

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THOMAS L. PAYNE, SID ARCHINAL,
GARY H. KARESH, JO ANN KARESH,
BELCA D. SWANSON AND MERLE K.
SWANSON individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

ANTHONY J. DeLUCA, HARRY J. SOOSE,
FRANCIS J. HARVEY, JAMES C.
MCGILL, RICHARD W. POGUE, DANIEL
A. D'ANIELLO, PHILIP B. DOLAN, E.
MARTIN GIBSON, ROBERT F.
PUGLIESE, JAMES DAVID WATKINS,
and THE CARLYLE GROUP,

Defendants.

CIVIL ACTION NO. 02-1927

CLASS ACTION

Chief Judge Donetta W. Ambrose

ALBERT L. GLOVER, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

ANTHONY J. DeLUCA, HARRY J. SOOSE,
FRANCIS J. HARVEY, JAMES C.
MCGILL, RICHARD W. POGUE, DANIEL
A. D'ANIELLO, PHILIP B. DOLAN, E.
MARTIN GIBSON, ROBERT F.
PUGLIESE, JAMES DAVID WATKINS,
and THE CARLYLE GROUP,

Defendants.

CIVIL ACTION NO. 03-0288

CLASS ACTION

Chief Judge Donetta W. Ambrose

STIPULATION OF SETTLEMENT

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This Stipulation of Settlement (the “Stipulation”), dated as of April 21, 2009 is made and entered into by and among (i) lead plaintiffs Albert L. Glover, Thomas L. Payne, Sid Archinal, Gary H. Karesh, Jo Ann Karesh, Belca D. Swanson, and Merle K. Swanson (collectively “Lead Plaintiffs”), (ii) the Settlement Class (as defined herein) (the Settlement Class and Lead Plaintiffs are collectively herein referred to as the “Plaintiffs” unless otherwise noted), and (iii) The Carlyle Group (as that term is defined more fully herein), by and through their respective counsel of record in the Litigation. The parties to this Stipulation shall collectively be referred to as the “Parties.” This Stipulation is intended by the Parties to fully, finally and forever resolve, discharge and settle the Released Claims (as the term is defined below), upon and subject to the terms and conditions hereof, and subject to the approval of the Court.

I. THE LITIGATION

A. Procedural History Of The Litigation

This litigation comprises two federal securities law class actions regarding IT Group (“ITG,” “IT Group,” or “the Company”), formerly a New York Stock Exchange-listed company (collectively the “Action”).

The first action, *Payne v. DeLuca et al.* (“*Payne*”), W.D. Pa., Case No. 02-1927, was filed on behalf of purchasers of ITG securities in a class period from February 24, 2000 to January 15, 2002, spanning the time from ITG’s press release reporting full-year 1999 financial results until ITG’s bankruptcy. Plaintiffs filed an amended complaint in *Payne* on February 28, 2003 and concurrently initiated the case of *Clair v. DeLuca et al.*, W.D. Pa., Case No. 03-0288, to cover a class period from October 21, 1998 through February 23, 2000. The *Clair* action was

recaptioned on January 26, 2006 to reflect the appointment of Albert Glover as lead Plaintiff (hereinafter, “*Glover*”) (“GAC”).

The Carlyle Group’s motion to dismiss the *Payne* First Amended Complaint was sustained based on insufficient pleading. Leave to amend was granted. The *Payne* Second Amended Complaint (“SAC”) was filed on March 2, 2004. The Carlyle Group’s motion to dismiss was filed and fully briefed by September 15, 2005.

A First Amended Complaint was filed in *Glover* on March 31, 2006; The Carlyle Group’s motion to dismiss was fully briefed by April 17, 2006. On May 2, 2006, the Court granted the *Payne* motion to dismiss entering final judgment and dismissing with prejudice, published at 433 F. Supp. 2d 547 (hereinafter the “*Payne*” decision). On May 15, 2006, Plaintiffs filed a motion for reconsideration and a motion to alter judgment to allow leave to amend, both pursuant to Fed. R. Civ. P. 59. On September 29, 2006, the Court granted the motion to dismiss *Glover*, which appears at 2006 WL 2850448 (W.D. Pa. Sept. 29, 2006) (the “*Glover*” decision). On December 11, 2006, the Court denied both Rule 59 motions. *See* 2006 WL 3590014.

