the Settling Parties (the “Supplemental
28 Agreement”), Defendants shall have the option in their sole discretion to terminate this Stipulation

1 and Settlement in accordance with the requirements and procedures set forth in the Supplemental
2 Agreement. The Settling Parties undertake to keep the Supplemental Agreement confidential, and
3 the Supplemental Agreement shall not be filed with or submitted to the Court except as otherwise
4 provided in the Supplemental Agreement.

5 10.6 None of the Settling Parties, or any of them, shall have any obligation whatsoever
6 to proceed under any terms other than those provided for and agreed herein. If any Settling Party
7 engages in a material breach of the terms hereof, any other Settling Party, provided that it is in
8 substantial compliance with the terms of this Stipulation, may terminate this Stipulation on notice
9 to all the Settling Parties.

10 10.7 In the event the Stipulation and Settlement shall terminate, or be canceled for any
11 reason, the Settling Parties shall be restored to their respective positions in the Action immediately
12 prior to July 8, 2020 (the date of Lead Plaintiff's and Defendants' joint stipulation filed with the
13 Ninth Circuit for dismissal of the Appeal without prejudice to Lead Plaintiff reinstating the Appeal
14 should the Court deny approval of the Settlement), the Judgment entered against Lead Plaintiff
15 only by the Court on June 14, 2019 (ECF #190) shall be reinstated, and they shall proceed in all
16 respects as if the Stipulation had not been executed and the related orders had not been entered
17 (and the Appeal shall be reinstated), and in that event all of their respective claims and defenses as
18 to any issue in the Action shall be preserved without prejudice.

19 10.8 In the event that the Settlement and Stipulation are terminated as a consequence of
20 their not being approved by the Court or for any other reason that is in accordance with the terms
21 and provisions of this Stipulation, except as otherwise provided herein, they shall have no further
22 force and effect with respect to the Settling Parties and shall not be used in the Action or in any
23 other proceeding for any purpose, and any judgment or order entered by the Court in accordance
24 with the terms of this Stipulation, shall be treated as vacated, *nunc pro tunc*.

25 10.9 In the event the Stipulation shall be terminated, within thirty (30) business days
26 after the occurrence of such event, the Settlement Fund (less Taxes already paid or incurred and
27 any Notice and Administrative Costs which have either been disbursed, incurred or are determined
28 to be chargeable) shall be refunded by the Escrow Agent to Defendants (or such other persons or

1 entities as Defendants' Counsel may direct), in proportion to their contribution to the Settlement
2 Fund, by check or wire transfer pursuant to written instructions from Defendants' Counsel, as
3 applicable. In the event that the funds received by Lead Counsel consistent with ¶7.2 above have
4 not been refunded to the Settlement Fund within thirty (30) business days as specified in this
5 paragraph, those funds shall be refunded by the Escrow Agent to Defendants and/or any entity that
6 paid any portion of the Settlement Amount (or such other persons or entities as Defendants may
7 direct) immediately upon their deposit into the Escrow Account consistent with ¶7.2 above. At
8 the request of Defendants, the Escrow Agent or its designee shall apply for any tax refund owed
9 on the Settlement Fund and pay the proceeds, after deduction of any fees or expenses incurred in
10 connection with such application(s) for refund, to Defendants (or such other persons or entities as
11 Defendants' Counsel may direct) pursuant to written direction from Defendants' Counsel, as
12 applicable.

13 10.10 No order of the Court or modification or reversal on appeal of any order of the
14 Court concerning the Plan of Allocation or the award of attorneys' fees and Litigation Expenses
15 shall constitute grounds for cancellation or termination of the Stipulation.

16 **11. NO ADMISSION OF WRONGDOING**

17 11.1 Neither this Stipulation (whether or not consummated), including the exhibits
18 hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be
19 approved by the Court), the negotiations leading to the execution of this Stipulation, nor any
20 proceedings taken or submissions made pursuant to or in connection with this Stipulation and/or
21 approval of the Settlement (including any arguments proffered in connection therewith):

22 (a) shall be offered against any of the Defendants or the Defendants' Releasees as
23 evidence of, or construed as, or deemed to be evidence of any presumption, concession, or
24 admission by any of the Defendants or the Defendants' Releasees with respect to the truth of any
25 fact alleged by Plaintiff or the validity of any claim that was or could have been asserted or the
26 deficiency of any defense that has been or could have been asserted in this Action or in any other
27 litigation, or the certifiability of the Action for litigation purposes or of any liability, negligence,
28 fault, or other wrongdoing of any kind of any of the Defendants or the Defendants' Releasees or

1 in any way referred to for any other reason as against any of the Defendants or the Defendants'
2 Releasees, in any arbitration proceeding or other civil, criminal, regulatory, administrative, or other
3 action or proceeding, other than such proceedings as may be necessary to effectuate the provisions
4 of this Stipulation;

5 (b) shall be offered against Plaintiff or any of the Plaintiff's Releasees, as evidence of,
6 or construed as, or deemed to be evidence of any presumption, concession, or admission by
7 Plaintiff or any of the Plaintiff's Releasees that any of their claims are without merit, that any of
8 the Defendants or Defendants' Releasees had meritorious defenses, or that damages recoverable
9 under the Complaints would not have exceeded the Settlement Amount or with respect to any
10 liability, negligence, fault, or wrongdoing of any kind, or in any way referred to for any other
11 reason as against Plaintiff or any of the Plaintiff's Releasees, in any arbitration proceeding or other
12 civil, criminal, regulatory, administrative, or other action or proceeding, other than such
13 proceedings as may be necessary to effectuate the provisions of this Stipulation; or

14 (c) shall be construed against any of the Releasees as an admission, concession, or
15 presumption that the consideration to be given hereunder represents the amount that could be or
16 would have been recovered after trial; *provided, however*, that if this Stipulation is approved by
17 the Court, the Parties and the Releasees and their respective counsel may refer to it to effectuate
18 the protections from liability granted hereunder or otherwise to enforce the terms of the Settlement.

19 **12. MISCELLANEOUS PROVISIONS**

20 12.1 The Settling Parties shall take all actions necessary to consummate this agreement;
21 and agree to cooperate with each other to the extent reasonably necessary in seeking Court
22 approval of the Preliminary Approval Order and the Settlement, as embodied in this Stipulation,
23 and to use best efforts to promptly agree upon and execute all such other documentation as may
24 be reasonably required to effectuate and implement all terms and conditions of the Stipulation and
25 to obtain final approval by the Court of the Settlement.

26 12.2 The Settling Parties and their counsel represent that they will not encourage or
27 otherwise influence (or seek to influence) any Settlement Class Member to request exclusion from,
28 or object to, the Settlement.

1 12.3 Each of the attorneys executing this Stipulation, any of its exhibits, or any related
2 Settlement documents on behalf of any Settling Party hereto hereby warrants and represents that
3 he or she has been duly empowered and authorized to do so by the Settling Party he or she
4 represents and that they have the authority to take appropriate action required or permitted to be
5 taken pursuant to the Stipulation to effectuate its terms.

6 12.4 Defendants warrant that, as to the payments made or to be made by or on behalf of
7 them, at the time of entering into this Stipulation and at the time of such payment they, or to their
8 knowledge any persons or entities contributing to the payment of the Settlement Amount, were not
9 insolvent, nor will the payment required to be made by or on behalf of them render them insolvent,
10 within the meaning of and/or for the purposes of the United States Bankruptcy Code, including §§
11 101 and 547 thereof. This representation is made by each of the Defendants and not by their
12 counsel.

13 12.5 In the event of the entry of a final order of a court of competent jurisdiction
14 determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf
15 of Defendants to be a preference, voidable transfer, fraudulent transfer or similar transaction and
16 any portion thereof is required to be returned, and such amount is not promptly deposited into the
17 Settlement Fund by others, then, at the election of Lead Plaintiff, Lead Plaintiff and Defendants
18 shall jointly move the Court to vacate and set aside the Releases given and the Judgment or
19 Alternate Judgment, if applicable, entered in favor of Defendants and the other Defendants'
20 Releasees pursuant to this Stipulation, in which event the releases and Judgment, or Alternate
21 Judgment, if applicable, shall be null and void, and the Settling Parties shall be restored to their
22 respective positions in the litigation as provided in ¶10.7 above and any cash amounts in the
23 Settlement Fund (less any Taxes paid, due or owing with respect to the Settlement Fund and less
24 any Administration Costs actually incurred, paid or payable) shall be returned as provided in ¶10.9.

25 12.6 This Stipulation, together with the Supplemental Agreement, constitutes the entire
26 agreement between the Settling Parties related to the Settlement and supersedes any prior
27 agreements. No representations, warranties, promises, inducements or other statements have been
28 made to or relied upon by any Settling Party concerning this Stipulation, other than the

1 representations, warranties and covenants expressly set forth herein. The Settling Parties,
2 acknowledge and agree that any and all other representations and warranties of any kind or nature,
3 express or implied, not contained in the Stipulation are specifically disclaimed and were not relied
4 upon in connection with this Stipulation. In entering this Stipulation, the Settling Parties relied
5 solely upon their own knowledge and investigation.

6 12.7 Except as otherwise provided herein, each Settling Party shall bear its own costs.
7 Defendants shall not seek any fees, costs and expenses from Lead Plaintiff or Lead Counsel,
8 including but not limited to the Bill of Cost filed with the Court on October 1, 2019; and
9 Defendants shall withdraw such Bill of Costs, if necessary.

10 12.8 This Stipulation may not be modified or amended, nor may any of its provisions be
11 waived, except by a writing signed by all Settling Parties or their counsel or their respective
12 successors in interest.

13 12.9 This Stipulation shall be binding upon, and shall inure to the benefit of, the Settling
14 Parties and their respective agents, successors, executors, heirs, and assigns.

15 12.10 The Releasees who do not appear on the signature lines below, are acknowledged
16 and agreed to be third party beneficiaries of this Stipulation and Settlement.

17 12.11 The headings herein are used for the purpose of convenience only and are not meant
18 to have legal effect.

19 12.12 This Stipulation may be executed in any number of counterparts by any of the
20 signatories hereto and the transmission of an original signature page electronically (including by
21 facsimile or portable document format) shall constitute valid execution of the Stipulation as if all
22 signatories hereto had executed the same document. Copies of this Stipulation executed in
23 counterpart shall constitute one agreement.

24 12.13 This Stipulation, the Settlement, the Supplemental Agreement, and any and all
25 disputes arising out of or relating in any way to this Stipulation, whether in contract, tort or
26 otherwise, shall be governed by and construed in accordance with the laws of the State of
27 California without regard to conflict of laws principles.
28

1 12.14 The Court shall retain jurisdiction with respect to the implementation and
2 enforcement of the terms of this Settlement and Stipulation, including the Plan of Allocation (or
3 such other plan of allocation as may be approved by the Court), and the Settling Parties submit to
4 the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied
5 in this Stipulation and for the purpose of entering orders providing for attorneys' fees, Litigation
6 Expenses, and award to Lead Plaintiff, and the distribution of the Net Settlement Fund to
7 Settlement Class Members.

8 12.15 The Stipulation shall not be construed more strictly against one Settling Party than
9 another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel
10 for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations
11 between the Settling Parties, and all Settling Parties have contributed substantially and materially
12 to the preparation of this Stipulation.

13 12.16 All agreements by, between or among the Settling Parties, their counsel and their
14 other advisors as to the confidentiality of information exchanged between or among them shall
15 remain in full force and effect, and shall survive the execution and any termination of this
16 Stipulation and the final consummation of the Settlement, if finally consummated, without regard
17 to any of the conditions of the Settlement. Whether or not the Stipulation is approved by the Court
18 and whether or not the Stipulation is consummated, or the Effective Date occurs, the Settling
19 Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts
20 performed, agreements, drafts, documents signed and proceedings in connection with the
21 Stipulation confidential.

22 12.17 The Settling Parties or Releasees shall not assert or pursue any action, claim or
23 rights that any Settling Party or other person violated any provision of Rule 11 of the Federal Rules
24 of Civil Procedure and/or the Private Securities Litigation Reform Act of 1995 (the "PSLRA") or
25 any other applicable law, rule, statute, or regulation in connection with this Action, the Settlement,
26 the Stipulation or the Supplemental Agreement. The Settling Parties agree that the Action was
27 resolved in good faith following arm's-length bargaining, in full compliance with applicable
28 requirements of good faith litigation under the Exchange Act, Rule 11 of the Federal Rules of Civil

1 Procedure and/or the PSLRA, including through a mediation process supervised and conducted by
2 Mediator Michelle Yoshida at Phillips ADR, and reflects the Settlement that was reached
3 voluntarily after extensive negotiations and consultation with experienced legal counsel, who were
4 fully competent to assess the strengths and weaknesses of their respective clients' claims or
5 defenses. In all events, Lead Plaintiff and its counsel and Defendants and their counsel shall not
6 make any accusations of wrongful or actionable conduct by any of the Settling Parties concerning
7 the prosecution, defense and resolution of the Action, and shall not otherwise suggest that the
8 Settlement constitutes an admission of any claim or defense alleged.

9 12.18 Any failure by any of the Settling Parties to insist upon the strict performance by
10 any other Settling Party of any of the provisions of the Stipulation shall not be deemed a waiver
11 of any of the provisions hereof, and such Settling Party, notwithstanding such failure, shall have
12 the right thereafter to insist upon the strict performance of any and all of the provisions of this
13 Stipulation to be performed by the other Settling Parties to this Stipulation.

14 12.19 The waiver, express or implied, by any Settling Party of any breach or default by
15 any other Settling Party in the performance of such Settling Party's obligations under the
16 Stipulation shall not be deemed or construed to be a waiver of any other breach, whether prior,
17 subsequent, or contemporaneous, under this Stipulation.

18 12.20 If any Settling Party is required to give notice to another Settling Party under this
19 Stipulation, such notice shall be in writing and shall be deemed to have been duly given upon
20 receipt of hand delivery or email transmission, with confirmation of receipt. Notice shall be
21 provided as follows:

22 If to Lead Plaintiff or Lead Counsel: Abraham, Fruchter & Twersky, LLP
23 Attn: Mitchell M.Z. Twersky
24 One Penn Plaza, Suite 2805
25 New York, NY 10119
26 Telephone: (212) 279-5050
27 Email: mtwersky@aftlaw.com

28 Attn: Ian D. Berg
Takeo A. Kellar
11622 El Camino Real, Suite 100
San Diego, CA 92130
Tel: (858) 764-2580
Email: iberg@aftlaw.com
tkellar@aftlaw.com

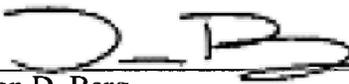
If to Defendants:

DLA Piper LLP (US)
Attn: Shirli Fabbri Weiss
David Priebe
2000 University Avenue
East Palo Alto, CA 94303-2248
Tel: (650) 833-2000
Email: shirli.weiss@dlapiper.com
david.priebe@dlapiper.com

12.21 The Settling Parties reserve the right 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, as of July 8, 2020.

**ABRAHAM, FRUCHTER
& TWERSKY, LLP**

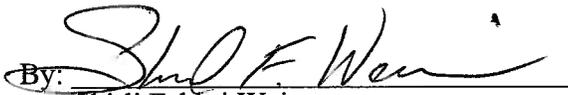
By: 

Ian D. Berg
Takeo A. Kellar
11622 El Camino Real, Suite 100
San Diego, CA 92130
Tel: (858) 764-2580
Fax: (858) 764-2582

Mitchell M.Z. Twersky
One Penn Plaza, Suite 2805
New York, NY 10119
Tel: (212) 279-5050
Fax: (212) 279-3655

*Counsel for Lead Plaintiff Oklahoma Firefighters
Pension and Retirement System and Lead Counsel
for the Class*

DLA PIPER LLP (US)

By: 

Shirli Fabbri Weiss
David Priebe
2000 University Avenue
East Palo Alto, CA 94303-2248
Tel: (650) 833-2000
Fax: (650) 833-2001

*Counsel for Defendants Finisar Corporation,
Jerry S. Rawls, and Eitan Gertel*

EXHIBIT A

Exhibit A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

In re FINISAR CORPORATION
SECURITIES LITIGATION

Case No. 5:11-CV-01252-EJD

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT, APPROVING
FORM AND MANNER OF NOTICE, AND
SETTING DATE FOR HEARING ON FINAL
APPROVAL OF SETTLEMENT**

Hon. Edward J. Davila

1 WHEREAS, Lead Plaintiff Oklahoma Firefighters Pension and Retirement System
2 (“Lead Plaintiff”), on behalf of itself and the Settlement Class (defined below), and defendants
3 Finisar Corporation (“Finisar”), Jerry S. Rawls, and Eitan Gertel (collectively, the “Defendants,”
4 and together with Lead Plaintiff, the “Parties”) have entered into a Stipulation and Agreement of
5 Settlement dated July 8, 2020 (the “Stipulation”), that provides for a complete settlement and
6 dismissal with prejudice of the Released Claims on the terms and conditions set forth in the
7 Stipulation, subject to the approval of this Court (the “Settlement”);

8 WHEREAS, unless otherwise defined herein, the capitalized terms herein shall have the
9 same meaning as they have in the Stipulation;

10 WHEREAS, Lead Plaintiff has made an application, pursuant to Rule 23 of the Federal
11 Rules of Civil Procedure, for an order preliminarily approving the Settlement in accordance with
12 the Stipulation, certifying the Settlement Class for purposes of Settlement only, and allowing
13 notice to Settlement Class Members as more fully described herein;

14 WHEREAS, the Court has read and considered: (a) Lead Plaintiff’s motion for
15 preliminary approval of the Settlement, and the papers filed, and arguments made in connection
16 therewith; and (b) the Stipulation and exhibits attached thereto; and

17 WHEREAS, the Parties to the Stipulation have consented to entry of this order;

18 NOW THEREFORE, IT IS HEREBY ORDERED:

19 1. **Vacating Judgment Against Lead Plaintiff** – Solely for purposes of effectuating
20 the proposed Settlement, the Court vacates the Judgment against Lead Plaintiff solely, entered
21 June 14, 2019 (ECF #190), but not the Order Striking Plaintiff’s Motion for Class Certification;
22 Granting Defendants’ Motion For Judgment On The Pleadings dated May 24, 2019 (ECF #187)
23 nor the Order Denying Motion for Class Certification dated December 5, 2017 (ECF#150). The
24 vacated Judgment shall be reinstated *nunc pro tunc* in the event that the Parties’ settlement is
25 terminated or otherwise does not become Effective under the Stipulation.

26 2. **Class Certification for Settlement Purposes** – Pursuant to Rule 23(a) and (b)(3)
27 of the Federal Rules of Civil Procedure, the Court certifies, solely for purposes of effectuating
28 the proposed Settlement, a Settlement Class consisting of all persons and entities who purchased

1 or acquired the publicly traded common stock of Finisar during the period from December 2,
2 2010 through March 8, 2011, inclusive (the “Class Period”), and who were allegedly damaged
3 thereby. Excluded from the Settlement Class are: (i) Defendants; (ii) any person who was an
4 officer or director of Finisar during the Class Period; (iii) the Immediate Family Members of all
5 individual persons excluded in (i) or (ii); (iv) the parents, subsidiaries, and affiliates of Finisar;
6 (v) any entity in which any person or entity excluded in (i), (ii), (iii) or (iv) has, or had during the
7 Class Period, a controlling interest; and (vi) the legal representatives, heirs, affiliates, successors,
8 or assigns of any such excluded person or entity. Also excluded from the Settlement Class are
9 any persons and entities who exclude themselves by submitting a request for exclusion that is
10 accepted by the Court.

11 3. Solely for purposes of the proposed Settlement of this Action, the Court finds that
12 each element required for certification of the Settlement Class pursuant to Rule 23 of the Federal
13 Rules of Civil Procedure has been met: (a) the members of the Settlement Class are so numerous
14 that their joinder in the Action would be impracticable; (b) there are questions of law and fact
15 common to the Settlement Class which predominate over any individual questions; (c) the claims
16 of Plaintiffs in the Action are typical of the claims of the Settlement Class; (d) Plaintiffs and
17 Lead Counsel have and will fairly and adequately represent and protect the interests of the
18 Settlement Class; and (e) a class action is superior to other available methods for the fair and
19 efficient adjudication of the Action.

20 4. The Court hereby finds and concludes that pursuant to Rule 23 of the Federal
21 Rules of Civil Procedure, and for the purposes of the Settlement only, Lead Plaintiff Oklahoma
22 Firefighters Pension and Retirement System is an adequate class representative and certifies
23 Lead Plaintiff as Class Representative for the Settlement Class. The Court also appoints Lead
24 Counsel Abraham, Fruchter & Twersky, LLP, as Class Counsel for the Settlement Class,
25 pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

26 5. **Preliminary Approval of the Settlement** – The Court hereby preliminarily
27 approves the Settlement, as embodied in the Stipulation, as being fair, reasonable, and adequate
28

1 to the Settlement Class, subject to further consideration at the Settlement Hearing to be
2 conducted as described below.

3 6. **Settlement Hearing** – The Court will hold a settlement hearing (the “Settlement
4 Hearing”) on _____, 2020 __:___.m., before the Honorable Edward J. Davila of
5 the United States District Court for the Northern District of California, in Courtroom 4, 5th
6 Floor, 280 South 1st Street, San Jose, CA 95113, for the following purposes: (a) to determine
7 whether the proposed Settlement on the terms and conditions provided for in the Stipulation is
8 fair, reasonable, and adequate to the Settlement Class, and should be approved by the Court; (b)
9 to determine whether a Judgment substantially in the form attached as Exhibit B to the
10 Stipulation should be entered dismissing the Action with prejudice against Defendants; (c) to
11 determine whether the proposed Plan of Allocation for the proceeds of the Settlement is fair and
12 reasonable and should be approved; (d) to determine whether the motion by Lead Counsel for an
13 award of attorneys’ fees and reimbursement of Litigation Expenses should be approved; and (e)
14 to consider any other matters that may properly be brought before the Court in connection with
15 the Settlement. Notice of the Settlement and the Settlement Hearing shall be given to Settlement
16 Class Members as set forth in paragraph 7 of this Order.

17 7. The Court may adjourn the Settlement Hearing without further notice to the
18 Settlement Class, and may approve the proposed Settlement with such modifications as the
19 Parties may agree to, if appropriate, without further notice to the Settlement Class.

20 8. **Retention of Claims Administrator and Manner of Giving Notice** – Lead
21 Counsel is hereby authorized to retain _____ (the “Claims Administrator”) to
22 supervise and administer the notice procedure in connection with the proposed Settlement as
23 well as the processing of Claims as more fully set forth below. Notice of the Settlement and the
24 Settlement Hearing shall be given by Lead Counsel as follows:

25 (a) within five (5) business days of the date of entry of this Order, Defendants shall
26 provide or cause to be provided to the Claims Administrator in electronic format (at no cost to
27 the Settlement Fund, Lead Counsel, or the Claims Administrator) a list (consisting of names a
28

1 addresses) of record holders who purchased Finisar common stock during the Class Period to the
2 extent that such information is available;

3 (b) not later than twenty (20) business days after the date of entry of this Order (the
4 “Notice Date”), the Claims Administrator shall cause a copy of the Notice and the Claim Form,
5 substantially in the forms attached hereto as Exhibits 1 and 2, respectively (the “Notice Packet”),
6 to be mailed by first-class mail to potential Settlement Class Members at the addresses set forth
7 in the records provided by Defendants or in the records that Defendants caused to be provided, or
8 who otherwise may be identified through further reasonable effort;

9 (c) contemporaneously with the mailing of the Notice Packet, the Claims
10 Administrator shall cause copies of the Notice and the Claim Form to be posted on a website to
11 be developed for the Settlement, from which copies of the Notice and Claim Form can be
12 downloaded;

13 (d) not later than ten (10) business days after the Notice Date, the Claims
14 Administrator shall cause the Summary Notice, substantially in the form attached hereto as
15 Exhibit 3, to be published once in *Investor’s Business Daily* and to be transmitted once over the
16 *PR Newswire*; and

17 (e) not later than seven (7) calendar days prior to the Settlement Hearing, Lead
18 Counsel shall file with the Court proof, by affidavit or declaration, of such mailing and
19 publication.

20 9. **Approval of Form and Content of Notice** – The Court (a) approves, as to form
21 and content, the Notice, the Claim Form, and the Summary Notice, attached hereto as Exhibits 1,
22 2, and 3, respectively, and (b) finds that the mailing and distribution of the Notice and Claim
23 Form and the publication of the Summary Notice in the manner and form set forth in paragraph 8
24 of this Order (i) is the best notice practicable under the circumstances; (ii) constitutes notice that
25 is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the
26 pendency of the Action, of the effect of the proposed Settlement (including the Releases to be
27 provided thereunder), of Lead Counsel’s motion for an award of attorneys’ fees and
28 reimbursement of Litigation Expenses, of their right to object to the Settlement, the Plan of

1 Allocation, and/or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation
2 Expenses, of their right to exclude themselves from the Settlement Class, and of their right to
3 appear at the Settlement Hearing; (iii) constitutes due, adequate, and sufficient notice to all
4 persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the
5 requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution
6 (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15
7 U.S.C. § 78u-4, as amended, and all other applicable law and rules. The date and time of the
8 Settlement Hearing shall be included in the Notice and Summary Notice before they are mailed
9 and published, respectively.