On January 5, 2007, Plaintiffs moved for reconsideration pursuant to Fed. Civ. P. 60 for relief from the May 2, 2006 dismissal order, based on newly-discovered evidence. On April 2, 2007, that motion was denied.

On October 16, 2006, Plaintiffs in *Glover* filed a notice of appeal to the Third Circuit Court of Appeals, appealing the dismissal of their Amended Complaint. On January 8, 2007, Plaintiffs in *Payne* filed a notice of appeal to the Third Circuit Court of Appeals, appealing the dismissal of the Second Amended Complaint and the denial of their Rule 59 motions. On May 15, 2008, Plaintiffs in both actions filed their consolidated brief to the Third Circuit Court of

Appeals (“the Appeal”). The Appeal was fully briefed and oral argument before the Third Circuit was scheduled for February 3, 2009.

On February 1, 2009, the Parties agreed to a settlement in principle in this Action, and memorialized the general terms of their agreement in a Memorandum of Understanding (hereinafter referred to as the “MOU”). Because this Court was divested of jurisdiction in the Action when Plaintiffs filed notices of appeal, on February 1, 2009 the Parties requested that the Third Circuit continue oral argument scheduled for February 3, 2009, and grant a limited remand of the Action to this Court for consideration of the proposed settlement. The Parties further requested that the Third Circuit retain jurisdiction over the Action pending this Court’s review and approval of the proposed settlement, as provided by Third Circuit Internal Operating Procedure 7.1. The Third Circuit granted the Parties’ request by Order dated February 2, 2009.

B. The Carlyle Group’s Denials Of Wrongdoing And Liability

The Carlyle Group has denied and continues to deny each and all of the claims and contentions alleged by Lead Plaintiffs in the Action. The Carlyle Group expressly has denied and continues to deny all charges of wrongdoing or liability against it arising out of the conduct, statements, acts or omissions alleged, or that could have been alleged in the Action. The Carlyle Group also has denied, *inter alia*, that Lead Plaintiffs or the Settlement Class have suffered damages; that the price of ITG’s common stock was artificially inflated by reason of the alleged misrepresentations, omissions, or otherwise; that Lead Plaintiffs and/or the Settlement Class were harmed by the conduct alleged in the Action; and that The Carlyle Group knew of or was reckless with respect to the alleged misconduct. In addition, The Carlyle Group maintains that it did not engage in wrongdoing and have meritorious defenses to all claims alleged in the Action.

Nonetheless, taking into account the uncertainty and risks inherent in any litigation, especially in complex cases, The Carlyle Group has concluded that further litigation of the Action may be protracted, burdensome, and expensive, and that it is desirable, beneficial and expedient that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Stipulation.

This Stipulation, and all related documents, shall not be construed as or deemed to be evidence of, or an admission or concession on the part of The Carlyle Group, or any of the Carlyle Corresponding Released Parties (defined below), with respect to any claim of any fault or liability or wrongdoing or damage whatsoever. The Parties, and each of them, shall not assert or pursue any action, claim or rights that any party hereto violated any provision of Rule 11 of the Federal Rules of Civil Procedure. Further, the Parties, and each of them, will not deny in any statement made to any media representative that the class actions were dismissed with prejudice by the District Court and that the Action, while on appeal by the Plaintiffs, is being settled voluntarily after consultation with competent counsel. The Parties, and each of them, and their counsel agree that the Action was resolved in good faith following arm's length bargaining, confers substantial benefits upon the Settlement Class and, based upon their evaluation, is in the best interests of The Carlyle Group as well as Lead Plaintiffs and the Settlement Class.