10 10. **Nominee Procedures** – Brokers and other nominees who purchased or otherwise
11 acquired Finisar common stock during the Class Period for the benefit of another person or entity
12 shall (a) within seven (7) calendar days of receipt of the Notice, request from the Claims
13 Administrator sufficient copies of the Notice Packet to forward to all such beneficial owners and
14 within seven (7) calendar days of receipt of those Notice Packets forward them to all such
15 beneficial owners; or (b) within seven (7) calendar days of receipt of the Notice, send a list of the
16 names and addresses of all such beneficial owners to the Claims Administrator in which event
17 the Claims Administrator shall promptly mail the Notice Packet to such beneficial owners. Upon
18 full compliance with this Order, such nominees may seek reimbursement of their reasonable
19 expenses actually incurred in complying with this Order by providing the Claims Administrator
20 with proper documentation supporting the expenses for which reimbursement is sought. Such
21 properly documented expenses incurred by nominees in compliance with the terms of this Order
22 shall be paid from the Settlement Fund, with any disputes as to the reasonableness or
23 documentation of expenses incurred subject to review by the Court.

24 11. **Settlement Administration Fees and Expenses** – As provided in the Stipulation,
25 before the Effective Date, Lead Counsel may pay the Claims Administrator all Notice and
26 Administration Costs, including the reasonable costs incurred in identifying Settlement Class
27 Members and notifying them of the Settlement as well as in administering the Settlement in an
28 amount up to \$185,000 out of the Settlement Fund without further approval from the Court.

1 12. **Participation in the Settlement** – Settlement Class Members who wish to
2 participate in the Settlement and to be eligible to receive a distribution from the Net Settlement
3 Fund must complete and submit a Claim Form in accordance with the instructions contained
4 therein. Unless the Court orders otherwise, all Claim Forms must be postmarked no later than
5 one hundred twenty (120) calendar days after the Notice Date. Notwithstanding the foregoing,
6 Lead Counsel may, at its discretion, accept for processing late Claims provided such acceptance
7 does not delay the distribution of the Net Settlement Fund to the Settlement Class. By
8 submitting a Claim, a person or entity shall be deemed to have submitted to the jurisdiction of
9 the Court with respect to his, her, or its Claim and the subject matter of the Settlement.

10 13. Each Claim Form submitted must satisfy the following conditions: (a) it must be
11 properly completed, signed, and submitted in a timely manner in accordance with the provisions
12 of the preceding paragraph; (b) it must be accompanied by adequate supporting documentation
13 for the transactions and holdings reported therein, in the form of broker confirmation slips,
14 broker account statements, an authorized statement from the broker containing the transactional
15 and holding information found in a broker confirmation slip or account statement, or such other
16 documentation as is deemed adequate by Lead Counsel or the Claims Administrator; (c) if the
17 person executing the Claim Form is acting in a representative capacity, a certification of his, her,
18 or its current authority to act on behalf of the Settlement Class Member must be included in the
19 Claim Form to the satisfaction of Lead Counsel or the Claims Administrator; and (d) the Claim
20 Form must be complete and contain no material deletions or modifications of any of the printed
21 matter contained therein and must be signed under penalty of perjury.

22 14. Any Settlement Class Member who does not timely and validly submit a Claim
23 Form or whose Claim is not otherwise approved by the Court: (a) shall be deemed to have
24 waived his, her, or its right to share in the Net Settlement Fund; (b) shall be forever barred from
25 participating in any distributions therefrom; (c) shall be bound by the provisions of the
26 Stipulation and the Settlement and all proceedings, determinations, orders, and judgments in the
27 Action relating thereto, including, without limitation, the Judgment or Alternate Judgment, if
28 applicable, and the Releases provided for therein, whether favorable or unfavorable to the

1 Settlement Class; and (d) will be barred from commencing, instituting, maintaining, prosecuting,
2 or continuing to prosecute any of the Released Plaintiffs' Claims against any of the Defendants
3 or the Defendants' Releasees, as more fully described in the Stipulation and Notice.
4 Notwithstanding the foregoing, late Claim Forms may be accepted for processing as set forth in
5 paragraph 12 above.

6 15. **Exclusion From the Settlement Class** – Any member of the Settlement Class
7 who wishes to exclude himself, herself, or itself from the Settlement Class must request
8 exclusion in writing within the time and in the manner set forth in the Notice, which shall
9 provide that: (a) any such request for exclusion from the Settlement Class must be mailed or
10 delivered such that it is received no later than thirty-five (35) calendar days prior to the
11 Settlement Hearing, to: Finisar Securities Litigation, EXCLUSIONS, c/o [CLAIMS
12 ADMININSTRATOR], and (b) each request for exclusion must (i) state the name, address, and
13 telephone number of the person or entity requesting exclusion, and in the case of entities, the
14 name and telephone number of the appropriate contact person; (ii) state that such person or entity
15 “requests exclusion from the Settlement Class in In re Finisar Corporation Securities Litigation,
16 Case No. 5:11-CV-01252-EJD”; (iii) state (A) the number of shares of Finisar common stock
17 that the person or entity requesting exclusion owned as of the opening of trading on December 2,
18 2010, and (B) the number of shares of Finisar common stock that the person or entity requesting
19 exclusion purchased/acquired and/or sold during the Class Period (*i.e.*, from December 2, 2010
20 through March 8, 2011, inclusive), as well as the dates, number of shares, and prices of each
21 such purchase/acquisition and/or sale; and (iv) be signed by the person or entity requesting
22 exclusion or an authorized representative. A request for exclusion shall not be effective unless it
23 provides all the required information and is received within the time stated above, or is otherwise
24 accepted by the Court.

25 16. Any person or entity who timely and validly requests exclusion in compliance
26 with the terms stated in this Order and is excluded from the Settlement Class shall not be a
27 Settlement Class Member, shall not be bound by the terms of the Settlement or any orders or
28 judgments in the Action, and shall not receive any payment out of the Net Settlement Fund.

1 17. Any Settlement Class Member who does not timely and validly request exclusion
2 from the Settlement Class in the manner stated in this Order: (a) shall be deemed to have waived
3 his, her, or its right to be excluded from the Settlement Class; (b) shall be forever barred from
4 requesting exclusion from the Settlement Class in this or any other proceeding; (c) shall be
5 bound by the provisions of the Stipulation and the Settlement and all proceedings,
6 determinations, orders, and judgments in the Action, including, but not limited to, the Judgment
7 or Alternate Judgment, if applicable, and the Releases provided for therein, whether favorable or
8 unfavorable to the Settlement Class; and (d) will be barred from commencing, instituting,
9 maintaining, prosecuting, or continuing to prosecute any of the Released Plaintiffs' Claims
10 against any of the Defendants or the Defendants' Releasees, as more fully described in the
11 Stipulation and Notice.

12 18. **Appearance and Objections at Settlement Hearing** – Any Settlement Class
13 Member who does not request exclusion from the Settlement Class may enter an appearance in
14 the Action, at his, her, or its own expense, individually or through counsel of his, her, or its own
15 choice, by filing a notice of appearance with the Court such that it is filed or postmarked no later
16 than twenty-one (21) calendar days prior to the Settlement Hearing, or as the Court may
17 otherwise direct. Any Settlement Class Member who does not enter an appearance will be
18 represented by Lead Counsel.

19 19. Any Settlement Class Member who does not request exclusion from the
20 Settlement Class may file a written objection to the proposed Settlement, the proposed Plan of
21 Allocation, and/or Lead Counsel's motion for an award of attorneys' fees and reimbursement of
22 Litigation Expenses and appear and show cause, if he, she, or it has any cause, why the proposed
23 Settlement, the proposed Plan of Allocation, and/or Lead Counsel's motion for attorneys' fees
24 and reimbursement of Litigation Expenses should not be approved; provided, however, that no
25 Settlement Class Member shall be heard or entitled to contest the approval of the terms and
26 conditions of the proposed Settlement, the proposed Plan of Allocation, and/or the motion for
27 attorneys' fees and reimbursement of Litigation Expenses unless that person or entity has filed a
28

1 written objection with the Court. Any written objection, together with copies of all other papers
2 and briefs supporting the objection,

3 (a) must be mailed or filed by hand such that they are received no later than twenty-
4 one (21) calendar days prior to the Settlement Hearing with the Clerk of the Court, United States
5 District Court for the Northern District of California, Robert F. Peckham Federal Building &
6 United States Courthouse, 280 South 1st Street, Room 2112, San Jose, CA 95113; and

7 (b) mailed to Lead Counsel, Ian D. Berg and Takeo A. Kellar, Abraham, Fruchter &
8 Twersky, LLP, 11622 El Camino Real, Suite 100, San Diego, CA 92130; and Defendants’
9 Counsel, Shirli Fabbri Weiss and David Priebe, DLA Piper LLP (US), 2000 University Avenue,
10 East Palo Alto, CA 94303.

11 20. Any objections, filings, and other submissions by the objecting Settlement Class
12 Member must clearly identify the case name and action number, *In re Finisar Corporation*
13 *Securities Litigation*, Case No. 5:11-CV-01252-EJD, and they must: (a) state the name, address,
14 and telephone number of the person or entity objecting and must be signed by the objector; (b)
15 state whether the objector is represented by counsel and, if so, the name, address, and telephone
16 number of the objector’s counsel; (c) contain a statement of the Settlement Class Member’s
17 objection or objections, and the specific reasons for each objection, including any legal and
18 evidentiary support the Settlement Class Member wishes to bring to the Court’s attention; and
19 (d) include documents sufficient to prove membership in the Settlement Class, consisting of
20 documents showing the number of shares of Finisar common stock that the objector (i) owned as
21 of the opening of trading on December 2, 2010, and (ii) purchased/acquired and/or sold during
22 the Class Period (*i.e.*, from December 2, 2010 through March 8, 2011, inclusive), as well as the
23 dates, number of shares, and prices for each such purchase/acquisition and sale. Documentation
24 establishing membership in the Settlement Class must consist of copies of brokerage
25 confirmation slips or monthly brokerage account statements, or an authorized statement from the
26 objector’s broker containing the transactional and holding information found in a broker
27 confirmation slip or account statement. Objectors who enter an appearance and desire to present
28 evidence at the Settlement Hearing in support of their objection must include in their written

1 objection or notice of appearance the identity of any witnesses they may call to testify and any
2 exhibits they intend to introduce into evidence at the hearing.

3 21. Any Settlement Class Member who does not make his, her, or its objection in the
4 manner provided herein shall be deemed to have waived his, her, or its right to object to any
5 aspect of the proposed Settlement, the proposed Plan of Allocation, and Lead Counsel's motion
6 for an award of attorneys' fees and reimbursement of Litigation Expenses and shall be forever
7 barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of the
8 Settlement, the Plan of Allocation, or the requested attorneys' fees and Litigation Expenses, or
9 from otherwise being heard concerning the Settlement, the Plan of Allocation, or the requested
10 attorneys' fees and Litigation Expenses in this or any other proceeding.

11 22. **Stay and Temporary Injunction** – Until otherwise ordered by the Court, the
12 Court stays all proceedings in the Action other than proceedings necessary to carry out or
13 enforce the terms and conditions of the Stipulation. Pending final determination of whether the
14 Settlement should be approved, the Court bars and enjoins Plaintiff, and all other members of the
15 Settlement Class, from commencing, instituting, maintaining, prosecuting, or continuing to
16 prosecute any and all of the Released Plaintiffs' Claims against any of the Defendants or the
17 Defendants' Releasees.

18 23. **Settlement Fund** – The contents of the Settlement Fund held by the Escrow
19 Agent shall be deemed and considered to be *in custodia legis* of the Court, and shall remain
20 subject to the jurisdiction of the Court, until such time as they shall be distributed pursuant to the
21 Stipulation and/or further order(s) of the Court.

22 24. **Taxes** – Lead Counsel or their representatives are authorized and directed to
23 prepare any tax returns and any other tax reporting form for or in respect to the Settlement Fund,
24 to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund, and to
25 otherwise perform all obligations with respect to Taxes and any reporting or filings in respect
26 thereof without further order of the Court in a manner consistent with the provisions of the
27 Stipulation.

28

1 25. **Termination of Settlement** – If the Settlement is terminated as provided in the
2 Stipulation, the Settlement is not approved, or the Effective Date of the Settlement otherwise
3 fails to occur, this Order shall be vacated, rendered null and void, and be of no further force and
4 effect, except as otherwise provided by the Stipulation, and this Order shall be without prejudice
5 to the rights of Plaintiff, the other Settlement Class Members, and Defendants, and the Parties
6 shall revert to their respective positions in the Action as of July 8, 2020, as provided in the
7 Stipulation.

8 26. **Use of this Order** – Neither this Order, the Stipulation (whether or not
9 consummated), including the exhibits thereto and the Plan of Allocation contained therein (or
10 any other plan of allocation that may be approved by the Court), the negotiations leading to the
11 execution of the Stipulation, nor any proceedings taken or submissions made pursuant to or in
12 connection with the Stipulation and/or approval of the Settlement (including any arguments
13 proffered in connection therewith): (a) shall be offered against any of the Defendants or the
14 Defendants’ Releasees as evidence of, or construed as, or deemed to be evidence of any
15 presumption, concession, or admission by any of the Defendants or the Defendants’ Releasees
16 with respect to the truth of any fact alleged by Plaintiff or the validity of any claim that was or
17 could have been asserted or the deficiency of any defense that has been or could have been
18 asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other
19 wrongdoing of any kind of any of the Defendants or the Defendants’ Releasees or in any way
20 referred to for any other reason as against any of the Defendants or the Defendants’ Releasees, in
21 any arbitration proceeding or other civil, criminal, regulatory, administrative, or other action or
22 proceeding, other than such proceedings as may be necessary to effectuate the provisions of the
23 Stipulation; (b) shall be offered against Plaintiff or any of the Plaintiffs’ Releasees, as evidence
24 of, or construed as, or deemed to be evidence of any presumption, concession, or admission by
25 Plaintiff or any of the Plaintiffs’ Releasees that any of their claims are without merit, that any of
26 the Defendants or the Defendants’ Releasees had meritorious defenses, or that damages
27 recoverable under the Complaint would not have exceeded the Settlement Amount or with
28 respect to any liability, negligence, fault, or wrongdoing of any kind, or in any way referred to

1 for any other reason as against Plaintiffs or any of the Plaintiffs' Releasees, in any arbitration
2 proceeding or other civil, criminal, regulatory, administrative, or other action or proceeding,
3 other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;
4 or (c) shall be construed against any of the Releasees as an admission, concession, or
5 presumption that the consideration to be given under the Settlement represents the amount that
6 could be or would have been recovered after trial; provided, however, that if the Stipulation is
7 approved by the Court, the Parties and the Releasees and their respective counsel may refer to it
8 to effectuate the protections from liability granted thereunder or otherwise to enforce the terms of
9 the Settlement.

10 27. **Supporting Papers** – Lead Counsel shall file and serve the opening papers in
11 support of the proposed Settlement, the Plan of Allocation, and Lead Counsel's motion for an
12 award of attorneys' fees and reimbursement of Litigation Expenses no later than thirty-five (35)
13 calendar days prior to the Settlement Hearing; and reply papers, if any, shall be filed and served
14 no later than seven (7) calendar days prior to the Settlement Hearing.

15 28. The Court retains jurisdiction to consider all further applications arising out of or
16 connected with the proposed Settlement.

17 IT IS SO ORDERED.

18
19 DATED: _____

Honorable Edward J. Davila
United States District Judge

EXHIBIT A-1

Exhibit A-1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re FINISAR CORPORATION
SECURITIES LITIGATION

Case No. 5:11-CV-01252-EJD
CLASS ACTION

NOTICE OF (I) PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT; (II) SETTLEMENT HEARING; AND (III) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

Notice of Pendency of Class Action: Please be advised that your rights may be affected by the above-captioned securities fraud class action (the "Action") pending in the United States District Court for the Northern District of California (the "Court"), if you purchased or otherwise acquired the publicly traded common stock of Finisar Corporation (NASDAQ:FNSR) during the period from December 2, 2010 through March 8, 2011, inclusive (the "Class Period"), and were allegedly damaged thereby (the "Settlement Class").¹

Notice of Settlement: Please also be advised that the Court-appointed Lead Plaintiff, Oklahoma Firefighters Pension and Retirement System ("Lead Plaintiff"), on behalf of itself and the Settlement Class, have reached a proposed settlement of the Action for \$6,800,000 in cash that, if approved, will resolve all claims in the Action (the "Settlement").

PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have, including the possible receipt of payment from the Settlement. If you are a member of the Settlement Class, your legal rights will be affected whether or not you act.

- Lead Plaintiff claims that Defendants made materially false and misleading statements and omissions concerning Finisar's business operations and financial prospects. Lead Plaintiff and Lead Counsel have been investigating and litigating this Action since its filing in March 2011. The Settlement provides the Settlement Class with a cash benefit now, in lieu of engaging in years of further litigation – including a pending appeal, further contested motions, and a contested trial – with the risk of no recovery at all. Defendants, who deny all allegations of wrongdoing or liability whatsoever, are entering into the Settlement solely to eliminate the uncertainty, burden, and expense of further protracted litigation.
- Your recovery will depend on the number of shares of Finisar stock purchased during the Class Period, and the timing of your purchases and any sales. It will also depend on the number of valid Claim Forms that Settlement Class Members submit and the amount of such claims. Based on the

¹ All capitalized terms not defined in this Notice have the meanings provided in the Stipulation and Agreement of Settlement, dated as of _____, 2020 (the "Stipulation"), which can be viewed at www._____.com.

information currently available, it is estimated that if Settlement Class Members submit claims for 100% of the shares eligible for distribution under the Plan of Allocation (described below), the estimated average distribution will be approximately \$___ per share before deduction of Court-approved fees and expenses, including the cost of notifying Settlement Class Members and settlement administration, taxes, and any attorneys' fees and expenses awarded by the Court to Lead Counsel. Historically, actual claims rates are less than 100%, which may result in higher distributions per share. A Settlement Class Member's actual recovery will be a *pro rata* share of the Net Settlement Fund determined by that claimant's recognized claim as compared to the total recognized claims of all Settlement Class Members who submit valid Claim Forms. The Parties do not agree on the average amount of damages per share of Finisar common stock that would be recoverable if the Class Representative were to prevail in the action. Among other things, Defendants do not agree with the assertion that they violated the federal securities laws or that any members of the Class suffered damages as a result of their conduct.

- The Court-appointed Lead Counsel have not yet received any payment for their work incurred in investigating the facts, conducting this litigation and negotiating the Settlement on behalf of the Plaintiff and the Settlement Class. Lead Counsel intends to apply for an award of attorneys' fees not to exceed 25% of the total settlement funds, and reimbursement of additional expenses in the amount up to \$425,000. The request for expenses may include a request for reimbursement of the costs and expenses of Lead Plaintiff in accordance with 15 U.S.C. § 78u-4(a)(4) and award for representing the Settlement Class. If the above amount is requested and approved by the Court, the estimated average cost per eligible share of common stock will be approximately \$___ per share, if claims are submitted for 100% of the eligible shares of Finisar stock. In addition, the distribution will be reduced by Notice and Administration costs. Please note that these amounts are only estimates.
- The Court presiding over this case must decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and the time for any appeals has lapsed, or, if there are any appeals, after the appeals are resolved. Please be patient.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

Submit a Claim Form POSTMARKED NO LATER THAN _____, 2020	This is the only way to be eligible to receive a payment from the Settlement.
Exclude Yourself from the Class by submitting a written request for exclusion so that it is received NO LATER THAN _____, 2020	If you exclude yourself from the Settlement Class, you will not be eligible to receive any payment from the Settlement. This is the only option that allows you to participate in another lawsuit against the Defendants relating to the class claims being released in this case.
Object by submitting a written objection so that it is received NO LATER THAN _____, 2020	If you do not like the proposed Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and Litigation Expenses, you may write to the Court and explain why you do not like it/them.
Go to a Hearing ON _____, 2020 and file a notice of intention to appear so that it is received no later than _____	You may ask to speak in Court about the Settlement.
Do Nothing	Get no payment. Give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any judgments or orders entered by the Court in the Action.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATIONPAGE _

- 1. Why did I get this notice package?
- 2. What is this lawsuit about?
- 3. Why is this a class action?
- 4. What are Plaintiff’s reasons for settlement?

WHO IS IN THE SETTLEMENT.....PAGE _

- 5. How do I know if I am part of the Settlement?
- 6. Are there exceptions to being included?
- 7. I’m still not sure if I am included.

THE SETTLEMENT BENEFITS—WHAT YOU GET.....PAGE _

- 8. What does the Settlement provide?
- 9. How much will my payment be? Understanding your payment.

HOW YOU GET A PAYMENT—SUBMITTING A CLAIM FORMPAGE _

- 10. How can I get a payment?
- 11. When would I get my payment?
- 12. What am I giving up to get a payment or stay in the Class?

EXCLUDING YOURSELF FROM THE SETTLEMENT.....PAGE _

- 13. How do I get out of the Settlement?
- 14. If I don’t exclude myself, can I sue Defendants for the same thing later?
- 15. If I exclude myself, can I get money from this Settlement?

THE LAWYERS REPRESENTING YOU.....PAGE _

- 16. Do I have a lawyer in the case?
- 17. How will the lawyers be paid?

OBJECTING TO THE SETTLEMENT.....PAGE _

- 18. How do I tell the Court that I don’t like the Settlement?
- 19. What’s the difference between objecting and excluding?

THE COURT’S SETTLEMENT HEARING.....PAGE _

- 20. When and where will the Court decide whether to approve the Settlement?
- 21. Do I have to come to the hearing?
- 22. May I speak at the hearing?

IF YOU DO NOTHING.....PAGE _

- 23. What happens if I do nothing at all?

GETTING MORE INFORMATION.....PAGE _

- 24. Are there more details about the Settlement?
- 25. How do I get more information?

BASIC INFORMATION

1. Why did I get this notice package?

The Court authorized this to be sent to you because you, or someone in your family or on your behalf, may have purchased or acquired Finisar stock from December 2, 2010 through March 8, 2011, inclusive.

This Notice was sent 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 the Settlement 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 this Action is the United States District Court for the Northern District of California, and the case is known as *In re Finisar Corporation Securities Litigation*, Case No. 5:11-CV-01252-EJD. The Action is assigned to the Honorable Edward J. Davila, United States District Judge. The entity that leads the Action is Oklahoma Firefighters Pension and Retirement System, the Court-appointed "Lead Plaintiff," and the companies and individuals it sued are called Defendants.

2. What is this lawsuit about?

This is a securities fraud class action alleging violations of Sections 10(b) and 20(a) of the Securities and Exchange Act of 1934, and Rule 10b-5 promulgated thereunder, against Defendants for making allegedly false and misleading statements or omissions of material facts regarding Finisar's business operations and financial prospects. Lead Plaintiff asserts that as a result of Defendants' allegedly false and misleading statements Finisar's stock was artificially and improperly inflated, and that Settlement Class Members overpaid for Finisar stock purchased during the Class Period. Defendants have denied and continue to deny all of the allegations and that they did anything wrong.

3. Why is this a class action?

Class actions are generally used in lawsuits that affect a large number of individuals; in effect, the class action operates to consolidate into a single action all of the claims of individuals allegedly harmed by the same conduct or course of conduct, thus alleviating the need for Members of the Class to file their own individual lawsuits to recover for the harm alleged. Judge Edward J. Davila is the judge for this class action.

4. What are Plaintiff's reasons for settlement?

Lead Plaintiff and Lead Counsel have been diligently investigating and litigating this action against Defendants since it was filed in March 2011 and believe that the claims asserted against Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against Defendants through a pending appeal and then trial, as well as the substantial risks they would face in establishing liability and damages. In prosecuting this Action, Lead Plaintiff and Lead Counsel have gained a thorough understanding of the risks and merits of continued litigation,

through, for example, investigating and filing three amended complaints, opposing three motions to dismiss filed by Defendants, successfully briefing and arguing to the United States Court of Appeals for the Ninth Circuit (the “Ninth Circuit”) for reversing the Court’s dismissal of the first amended complaint, and following the Ninth Circuit’s ruling and returning the case to the Court, serving discovery and reviewing documents produced by Defendants and conducting depositions, and litigating class certification issues.