C. Plaintiffs' Claims And The Benefits Of Settlement

Lead Plaintiffs believe that the claims asserted in the Action have merit and that the evidence of the underlying events and transactions alleged in the GAC and SAC, developed through their investigation to date, supports the claims. Additionally, Lead Plaintiffs' Counsel has researched the applicable law with respect to Plaintiffs' claims and believe they could successfully refute any defenses to their claims raised by The Carlyle Group. Nonetheless, Lead

Plaintiffs and their counsel recognize and acknowledge the expense and length of continued prosecution of the Action against The Carlyle Group through the appeal and any subsequent trial and/or further appeals. Lead Plaintiffs and their counsel also have taken into account the uncertain outcome and risks of any litigation, especially in complex actions, as well as the difficulties and delays inherent in such litigation. Lead Plaintiffs and their Counsel are mindful of the inherent problems of proof of and possible defenses to the federal securities law violations asserted in the Action, including, but not limited to, proof of damages and proof of The Carlyle Group's state of mind under the requirements of the securities laws. Lead Plaintiffs believe that it is desirable that the Released Claims be fully and finally compromised, settled and resolved with prejudice, and barred pursuant to the terms set forth herein. Therefore, Lead Plaintiffs believe that the Settlement set forth in this Stipulation confers substantial benefits upon the Settlement Class. Based on their evaluation, Lead Plaintiffs and their Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of this Stipulation.

II. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

A. Introduction

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Lead Plaintiffs, the Settlement Class, and each of them, and the Carlyle Group, by and through their respective undersigned counsel or attorneys of record that, subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the Parties from the Settlement set forth herein, the Litigation and the Released Claims shall be finally and fully compromised, settled and released, and the Action shall be

dismissed with prejudice, as to all Parties, upon and subject to the terms and conditions of this Stipulation.

B. Definitions

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

1.1 “Authorized Claimant” means any member of the Settlement Class who is a claimant as defined below and whose claim for recovery has been allowed pursuant to the terms of this Stipulation.

1.2 “The Carlyle Group” shall mean TC Group, L.L.C., d/b/a The Carlyle Group, and each of its past or present directors, officers, employees, partners, members, member firms or affiliates, principals, agents, predecessors, successors, parents, subsidiaries, partnerships, divisions, joint ventures, attorneys, investment bankers, commercial bankers, underwriters, financial or investment advisors, consultants, accountants, insurers, reinsurers, assigns, spouses, heirs, associates, related or affiliated entities, or any members of their immediate families, or any trusts for which any of them are trustees, settlers or beneficiaries, and any other representatives of any of these Persons and entities, including without limitation all such entities that invested in ITG.

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

1.4 “Claims Administrator” means the firm of The Garden City Group, Inc., which shall administer the Settlement.

1.5 “Court” means the United States District Court for the Western District of Pennsylvania.

1.6 “Defendant’s Counsel” means the law firm of Latham & Watkins LLP.

1.7 “Effective Date of Settlement” or “Effective Date” means the first date by which all of the events and conditions specified in ¶ 7.1 of this Stipulation have been met and have occurred.

1.8 “Final” means one business day following the later of the following events:
(i) the date upon which the time expires for filing or noticing any appeal of the Court’s Final Judgment and Order of Dismissal With Prejudice, approving the Settlement substantially in the form of Exhibit B hereto -- *i.e.*, thirty (30) days after entry of the Final Judgment, other than an appeal solely with respect to attorneys’ fees and reimbursement of expenses; and (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to attorneys’ fees and reimbursement of expenses, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment and Order of Dismissal With Prejudice without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari.

1.9 “Final Judgment and Order of Dismissal With Prejudice” means the proposed final order and judgment to be entered by the Court approving the Settlement, substantially in the form attached hereto as Exhibit B.

1.10 “Lead Plaintiffs’ Counsel,” “Lead Counsel” or “Plaintiffs’ Counsel” means the law firm of Glancy Binkow & Goldberg LLP.