In particular, Lead Plaintiff and Defendants disagree as to whether Plaintiff and the Class can rely on the fraud-on-the-market presumption of reliance on Defendants’ allegedly false and misleading statements. On May 24, 2019, the Court, siding with Defendants, ruled that the fraud-on-the-market presumption had been rebutted and dismissed the Action and then entered judgment on the pleadings against Lead Plaintiff. Lead Plaintiff again filed an appeal to the Ninth Circuit. Under the order and purview of the Ninth Circuit Mediation Program, Lead Plaintiff and Defendants held private mediation discussions with Mediator Michelle Yoshida of Phillips ADR, which facilitated additional exchanges of information and arms’-length negotiations as to the strengths, weaknesses, and risks of obtaining a successful appeal and further litigation of this Action faced by both Lead Plaintiff and Defendants, and the Parties reached an agreement to settle the Action.

In light of these risks, the uncertainty and the amount of the recovery for the Settlement Class, Lead Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable and adequate, and in the best interests of the Settlement Class. Lead Plaintiff and Lead Counsel believe that the Settlement provides a substantial benefit to the Settlement Class, as compared to the risk that the claims in the Action against the Defendants might produce a smaller recovery or no recovery at all.

Defendants have denied the claims asserted against them in the Action and deny having engaged in any wrongdoing or violation of law of any kind whatsoever and deny that any class member is entitled to damages. Defendants have agreed to the Settlement solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlement may not be construed as an admission by the Defendants of any wrongdoing, liability, loss causation or measure of damages.

WHO IS IN THE SETTLEMENT

5. How do I know if I am part of the Settlement?

To see if you will receive money from this Settlement, you first have to determine if you are a Settlement Class Member. Except for certain exclusions listed below, the Settlement Class includes all persons and entities who purchased or otherwise acquired the common stock of Finisar from December 2, 2010 through March 8, 2011, inclusive (the “Class Period”), and who were allegedly damaged thereby.

6. Are there exceptions to being included?

Excluded from the Settlement Class are: (i) Defendants; (ii) any person who was an officer or director of Finisar during the Class Period; (iii) the Immediate Family Members of all individual persons excluded in (i) or (ii); (iv) the parents, subsidiaries, and affiliates of Finisar; (v) any entity in which any person or entity excluded in (i), (ii), (iii) or (iv) has, or had during the Class Period, a controlling interest; and (vi) the legal representatives, heirs, affiliates, successors, or assigns of any such excluded person or entity.

Also excluded from the Settlement Class are any persons or entities who exclude themselves by submitting a request for exclusion in accordance with the requirements set forth in this Notice.

7. I'm still not sure if I am included?

If you are still not sure whether you are included, you can ask for free help. For more information, you can contact the Claims Administrator, _____, by email to _____, or telephone at _____, or visit the web site at _____. Filling out the claim form described in question 10 also will tell you whether you qualify.

THE SETTLEMENT BENEFITS — WHAT YOU GET

8. What does the Settlement provide?

The Settlement will result in a fund of \$6,800,000 in cash (the “Settlement Fund”). The Settlement Fund, less costs, fees, taxes, and expenses (the “Net Settlement Fund”), will be divided among all eligible Settlement Class Members who send in valid Proofs of Claim (“Authorized Claimants”). Costs, fees, and expenses include Court-approved attorneys’ fees and expenses, the costs of notifying Settlement Class Members, including the costs of printing and mailing this Notice and Claim Form; the cost of publishing notice; the costs of claims administration; and taxes on the Settlement Fund. Settlement Class Members who do not timely submit valid Proofs of Claim will not share in the Settlement proceeds, but will otherwise be bound by the terms of the Settlement.

9. How much will my payment be? Understanding your payment.

Your share of the Net Settlement Fund, if any, will depend on the number of valid claim forms that Class Members send in and the number of shares of Finisar common stock you purchased during the relevant period and when you bought and sold them. The Net Settlement Fund will be distributed to Authorized Claimants – *i.e.*, members of the Settlement Class who timely submit valid Proofs of Claim that show a Recognized Loss and are approved by the Court.

PLAN OF ALLOCATION

The objective of this Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants who suffered economic losses as a result of the alleged violations of the federal securities laws during the Class Period (December 2, 2010 through March 8, 2011). To design this Plan, Lead Counsel has conferred with their economics consultants. This Plan is intended to be generally consistent with an assessment of, among other things, the damages that Lead Counsel and Lead Plaintiff believe were recoverable in the Action. The Plan of Allocation, however, is not a formal damages analysis and the calculations made pursuant to the Plan are not intended to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been able to recover after a trial. An individual Settlement Class Member’s recovery will depend on, for example (i) the total number and value of claims submitted; (ii) when the Settlement Class Member purchased or acquired Finisar publicly traded common stock; and (iii) whether and when the Settlement Class Member sold his, her, or its shares of Finisar stock.

This Plan of Allocation generally measures the amount of loss that a Settlement Class Member can claim for purposes of making *pro rata* allocations of the Net Settlement Fund to Authorized Claimants. For losses to be compensable damages under the federal securities laws, the disclosure of the allegedly misrepresented information must be the cause of the decline in the price of Finisar common stock. In this case, Class Representatives allege that Defendants issued false statements and omitted material facts from December 2, 2010 through the close of the market on March 8, 2011, inclusive (the “Class Period”), which artificially inflated the price of Finisar common stock. It is alleged that the corrective information released to the market on March 8, 2011 (after market close) impacted the market price of Finisar common stock in a statistically significant manner and removed the alleged artificial inflation from the prices of the common stock on March 9, 2011. Accordingly, in order to have a compensable loss, Finisar common stock must have been purchased or otherwise acquired during the Class Period and held through the alleged corrective disclosures.

Because the Net Settlement Fund is less than the total losses alleged to be suffered by Settlement Class Members, the formulas described below for calculating Recognized Losses are not intended to estimate the amount that will actually be paid to Authorized Claimants. Rather, these formulas provide the basis on which the Net Settlement Fund will be distributed among Authorized Claimants on a *pro rata* basis. An Authorized Claimant’s “Recognized Claim” shall be the amount used to calculate the Authorized Claimant’s *pro rata* share of the Net Settlement Fund. The *pro rata* share shall be the Authorized Claimant’s Recognized Claim divided by the total of the Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

Calculation of Recognized Loss

For each share of Finisar publicly traded common stock purchased or acquired from December 2, 2010 through March 8, 2011, inclusive, and:

- a. sold before March 9, 2011, the Recognized Loss per share is zero;
- b. sold from March 9, 2011 through and including the close of trading on June 7, 2011, the Recognized Loss per share is the least of:
 - i. \$10.84 per share; or
 - ii. the purchase price per share minus the sales price per share; or
 - iii. the difference between the purchase price per share and the average closing price between March 9, 2011 and the date of the sale.²
- c. held as of the close of trading on June 7, 2011, the Recognized Loss per share is the lesser of:
 - i. \$10.84 per share; or
 - ii. the difference between the purchase price per share and \$24.12 per share.³

² Pursuant to Section 21(D)(e)(2) of the Private Securities Litigation Reform Act of 1995 (the “PSLRA”), “in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90-day period [], the plaintiff’s damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the mean trading price of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security.”

³ Pursuant to Section 21(D)(e)(1) of the PSLRA, “in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the

If a Class Member held Finisar common stock at the beginning of the Class Period or made multiple purchases, acquisitions or sales of eligible Spectrum securities during or after the Class Period, the starting point for calculating a claimant's Recognized Loss is to match the claimant's holdings, purchases and acquisitions to their sales using the FIFO (*i.e.*, first-in-first-out) method. Under the FIFO method, Finisar common stock sold during the Class Period will be matched, in chronological order, first against eligible securities held at the beginning of the Class Period. The remaining sales of eligible securities during the Class Period will then be matched, in chronological order, against eligible securities purchased or acquired during the Class Period.

Purchases or acquisitions and sales of Finisar shares shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date. The receipt or grant by gift, inheritance, or operation of law of shares during the Class Period shall not be deemed a purchase, acquisition, or sale of shares for the calculation of a Recognized Claim, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of such shares unless (i) the donor or decedent purchased or otherwise acquired such shares during the Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such shares; and (iii) it is specifically so provided in the instrument of gift or assignment.

The Net Settlement Fund will be allocated among all Authorized Claimants whose prorated payment is \$20.00 or greater. If the prorated payment to any Authorized Claimant calculates to less than \$20.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

Payment according to this Plan of Allocation will be deemed conclusive against all Authorized Claimants. Recognized Claims will be calculated as defined herein by the Claims Administrator and cannot be less than zero.

Distributions to Authorized Claimants will be made after all claims have been processed and after the Court has approved the Claims Administrator's determinations. After an initial distribution of the Net Settlement Fund, if there is any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise) after at least 90 days from the date of initial distribution of the Net Settlement Fund, Lead Counsel shall, if feasible and economical, redistribute such balance among Authorized Claimants who have cashed their checks in an equitable and economic fashion. Any balance that still remains in the Net Settlement Fund after re-distribution(s), which is not feasible or economical to reallocate, after payment of Notice and Administration Expenses, Taxes, and attorneys' fees and expenses, shall be contributed to nonsectarian, not-for-profit charitable organization(s) serving the public interest, designated by Lead Plaintiff and approved by the Court.

Payment pursuant to the Plan of Allocation or such other plan as may be approved by the Court shall be conclusive against all Authorized Claimants. No person shall have any claim against Lead Plaintiff, Lead Counsel, their damages consultants, Claims Administrator, or other agent designated by Lead Counsel, arising from determinations or distributions to claimants made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court. Lead

difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." The mean (average) closing trading price of Finisar common stock during the 90-day period from March 13, 2011 through June 7, 2011 was \$24.12.

Plaintiff, Defendants, their respective counsel, and all other Released Parties shall have no responsibility for or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any Claim Form or non-performance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund, or any losses incurred in connection therewith.

Each claimant is deemed to have submitted to the jurisdiction of the United States District Court for the Northern District of California with respect to his, her, or its claim.

The Court may approve this Plan of Allocation (“Plan of Allocation” or “Plan”), or modify it, without additional notice to the Settlement Class. Any order modifying the Plan of Allocation will be posted on the settlement website at: www._____.com.

HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM

10. How can I get a payment?

In order to qualify for payment, subject to the Plan of Allocation, you must be an eligible Settlement Class Member and send in a valid Claim Form, and properly document your claim as requested in the Claim Form. A Claim Form is enclosed with this Notice. Read the instructions carefully, fill out the Claim Form, include the documents the form asks for, sign it, and mail (post-marked) no later than _____, 2020.

11. When would I get my payment?

The Court will hold a Settlement Hearing on _____, 2020, at _____ .m., to decide whether to approve the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain when appeals will 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?

If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you will be bound by any orders issued by the Court. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). The Judgment will dismiss with prejudice the claims against Defendants and will provide that, upon the Effective Date of the Settlement, Plaintiff and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such only, and on behalf of any other person or entity legally entitled to bring Released Plaintiffs’ Claims (as defined below) on behalf of the respective Settlement Class Member in such capacity only, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs’ Claim against Defendants and the Defendants’ Releasees (as defined below), and shall forever be barred and enjoined from commencing, instituting, maintaining, prosecuting, or continuing to prosecute any or all of the Released Plaintiffs’ Claims against any of the Defendants or the Defendants’ Releasees. This Release shall not apply to any Excluded Plaintiffs’ Claims.

“Released Plaintiffs’ Claims” means any and all claims, debts, demands, rights, and causes of action of every nature and description (including, but not limited to, any claims for damages, interest, attorney’s fees, expert, or consulting fees, and any other costs, expenses, or liability whatsoever), whether known claims or Unknown Claims, whether arising under federal, state, common, or foreign law or any other law, rule, or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or unliquidated, at law or in equity, matured or un-matured, whether class or individual in nature, that Plaintiffs or any other member of the Settlement Class: (i) asserted in the Complaint (and the prior complaints filed in this action), or (ii) could have asserted in any forum that concern, arise out of, relate to, involve, or are based upon any of the allegations, circumstances, events, transactions, facts, matters, representations, or omissions involved, set forth, or referred to in the Complaint (and prior complaints) and that relate to the purchase, acquisition, beneficial interest or ownership of Finisar stock during the Class Period. Released Plaintiffs’ Claims do not include: (i) any claims relating to the enforcement of the Settlement; or (ii) any claims of any person or entity who submits a request for exclusion that is accepted by the Court (“Excluded Plaintiffs’ Claims”).

“Defendants’ Releasees” means Defendants, together with their past, present, or future affiliates, divisions, joint ventures, assigns, assignees, direct or indirect parents or subsidiaries, controlling shareholders, successors, predecessors, and entities in which a Defendant has a controlling interest, and each of their past, present, or future officers, directors, agents, employees, partners, attorneys, controlling shareholders, advisors, investment advisors, auditors, accountants, insurers (including reinsurers and co-insurers), and Immediate Family Members, and the legal representatives, heirs, successors in interest, or assigns of any of the foregoing.