1.11 “Notice” means the Notice of Pendency and Proposed Settlement of Class Action and Settlement Hearing Thereon, which is to be sent to members of the Settlement Class substantially in the form attached hereto as Exhibit A-1.

1.12 “Order for Notice and Hearing” means the proposed order preliminarily approving the Settlement and directing notice thereof to the Settlement Class substantially in the form attached hereto as Exhibit A.

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

1.14 “Publication Notice” means the Summary Notice of Pendency and Proposed Settlement of Action and Settlement Hearing Thereon to be published in *Investor’s Business Daily*, substantially in the form attached as Exhibit A-2.

1.15 “Released Carlyle Group Claims” means all claims (including “Unknown Claims” as defined below), demands, rights, liabilities or causes of action, in law or in equity, accrued or unaccrued, fixed or contingent, direct, derivative, individual or representative, of every nature and description whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including the law of any jurisdiction outside the United States, against Plaintiffs and their Corresponding Released Parties, arising out of the instituting, prosecution, settlement or resolution of the Action, belonging to The Carlyle Group or its present or past heirs, executors, estates, administrators, predecessors, successors, or assigns, parents, subsidiaries, associates, affiliates, employers, employees, agents, consultants, insurers, directors, managing directors, officers, partners, principals, members, attorneys,

accountants, financial and other advisors, investment bankers, underwriters, lenders, and any other representatives of any of these Persons and entities (including, without limitation, any claims, whether direct, derivative, representative or in any other capacity, arising under federal, state, local, statutory or common law or any other law, rule or regulation, including the law of any jurisdiction outside of the United States), provided however, that The Carlyle Group and the Released Parties shall retain the right to enforce in the Court the terms of the Stipulation.

1.16 “Released Claims” means all claims (including “Unknown Claims” as defined herein), demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, fees, expenses, costs, matters and issues of any kind or nature whatsoever, that were alleged in the Action, or that could have been alleged in the Action, or any other proceeding (including, but not limited to, any claims arising under federal, state or common law or any other law, rule or regulation, including the federal securities laws and any state disclosure law, and any claims for contribution or equitable indemnification), whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or un-matured, whether class, derivative and/or individual in nature, relating to the purchase of IT common stock during the Settlement Class Period (as hereinafter defined), or which have arisen, could have arisen, arise now, or hereafter may arise out of, or relate in any manner to the matters complained of or which could have been complained of in the Action.

1.17 “Released Parties” means the Carlyle Group, Plaintiffs, and each of the Plaintiffs’ Corresponding Released Parties. “Plaintiffs’ Corresponding Released Parties” shall mean any and all of Plaintiffs’ respective present or past, and/or their respective families, parent entities, associates, affiliates or subsidiaries, and each and all of their respective past, present or future officers, directors, stockholders, agents, representatives, employees, attorneys, financial or

investment advisors, advisors, consultants, accountants, investment bankers, commercial bankers, trustees, engineers, agents, insurers, co-insurers and reinsurers, heirs, executors, trustees, general or limited partners or partnerships, limited liability companies, members, personal or legal representatives, estates, administrators, predecessors, successors and assigns or other individuals or entities in which any Plaintiff has a controlling interest or which is related to or affiliated with Plaintiffs and any other representatives of any of these Persons or entities whether or not any such Released Parties were named, served with process or appeared in the Action.

1.18 “Settled Claims” means all of the Released Claims, and/or Released Carlyle Group Claims against the Plaintiffs and their Corresponding Released Parties.

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

1.20 “Settlement Class” means all Persons (including Lead Plaintiffs and other named Plaintiffs) who purchased ITG common stock during the period October 21, 1998 through January 15, 2002, inclusive. Excluded from the Settlement Class are all defendants in the Action; the members of the defendants’ immediate families; all individuals who served as officers and directors of ITG or its subsidiaries at any time during the Settlement Class Period; any person, firm, trust, corporation, or entity in which any defendant in the Action has a controlling interest or any entity which is related to or affiliated with any defendant in the Action; and the legal representatives, agents, affiliates, heirs, successors and assigns of any such excluded persons. Also excluded from the Settlement Class are those persons who timely and validly request exclusion from the Settlement Class pursuant to the Notice.