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

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

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

The Judgment will also provide that, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such only, and on behalf of any other person or entity legally entitled to bring Released Defendants’ Claims (as defined below) on behalf of the respective Defendant in such capacity only, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Defendants’ Claim against Plaintiffs and the other Plaintiffs’ Releasees (as defined below), and

shall forever be barred and enjoined from commencing, instituting, maintaining, prosecuting, or continuing to prosecute any or all of the Released Defendants' Claims against Plaintiffs or any of the other Plaintiffs' Releasees.

"Released Defendants' Claims" means any and all claims, debts, demands, rights, and causes of action of every nature and description (including, but not limited to, any claims for damages, interest, attorney's fees, expert, or consulting fees, and any other costs, expenses, or liability whatsoever), whether known claims or Unknown Claims, whether arising under federal, state, common, or foreign law or any other law, rule, or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or unliquidated, at law or in equity, matured or un-matured, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims asserted in the Action against Defendants. Released Defendants' Claims do not include: (i) any claims relating to the enforcement of the Settlement; or (ii) any claims against any person or entity who submits a request for exclusion from the Settlement Class that is accepted by the Court ("Excluded Defendants' Claims").

"Plaintiffs' Releasees" means Lead Plaintiff, all other Settlement Class Members, and their respective attorneys, together with their past, present, or future affiliates, divisions, joint ventures, assigns, assignees, direct or indirect parents or subsidiaries, controlling shareholders, successors, predecessors, and entities in which a Settlement Class Member has a controlling interest, and each of their past, present, or future officers, directors, agents, employees, partners, attorneys, controlling shareholders, members, trusts, trustees, advisors, investment advisors, auditors, accountants, insurers (including reinsurers and co-insurers), and Immediate Family Members, and the legal representatives, heirs, successors in interest, or assigns of any of the foregoing.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How do I get out of the settlement?

If you do not want a payment from this Settlement, but you want to keep the right to attempt to sue or continue to sue Defendants on your own for the Released Claims in this case, then you must take steps to get out of the Settlement Class. This is called excluding yourself or is sometimes referred to as opting out of the Settlement Class. **Please note: if you decide to exclude yourself because you want to bring your own lawsuit to pursue claims alleged in the Action, you should consult with your own attorney to discuss whether your individual claim would be time-barred by the applicable statutes of limitations or repose.**

To exclude yourself from the Settlement Class, you must send a letter by mail stating that you "request exclusion from the Settlement Class in *In re Finisar Corporation Securities Litigation*, Case No. 5:11-CV-01252-EJD." You must include your name, address, telephone number, your signature, the number of shares of Finisar stock you owned as of the opening of trading on December 2, 2010, the number of shares of Finisar stock you purchased during the Class Period (*i.e.*, December 2, 2010 through March 8, 2011, inclusive), the dates of such purchases, the prices paid per share for each purchase, and any sales. You must mail your exclusion request postmarked no later than _____, 2020, to the Claims Administrator at:

Finisar Securities Litigation – EXCLUSIONS c/o Claims Admin
Address
City, State, Zip

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

14. If I don't exclude myself, can I sue Defendants for the same thing later?

No. Unless you timely and validly exclude yourself, you give up any right to sue any Defendants or the Released Parties for the Released Claims in this Settlement. Remember, the exclusion deadline is _____, 2020.

15. If I exclude myself, can I get money from this Settlement?

No. If you exclude yourself, you will not receive any money from the Settlement, and you should not send in a Claim Form.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

The Court appointed the law firm of Abraham, Fruchter & Twersky, LLP to represent you and other Settlement Class Members. These lawyers are called Lead Counsel or Class Counsel. You will not be personally liable for the fees and expenses incurred by 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 Counsel will ask the Court for an award of attorneys' fees not to exceed 25% of the Settlement funds, and reimbursement of up to \$425,000 for incurred litigation expenses. The request for litigation expenses may include a request for reimbursement of the costs and expenses of Lead Plaintiff in accordance with 15 U.S.C. § 78u-4(a)(4), and award for representing the Settlement Class. Such fees and expenses as may be approved by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees and expenses.

The attorneys' fees awarded will be the only payment to Lead Counsel for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis. Lead Counsel has not been paid for their services in conducting this litigation on behalf of Lead Plaintiff and the Settlement Class. The fees requested will compensate Lead Counsel for their work in achieving the Settlement Fund. The Court determines what counsel should receive from the Settlement Fund for fees and expenses, and may award less than this amount.

OBJECTING TO THE SETTLEMENT

18. How do I tell the Court that I don't like the Settlement?

If you are a Settlement Class Member (and you have not excluded yourself), you can object to the Settlement if you do not like any part of it, including the Plan of Allocation and the request for attorneys' fees and expenses. You can state the reasons why you think the Court should not approve it, and the Court will consider your views. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

To object, you must file an objection, including any papers and briefs, with the Clerk of the United States District Court for the Northern District of California, Robert F. Peckham Federal Building & United States Courthouse, 280 South 1st Street, Room 2112, San Jose, CA 95113 on or before _____, 2020. The objection must state the reasons you object to the Settlement in *In re Finisar Corporation Securities Litigation*, Case No. 5:11-CV-01252-EJD, and you must your name, address, telephone number, your signature, the number of shares of Finisar stock you owned as of the opening of trading on December 2, 2010, the number of shares of Finisar stock you purchased during the Class Period (i.e., December 2, 2010 through March 8, 2011, inclusive), the dates of such purchases, the prices paid per share for each purchase, and any sales (along with documentation establishing membership in the Settlement Class). Any objection must be also be mailed or delivered such that it is received by all of the following no later than _____, 2020:

Lead Counsel	Claims Administrator	Defendants' Counsel
Takeo Kellar, Esq. Ian Berg, Esq. ABRAHAM, FRUCHTER & TWERSKY LLP 11622 El Camino Real, Ste. 100 San Diego, CA 92130		Shirli Fabbri Weiss, Esq. David Priebe, Esq. DLA PIPER LLP (US) 2000 University Avenue East Palo Alto, CA 94303

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 Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you. To be clear, if you exclude yourself, you should not also file an objection to the settlement.

If you file an objection to the Settlement but fail to timely the enclosed Claim Form described in Question 10, you may be deemed to have release all of the Released Claims against Defendants as set forth in Question 14 above but will receive no proceeds under the Settlement.

THE COURT'S SETTLEMENT HEARING

20. When and where will the Court decide whether to approve the Settlement?

The Court will hold a hearing to decide whether to approve the Settlement (the "Settlement Hearing"). You may attend and you may ask to speak, but you do not have to. The Court will hold a **hearing at ____ m., on _____, 2020**, at United States District Court for the Northern District of California, Robert F. Peckham Federal Building & United States Courthouse, 280 South 1st Street, Courtroom 4, 5th Floor, San Jose, CA 95113.

At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also consider how much of a fee and expense award to grant Lead Counsel and whether the Plan of Allocation is fair, reasonable, and adequate. The Court may decide these issues at the hearing or take them under consideration for a later decision. We do not know how long these decisions will take.

Please note that the date of the Settlement Hearing may change without further formal notice. Therefore, Settlement Class Members who intend to appear at the hearing as discussed in Item 22 below should access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or check the settlement website, _____, to confirm that the date has not been changed.

21. Do I have to come to the hearing?

No. Lead Counsel will answer any questions Judge Edward J. Davila 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?

Only Settlement Class Members who have filed and delivered valid and timely written notices of objection and requested an opportunity to speak will be entitled to be heard at the hearing on _____, 2020. To do so, you must send a letter saying that it is your intention to appear at the Settlement Hearing in *In re Finisar Corporation Securities Litigation*, Case No. 5:11-CV-01252-EJD. Be sure to include your name, address, telephone number, your signature, the number of shares of Finisar stock you owned as of the opening of trading on December 2, 2010, the number of shares of Finisar stock you purchased during the Class Period (i.e., December 2, 2010 through March 8, 2011, inclusive), the dates of such purchases, the prices paid per share for each purchase, and any sales. If you intend to call any witnesses to testify or introduce any exhibits into evidence at the Settlement Hearing, you must also identify them in the letter. Your notice of intention to appear must be received no later than _____, 2020, the Clerk of the United States District Court for the Northern District of California, Robert F. Peckham Federal Building & United States Courthouse, 280 South 1st Street,

Room 2112, San Jose, CA 95113, and the Parties' counsel at the addresses listed in Question 18. You cannot speak at the hearing if you exclude yourself from the Settlement Class.

IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, you will be a Settlement Class Member. But you will not receive any money from this Settlement unless you submit a Claim Form. 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 Defendants about the Release Claims in this case.

GETTING MORE INFORMATION

24. Are there more details about the settlement?

This Notice contains only a summary of the terms of the proposed Settlement. For more detailed information about matters involved in this Action, you may visit the website, _____, where you can access copies of the Stipulation, the Complaint, and any related orders entered by the Court. Alternatively, you may access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, 2nd floor, San Jose, CA 95113, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

All inquiries concerning this Notice and the Claim Form should be directed to:

Claims Administrator:

Finisar Securities Litigation
c/o Claims Admin
address _____
city, state zip _____
Telephone: 1- _____
www. _____ .com
_____ @ _____ .com

Lead Counsel:

Ian Berg, Esq. (iberg@aftlaw.com)
Takeo Kellar, Esq. (tkellar@aftlaw.com)
ABRAHAM FRUCHTER & TWERSKY LLP
11622 El Camino Real, Suite 100
San Diego, CA 92130
Telephone: (858) 764-2580

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

Dated: _____

By Order of the Court
United States District Court
Northern District of California

SPECIAL NOTICE TO BANKS, BROKERS, AND OTHER NOMINEES

The Court has ordered that if you hold or held any Finisar stock purchased or acquired between December 2, 2010 and March 8, 2011, inclusive, as nominee for a beneficial owner, then, **WITHIN SEVEN (7) CALENDAR DAYS** after you receive this Notice, you must either: (1) send a copy of this Notice by first class mail to all such Persons; or (2) provide a list of the names and addresses of such persons to the Claims Administrator (send email to _____@_____.com or see Answer to Question 24 for additional contact information).

If you choose to mail the Notice and Claim Form yourself, you may obtain from the Claims Administrator as many additional copies of these documents as you will need to complete the mailing. If you do not intend to comply with the provision of this section, you are requested to notify the Claims Administrator of that fact. Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for reasonable administrative costs actually 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.

EXHIBIT A-2

**Finisar Securities Litigation
c/o [CLAIMS ADMIN]
ADDRESS
City, State Zip
Toll-Free Number:
Email:
Website:**

PROOF OF CLAIM AND RELEASE FORM

Deadline for Submission: _____

GENERAL INSTRUCTIONS

1. IF YOU PURCHASED OR OTHERWISE ACQUIRED FINISAR CORPORATION (“FINISAR”) COMMON STOCK (NASDAQ:FNSR) BETWEEN DECEMBER 2, 2010 AND MARCH 8, 2011, INCLUSIVE, YOU ARE A “SETTLEMENT CLASS MEMBER” AND YOU MAY BE ENTITLED TO SHARE IN THE NET SETTLEMENT FUND.

2. To recover as a Settlement Class Member based on your claim against Defendants in the action entitled *In re Finisar Corporation Securities Litigation*, Case No. 5:11-CV-01252-EJD (the “Action”), pending in the United States District Court for the Northern District of California, you must complete, sign and return this Proof of Claim and Release Form (“Proof of Claim”). If you fail to file a proper a properly addressed (as set forth in paragraph 4 below) Proof of Claim, your claim may be rejected and you may be precluded from any recovery from the Net Settlement Fund created in connection with the proposed Settlement of the Action. All capitalized terms herein have the same definitions as in the Stipulation and Agreement of Settlement filed with the Court on _____ (the “Stipulation”), a copy of which is available on the Claims Administrator’s website available at www._____com.

3. Submission of this Proof of Claim, however, does not assure that you will share in the proceeds of the Settlement.

4. YOU MUST MAIL YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE POSTMARKED ON OR BEFORE _____, 2020, ADDRESSED AS FOLLOWS:

Finisar Securities Litigation Settlement
c/o CLAIMS ADMIN
Address
City, State Zip

5. If you are NOT a Settlement Class Member, DO NOT submit a Proof of Claim.

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

CLAIMANT IDENTIFICATION

1. If you purchased Finisar Corporation (FNSR) common stock and held the certificate(s) in your name, you are the beneficial purchaser as well as the record holder. If, however, the certificate(s) were registered in the name of a third party, such as a brokerage firm or other nominee, you are the beneficial owner and the third party is the record holder.