1.21 “Settlement Class Member” means a Person who falls within the definition of the Settlement Class as set forth in ¶ 1.23.

1.22 “Settlement Class Period” means the period from October 21, 1998 through January 15, 2002, inclusive.

1.23 “Supplemental Agreement” means the Supplemental Agreement among the Parties as described in ¶ 7.3 hereof.

1.24 “Unknown Claims” shall collectively mean all claims, demands, rights, liabilities, and causes of action of every nature and description which Lead Plaintiffs or any Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Parties, or might have affected his, her or its decision with respect to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date, Lead Plaintiffs shall expressly waive, and each of the Settlement Class Members shall be deemed to have waived, and by operation of the Final Judgment and Order of Dismissal With Prejudice shall have waived, the provisions, rights and benefits of California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Lead Plaintiffs shall expressly and each of the Settlement Class Members shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal With Prejudice 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, which is similar, comparable or equivalent to California Civil Code § 1542. Lead Plaintiffs and Settlement Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or

believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiffs shall expressly fully, finally and forever settle and release, and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal With Prejudice shall have, fully, finally, and forever settled and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or noncontingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiffs acknowledge, and the Settlement Class Members shall be deemed by operation of the Final Judgment and Order of Dismissal With Prejudice to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

C. The Settlement

The Settlement Consideration

2.1 As due and sufficient consideration for the full and final settlement of all claims asserted or which could have been asserted in the Action, The Carlyle Group will provide to Plaintiffs a release of the Defendant's Released Claims, as set forth herein which the parties to this stipulation acknowledge is the bargained-for element of and integral to the Settlement..

Termination of Settlement

2.2 Lead Plaintiffs, on behalf of the Settlement Class, or the Carlyle Group shall have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so ("Termination Notice") to all other Parties hereto within thirty (30) days of: (i)

the Court's declining to enter the Order for Notice and Hearing in any material respect; (ii) the Court's refusal to approve this Stipulation or any material part of it; (iii) the Court's declining to enter the Final Judgment and Order of Dismissal with Prejudice in any material respect; (iv) the date upon which the Final Judgment and Order of Dismissal with Prejudice is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; or (v) the date upon which an Alternative Judgment (defined in ¶ 7.1(iv) below) is modified or reversed in any material respect by the Court of Appeals or the Supreme Court.

D. Order For Notice Of Settlement Hearing

3.1 Promptly after execution of this Stipulation, Lead Plaintiffs' Counsel and Defendant's Counsel shall jointly submit this Stipulation together with its Exhibits to the Court and shall apply for preliminary approval of the Settlement set forth in this Stipulation, entry of an Order for Notice and Hearing, approval for the mailing and publication of the Notice and Publication Notice, substantially in the form of Exhibits A-1 and A-2 hereto, which shall include the general terms of the Settlement set forth in this Stipulation and the date of the Settlement Hearing as defined below.

3.2 At the time of the joint submission described in ¶ 3.1, Lead Plaintiffs' Counsel and Defendant's Counsel shall also jointly request that, after Notice is given, the Court hold a hearing (the "Settlement Hearing") and approve the Settlement of the Action as set forth herein. At or after the Settlement Hearing, Lead Plaintiffs' Counsel also will request that the Court approve the proposed Plan of Allocation and the Fee and Expense Application.

E. Releases, Dismissal of Appeal and Withdrawal of Preservation Subpoena

4.1 The obligations incurred pursuant to this Stipulation shall be a full and final disposition of the Action as between the Lead Plaintiffs and the Carlyle Group, any and all

Released Claims, and any and all Released Carlyle Group Claims, as against all of the respective Released Parties; provided, however, that in no event shall this constitute a release of any claims whatsoever that The Carlyle Group may have against other defendant or defendants in this Action or their insurers or any other party, other than the Plaintiffs, and each of them, and any and all of the Plaintiffs' Corresponding Released Parties.