Exhibit A-2

2. Use Part I of this form entitled “Claimant Identification” to identify each holder of record (“nominee”) if different from the beneficial owner of Finisar Corporation (FNSR) common stock that forms the basis of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER(S), OR A PERSON AUTHORIZED TO ACT ON BEHALF OF SUCH OWNER(S) OF THE FINISAR CORPORATION (FNSR) COMMON STOCK UPON WHICH THIS CLAIM IS BASED.**

3. All joint owners (or a Person authorized to act on the owner’s behalf) must sign this claim. Executors, administrators, guardians, conservators or trustees must complete and sign this claim on behalf of Persons represented by them and evidence of 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.

CLAIM FORM

1. Use Part II of this form below entitled “Schedule of Transactions in Finisar Common Stock” to supply all required details of your transaction(s) in Finisar common stock. 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/acquisitions and sales of Finisar common stock, whether such transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.

3. List each requested transaction 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. If you require additional space, attach extra schedules in the same format. Sign and print your name on each additional page.

4. Broker confirmations or other documentation of your transactions in Finisar common stock 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. The Claims Administrator may request additional information as required to efficiently and reliably calculate the amount of your claim. In some cases where the Claims Administrator cannot perform the calculation accurately or at a reasonable cost to the Settlement Class with the information provided, the Claims Administrator may condition acceptance of the claim upon the production of additional information that it may, in its discretion, require to process the claim.

NOTICE REGARDING ELECTRONIC FILES: Certain Claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. All Claimants **MUST** submit a manually signed paper Proof of Claim listing all their transactions whether or not they also submit electronic copies. If you wish to file your claim electronically, you must contact the Claims Administrator at _____ or visit their website at www._____.com to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the Claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

PART I: CLAIMANT IDENTIFICATION

(Please Print or Type)

Beneficial Owner Name (*First, Middle, Last*)

Co-Beneficial Owner Name (*First, Middle, Last*)

Entity Name (*if Beneficial Owner is not an individual*)

Representative or Custodian Name (*if different from Beneficial Owner(s) listed above*)

Address 1 (street name and number)

Address 2 (apartment, unit or box number)

City

State

Zip Code

Foreign Province, Foreign Country

Account #/Fund# (*not necessary for individual filers*)

Last 4 Digits of Social Security Number (for individuals) or Taxpayer Identification Number (for estates, trusts, corporations, etc.)

Primary Daytime Telephone Number (with Area Code)

Alternative Telephone Number (with Area Code)

Email Address

Claimant Account Type (check appropriate box):

- Individual (includes joint owner accounts) Pension Plan Trust Corporation Estate
 IRA/401K Other _____ (please specify)

Exhibit A-2

PART II: SCHEDULE OF TRANSACTIONS IN FINISAR (FNSR) COMMON STOCK

- A) **BEGINNING HOLDINGS** – State the number of shares of Finisar common stock held at the beginning of trading on December 2, 2010 (Must be documented): _____
- B) **PURCHASES/ACQUISITIONS DURING CLASS PERIOD** – Separately list each and every purchase or acquisition of Finisar common stock from the opening of trading on December 2, 2010 through and including the close of trading on March 8, 2011 (Must be documented):

Trade Date Month/Day/Year (List Chronologically)	Number of Shares Purchased	Purchase Price Per Share	Total Cost (excluding Commissions, Taxes, and Fees)
1.			
2.			
3.			

- C) **PURCHASES/ACQUISITIONS DURING “PSLRA 90-Day Lookback Period”** – State the total number of shares of Finisar common stock you purchased/acquired from March 9, 2011 through June 7, 2011¹ (Must be documented): _____
- D) **SALES** – Separately list each and every sale/disposition of Finisar common stock from after the opening of trading on December 2, 2011 through and including the close of trading on June 7, 2011 (Must be documented):

Trade Date Month/Day/Year (List Chronologically)	Number of Shares Sold	Sales Price Per Share	Total Sales Price
1.			
2.			
3.			

- E) **ENDING HOLDINGS** – State the total number of shares of Finisar common stock held as of the close of trading on June 7, 2011 (end of PSLRA 90- Day Lookback Period): _____

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

¹ **Please note:** Information requested with respect to your purchases/acquisitions of Finisar common stock from March 9, 2011 through June 7, 2011 is needed in order for the Claims Administrator to balance your claim; purchases during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Claim pursuant to the Plan of Allocation set forth in the Notice.

PART III: RELEASE OF CLAIMS AND SIGNATURE

YOU MUST ALSO READ THE RELEASE AND CERTIFICATION BELOW AND SIGN ON PAGE 6 OF THIS CLAIM FORM.

I (we) hereby acknowledge that, pursuant to the terms set forth in the Stipulation, without further action by anyone, upon the Effective Date of the Settlement, I (we), on behalf of myself (ourselves) and my (our) heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such only, and on behalf of any other person or entity legally entitled to bring Released Plaintiffs' Claims on my (our) behalf in such capacity only, shall be deemed to have, and by operation of law and of the judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim against Defendants and the Defendants' Releasees, and shall forever be barred and enjoined from commencing, instituting, maintaining, prosecuting, or continuing to prosecute any or all of the Released Plaintiffs' Claims against any of the Defendants or the Defendants' Releasees.

CERTIFICATION

By signing and submitting this Claim Form, the claimant(s) or the person(s) who represent(s) the claimant(s) agree(s) to the release above and certifies (certify) as follows:

1. that I (we) have read and understand the contents of the Notice and this Claim Form, including the releases provided for in the Settlement and the terms of the Plan of Allocation;
2. that the claimant(s) is a (are) Settlement Class Member(s), as defined in the Notice, and is (are) not excluded by definition from the Settlement Class as set forth in the Notice;
3. that the claimant has not submitted a request for exclusion from the Settlement Class;
4. that I (we) own(ed) the Finisar common stock identified in the Claim Form and have not assigned the claim against Defendants or any of the Defendants' Releasees to another, or that, in signing and submitting this Claim Form, I (we) have the authority to act on behalf of the owner(s) thereof;
5. that the claimant(s) has (have) not submitted any other claim covering the same purchases/acquisitions of Finisar common stock and knows (know) of no other person having done so on the claimant's (claimants') behalf;
6. that the claimant(s) submit(s) to the jurisdiction of the Court with respect to claimant's (claimants') claim and for purposes of enforcing the releases set forth herein;
7. that I (we) agree to furnish such additional information with respect to this Claim Form as Class Counsel, the Claims Administrator, or the Court may require;
8. that the claimant(s) waive(s) the right to trial by jury, to the extent it exists, agree(s) to the determination by the Court of the validity or amount of this Claim, and waives any right of appeal or review with respect to such determination; and
9. that I (we) acknowledge that the claimant(s) will be bound by and subject to the terms of any judgment(s) that may be entered in the Action.

Exhibit A-2

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS CLAIM FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT THE DOCUMENTS SUBMITTED HERewith ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.

Signature of claimant

Date

Print claimant name here

Signature of joint claimant, if any

Date

Print joint claimant name here

If the claimant is other than an individual, or is not the person completing this form, the following must be provided:

Signature of person signing on behalf of claimant

Date

Print name of person signing on behalf of claimant here

Capacity of person signing on behalf of claimant, if other than an individual, *e.g.*, executor, president, trustee, custodian, etc. (Must provide evidence of authority to act on behalf of claimant).

SUBSTITUTE FORM W-9

Request for Taxpayer Identification Number (“TIN”) and Certification

PART I

Name: _____

Check appropriate box:

Individual/Sole Proprietor Corporation Partnership Pension Plan

IRA Trust

Other (specify) _____

Enter TIN on appropriate line. For individuals, this is your Social Security Number (“SSN”). For sole proprietors, you must show your individual name, but you may also enter your business or “doing business as” name. You may enter either your SSN or your Employer Identification Number (“EIN”). For other entities, it is your EIN.

Social Security Number (for estates, trusts, corps, etc)

OR

Employer Identification Number

NOTE: If you require instructions for Completing Substitute Form W-9, please make a written request to the Claims Administrator at: _____ or visit the Claims Administrator’s website at www.irs.gov. Please note that your accountant should also be able to provide you with these instructions.

REMINDER CHECKLIST:

1. Sign the above release and certification. If this Claim Form is being made on behalf of joint claimants, then both must sign.
2. Attach only copies of acceptable supporting documentation as these documents will not be returned to you.
3. Do not highlight any portion of the Claim Form or any supporting documents.
4. Keep copies of the completed Claim Form and documentation for your own records.
5. If you move or change your address, telephone number or email address, please submit the new information to the Claims Administrator, as well as any other information that will assist us in contacting you. NOTE: Failure to submit updated information to the Claims Administrator may result in the Claims Administrator's inability to contact you regarding issues with your claim or deliver payment to you.
6. If you have any questions or concerns regarding your claim, please contact the Claims Administrator at the address provided above, by email at _____@_____.com, or by toll-free phone at _____ or you may visit www._____.com. DO NOT call Defendants or their counsel with questions regarding your claim.

THIS CLAIM FORM MUST BE MAILED TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL, **POSTMARKED NO LATER THAN _____, 2020**, ADDRESSED AS FOLLOWS:

Finisar Securities Litigation
c/o CLAIM ADMIN NAME
ADDRESS
City, State Zip

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted, if a postmark date on or before _____, 2020 is indicated on the envelope and it is mailed First Class, and addressed in accordance with the above instructions. In all other cases, a Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to fully process all of the Claim Forms. Please be patient and notify the Claims Administrator of any change of address.

EXHIBIT A-3

Exhibit A-3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re FINISAR CORPORATION
SECURITIES LITIGATION

Case No. 5:11-CV-01252-EJD

CLASS ACTION

SUMMARY NOTICE OF (I) PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT; (II) SETTLEMENT HEARING; AND (III) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

TO: All persons and entities who purchased or acquired the publicly traded common stock of Finisar Corporation (“Finisar”) during the period from December 2, 2010 through March 8, 2011, inclusive (the “Class Period”), and who were allegedly damaged thereby (the “Settlement Class”):

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

YOU ARE HEREBY NOTIFIED, in accordance with Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of California, that the above-captioned securities litigation (the “Action”) has been certified as a class action for settlement purposes on behalf of the Settlement Class, except for certain persons and entities who are excluded from the Settlement Class by definition as stated in the full printed Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Notice”).

YOU ARE ALSO NOTIFIED that Lead Plaintiff in the Action have reached a proposed settlement of the Action for \$6,800,000 in cash (the “Settlement”), which, if approved, will resolve all claims in the Action.

A hearing will be held on _____, 2020 __: __ .m., before the Honorable Edward J. Davila of the United States District Court for the Northern District of California, in Courtroom 4, 5th Floor, Robert F. Peckham Federal Building & United States Courthouse, 280 South 1st Street, San Jose, CA 95113, to determine (i) whether the proposed Settlement should be approved as fair, reasonable, and adequate; (ii) whether the Action should be dismissed with prejudice against Defendants, and the Releases specified and described in the Stipulation and Agreement of Settlement dated _____, 2020 (and in the Notice) should be granted; (iii) whether the proposed Plan of Allocation should be approved as fair and reasonable; and (iv) whether Lead Counsel’s application for an award of attorneys’ fees and reimbursement of litigation expenses should be approved.

If you are a member of the Settlement Class, your rights will be affected by the pending Action and the Settlement, and you may be entitled to share in the Settlement Fund. If you have not yet received the Notice and the Proof of Claim and Release Form (the “Claim Form”), you may obtain copies of these documents by contacting the Claims Administrator at: _____ . Copies of the Notice and Claim Form can also be downloaded from the website maintained by the Claims Administrator, at www._____.com.

If you are a member of the Settlement Class, in order to be eligible to receive a payment under the proposed Settlement, you must submit a Claim Form ***postmarked no later than*** _____, 2020. If you are a Settlement Class Member and do not submit a proper Claim Form, you will not be eligible to share in the distribution of the net proceeds of the Settlement, but you will nevertheless be bound by any judgments or orders entered by the Court in the Action.

If you are a member of the Settlement Class and wish to exclude yourself from the Settlement Class, you must submit a request for exclusion such that it is ***received no later than*** _____, 2020, in accordance with the instructions in the Notice. If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court in the Action, and you will not be eligible to share in the proceeds of the Settlement.

Any objection to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel’s motion for attorneys’ fees and reimbursement of expenses must be mailed to or filed with the Court such that it is ***filed or postmarked no later than*** _____, 2020, in accordance with the instructions in the Notice.

Please do not contact the Court, the Clerk’s office, Defendants, or Defendants’ counsel regarding this notice. All questions about this notice, the proposed Settlement, your eligibility to participate in the Settlement, or the claims process, should be directed to the Claims Administrator or Lead Counsel.

Requests for the Notice and Claim Form should be made to:
[INSERT CLAIM ADMINISTRATOR CONTACT INFORMATION].

Inquiries, other than requests for the Notice and Claim Form, should be made to Lead Counsel:

Ian D. Berg, Esq.
Takeo A. Kellar, Esq.
Abraham, Fruchter & Twersky, LLP
11622 El Camino Real, Suite 100
San Diego, CA 92130
Tel: (858) 764-2580
iberg@aftlaw.com
tkellar@aftlaw.com

By Order of the Court

EXHIBIT B

Exhibit B

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

In re FINISAR CORPORATION
SECURITIES LITIGATION

Case No. 5:11-CV-01252-EJD

CLASS ACTION

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

Hon. Edward J. Davila

1 WHEREAS, Lead Plaintiff Oklahoma Firefighters Pension and Retirement System
2 (“Lead Plaintiff”), on behalf of itself and the Settlement Class (defined below), and defendants
3 Finisar Corporation (“Finisar”), Jerry S. Rawls, and Eitan Gertel (collectively, the “Defendants,”
4 and together with Lead Plaintiff, the “Parties”) have entered into a Stipulation and Agreement of
5 Settlement dated July 8, 2020 (the “Stipulation”), that provides for a complete dismissal with
6 prejudice of the Released Claims on the terms and conditions set forth in the Stipulation, subject
7 to the approval of this Court (the “Settlement”);

8 WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall
9 have the same meaning as they have in the Stipulation;

10 WHEREAS, by Order dated _____, 2020 (the “Preliminary Approval Order”),
11 this Court: (a) preliminarily approved the Settlement; (b) certified the Settlement Class solely
12 for purposes of effectuating the Settlement; (c) ordered that notice of the proposed Settlement be
13 provided to potential Settlement Class Members; (d) provided Settlement Class Members with
14 the opportunity either to exclude themselves from the Settlement Class or to object to the
15 proposed Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

16 WHEREAS, due and adequate notice has been given to the Settlement Class;

17 WHEREAS, the Court conducted a hearing on _____, 2020 (the “Settlement
18 Hearing”) to consider, among other things, (a) whether the terms and conditions of the
19 Settlement are fair, reasonable, and adequate to the Settlement Class, and should therefore be
20 approved; and (b) whether a judgment should be entered dismissing the Action with prejudice as
21 against the Defendants; and

22 WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed,
23 and proceedings held herein in connection with the Settlement, all oral and written comments
24 received regarding the Settlement, and the record in the Action, and good cause appearing
25 therefor;

26 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

27 1. This Court has jurisdiction over the subject matter of the Action and over all
28 Parties to the Action, including members of the Settlement Class.

1 2. This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with
2 the Court on _____, 2020; and (b) the Notice and the Summary Notice, both of which
3 were filed with the Court on _____, 2020.

4 3. The Court hereby affirms its determinations in the Preliminary Approval Order
5 certifying, for the purposes of the Settlement only, the Action as a class action pursuant to Rules
6 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the Settlement Class
7 consisting of all persons and entities who purchased or acquired the publicly traded common
8 stock of Finisar during the period from December 2, 2010 through March 8, 2011, inclusive (the
9 “Class Period”), and who were allegedly damaged thereby. Excluded from the Settlement Class
10 are: (i) Defendants; (ii) any person who was an officer or director of Finisar during the Class
11 Period; (iii) the Immediate Family Members of all individual persons excluded in (i) or (ii); (iv)
12 the parents, subsidiaries, and affiliates of Finisar; (v) any entity in which any person or entity
13 excluded in (i), (ii), (iii) or (iv) has, or had during the Class Period, a controlling interest; and (vi)
14 the legal representatives, heirs, affiliates, successors, or assigns of any such excluded person or
15 entity. [Also excluded from the Settlement Class are the persons and entities listed on Exhibit 1
16 hereto who are excluded from the Settlement Class pursuant to their request.].

17 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes
18 of the Settlement only, the Court hereby affirms its determinations in the Preliminary Approval
19 Order certifying Lead Plaintiff as Class Representative for the Settlement Class and appointing
20 Lead Counsel as Class Counsel for the Settlement Class. Lead Plaintiff and Lead Counsel have
21 fairly and adequately represented the Settlement Class both in terms of litigating the Action and
22 for purposes of entering into and implementing the Settlement and have satisfied the
23 requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

24 5. The form and manner of the Notice of Proposed Settlement of Class Action given
25 to the Settlement Class are hereby determined to have: (a) constituted the best practicable notice
26 under the circumstances, including individual notice to Settlement Class Members who could be
27 identified through reasonable effort, (b) constituted notice that was reasonably calculated, under
28 the circumstances, to apprise Settlement Class Members of the pendency and nature of the

1 Action, of the effect of the Stipulation, including the releases provided for therein, of their right
2 to object to the proposed Settlement, of their right to exclude themselves from the Settlement
3 Class, and of their right to appear at the Settlement Hearing, and (c) fully satisfied all applicable
4 requirements of the Federal Rules of Civil Procedure, the United States Constitution (including
5 the Due Process Clause), Section 21D(a)(7) of the Private Securities Litigation Reform Act of
6 1995, the Rules of the Court, and any other applicable law.

7 6. Pursuant to Federal Rule of Civil Procedure 23, the Court hereby approves the
8 Settlement set forth in the Stipulation as fair, reasonable, and adequate to all Settlement Class
9 Members. The Court further finds that the Settlement is the result of arm's-length negotiations
10 between experienced counsel representing the interests of the Settling Parties. Accordingly, the
11 Court authorizes and directs implementation and performance of all the terms and provisions of
12 the Stipulation, as well as the terms and provisions hereof.

13 7. The Action against Defendants and all Released Claims are hereby DISMISSED
14 in their entirety WITH PREJUDICE.

15 8. The Parties shall bear their own costs and expenses, except otherwise expressly
16 provided in the Stipulation.

17 9. The terms of the Stipulation and of this Judgment shall be forever binding on
18 Defendants, Lead Plaintiff and all other Settlement Class Members (regardless of whether or not
19 any individual Settlement Class Member submits a Claim Form or seeks or obtains a distribution
20 from the Net Settlement Fund), as well as their respective heirs, executors, administrators,
21 predecessors, successors, and assigns in their capacities as such only, and any other person or
22 entity legally entitled to bring Released Plaintiffs' Claims on their behalf in such capacity only.
23 [The persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class
24 pursuant to request and are not bound by the terms of the Stipulation or this Judgment.].

25 10. The Releases set forth in paragraphs 4.2 and 4.3 of the Stipulation, together with
26 the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly
27 incorporated herein in all respects. The Releases are effective as of the Effective Date.
28 Accordingly, this Court orders that:

1 (a) Without further action by anyone, and subject to paragraph 11 below, upon the
2 Effective Date of the Settlement, Lead Plaintiff and each of the other Settlement Class Members,
3 on behalf of themselves, and their respective heirs, executors, administrators, predecessors,
4 successors, and assigns in their capacities as such only, and on behalf of any other person or
5 entity legally entitled to bring Released Plaintiffs' Claims on behalf of the respective Settlement
6 Class Member in such capacity only, shall be deemed to have, and by operation of law and of
7 this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved,
8 relinquished, waived, and discharged each and every Released Plaintiffs' Claim against
9 Defendants and the Defendants' Releasees, and shall forever be barred and enjoined from
10 commencing, instituting, maintaining, prosecuting, or continuing to prosecute any or all of the
11 Released Plaintiffs' Claims against any of the Defendants or the Defendants' Releasees. This
12 Release shall not apply to any of the Excluded Plaintiffs' Claims (as that term is defined in
13 paragraph 1.40 of the Stipulation).

14 (b) Without further action by anyone, and subject to paragraph 11 below, upon the
15 Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs,
16 executors, administrators, predecessors, successors, and assigns in their capacities as such only,
17 and on behalf of any other person or entity legally entitled to bring Released Defendants' Claims
18 on behalf of the respective Defendant in such capacity only, shall be deemed to have, and by
19 operation of law and of this Judgment shall have, fully, finally, and forever compromised,
20 settled, released, resolved, relinquished, waived, and discharged each and every Released
21 Defendants' Claim against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be
22 barred and enjoined from commencing, instituting, maintaining, prosecuting, or continuing to
23 prosecute any or all of the Released Defendants' Claims against Plaintiffs or any of the other
24 Plaintiffs' Releasees. This Release shall not apply to any of the Excluded Defendants' Claims (as
25 that term is defined in paragraph 1.39 of the Stipulation).

26 11. Notwithstanding paragraphs 10(a) - (b) above, nothing in this Judgment shall bar
27 any action by any of the Parties to enforce or effectuate the terms of the Stipulation or this
28 Judgment.

1 12. Neither this Judgment, the Stipulation (nor the Settlement contained therein), nor
2 any of its terms and provisions, nor any of the negotiations, documents or proceedings connected
3 with them:

4 (a) is or may be deemed to be, or may be used as an admission, concession, or
5 evidence of, the validity or invalidity of any Released Claims, the truth or falsity of any fact
6 alleged by the Class Representative, the sufficiency or deficiency of any defense that has been or
7 could have been asserted in the Action, or of any wrongdoing, liability, negligence or fault of
8 Defendants, Defendants' Releasees, or each or any of them;

9 (b) is or may be deemed to be or may be used as an admission of, or evidence of, any
10 fault or misrepresentation or omission with respect to any statement or written document
11 attributed to, approved or made by Defendants or Defendants' Releasees in any civil, criminal or
12 administrative proceeding in any court, administrative agency or other tribunal;

13 (c) is or may be deemed to be or shall be used, offered or received against the
14 Settling Parties, the Releasees, or each or any of them, as an admission, concession or evidence
15 of the validity or invalidity of the Released Claims, the infirmity or strength of any claim raised
16 in the Action, the truth or falsity of any fact alleged by the Lead Plaintiff or the Settlement Class,
17 or the availability or lack of availability of meritorious defenses to the claims raised in the
18 Action;

19 (d) is or may be deemed to be or shall be construed as or received in evidence as an
20 admission or concession against Defendants, or Defendants' Releasees, or each or any of them,
21 that any of Plaintiff's or Settlement Class Members' claims are with or without merit, that a
22 litigation class should or should not be certified, that damages recoverable in the Action would
23 have been greater or less than the Settlement Fund or that the consideration to be given pursuant
24 to the Stipulation represents an amount equal to, less than or greater than the amount which
25 could have or would have been recovered after trial.

26 13. Without affecting the finality of this Judgment in any way, this Court hereby
27 retains continuing jurisdiction regarding: (a) implementation of this Settlement and any award or
28 distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the

1 Settlement Fund; (c) hearing and determining applications for attorneys' fees, interest, and
2 expenses in the Action; and (d) all Parties hereto for the purpose of construing, enforcing, and
3 administering the Stipulation.

4 14. Any Plan of Allocation submitted by Lead Counsel or any order entered regarding
5 any attorneys' fees or Litigation Expenses or award to Lead Plaintiff shall in no way disturb or
6 affect this Judgment, and shall be considered in a separate order from this Judgment.

7 15. The Court finds that during the course of the Action, the Settling Parties and their
8 respective counsel at all times complied with the requirements of Federal Rule of Civil
9 Procedure 11.

10 16. Without further approval from the Court, Lead Plaintiff and the Defendants are
11 hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or
12 any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent
13 with this Judgment; and (b) do not materially limit the rights of Settlement Class Members in
14 connection with the Settlement. Without further order of the Court, the Settling Parties may
15 agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

16 17. If the Settlement is terminated as provided in the Stipulation or the Effective Date
17 of the Settlement otherwise fails to occur, this Judgment shall be vacated, rendered null and void,
18 and be of no further force and effect, except as otherwise provided by the Stipulation, and this
19 Judgment shall be without prejudice to the rights of Lead Plaintiff, the other Settlement Class
20 Members, and Defendants, and the Parties shall revert to their respective positions in the Action
21 as of July 8, 2020, as provided in the Stipulation.

22 18. There is no just reason to delay the entry of this Judgment as a final judgment in
23 this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this
24 final judgment in this Action.

25 IT IS SO ORDERED.

26
27 DATED: _____

Honorable Edward J. Davila
United States District Judge