4.2 Upon entry of the Final Judgment and Order of Dismissal With Prejudice, Plaintiffs shall promptly dismiss the Appeal with prejudice.

4.3 Upon the Effective Date, as defined in ¶ 1.9, Plaintiffs, and each of them, on behalf of themselves and their Corresponding Released Parties, shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal with Prejudice shall have, fully, finally, and forever released, relinquished and discharged all Released Claims against The Carlyle Group.

4.4 Upon the Effective Date, as defined in ¶ 1.9, The Carlyle Group, on behalf of itself and its successors and assigns, shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal with Prejudice shall have, fully, finally, and forever released, relinquished and discharged all Released Carlyle Group Claims against Plaintiffs, and each of them, and any and all of those parties' Corresponding Released Parties including, but not limited to, Plaintiffs' Counsel.

4.5 All electronic and other documents in the possession of the parties with relevance to the Action shall be maintained until thirty (30) days after the Final Judgment and Order of Dismissal With Prejudice has become Final.

F. Requests For Exclusion

5.1 Any Person falling within the definition of the Settlement Class may be excluded from the Settlement Class by submitting to the Claims Administrator a request for exclusion (“Request for Exclusion”), which complies with the requirements set forth in ¶10 of the Order for Notice and Hearing, Exhibit A hereto, and is postmarked no later than twenty-one (21) days prior to the date of the Settlement Hearing.

5.2 All Persons who submit valid and timely Requests for Exclusion shall have no rights under the Stipulation and shall not be bound by the Stipulation or the Final Judgment and Order of Dismissal with Prejudice and/or other order of the Court herein, whether pursuant to this Stipulation or otherwise. However, a Settlement Class Member may submit a written revocation of a Request for Exclusion up until forty-five (45) days after the Settlement Hearing.

G. Class Certification

6.1 In the Final Judgment and Order of Dismissal With Prejudice, the Class shall be certified for purposes of this Settlement only, but in the event that the Settlement is not finally approved by the Court, all Parties reserve all their rights on all issues, including whether a class should be certified. For settlement purposes only, in connection with the Final Order and Judgment, the Carlyle Group shall consent to (i) certification of this Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, on behalf of the Class as defined herein, and (ii) certification of Lead Plaintiffs as the Class Representatives and Co-Lead Counsel as Class Counsel.

H. Conditions Of Settlement, Effect Of Disapproval, Cancellation Or Termination

7.1 The Effective Date of this Stipulation shall not occur unless and until each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

(i) Lead Plaintiffs or the Carlyle Group have not exercised the right to terminate the Settlement as provided in ¶ 2.9 above.

(ii) The Court has entered the Order for Notice and Hearing, substantially in the form attached hereto as Exhibit A;

(iii) The Court has approved the Settlement, following notice to the Class and a hearing, as provided in Rule 23 of the Federal Rules of Civil Procedure, and has entered the Final Judgment and Order of Dismissal with Prejudice, or judgments substantially in the form of Exhibit B; and

(iv) The Final Judgment and Order of Dismissal with Prejudice has become Final, as defined in ¶ 1.9, above, or, in the event that the Court enters orders and final judgments in a form other than that provided above (“Alternative Judgment”) and which has the consent of the Parties, such Alternative Judgment becomes Final.

7.2 If prior to the Settlement Hearing, any Persons who otherwise would be Members of the Settlement Class have timely requested exclusion from the Settlement Class in accordance with the provisions of the Order for Notice and Hearing and the notice given pursuant thereto, and such Persons in the aggregate purchased a number of shares of ITG common stock during the Settlement Class Period in an amount greater than the sum specified in a separate “Supplemental Agreement” between the Parties, the Carlyle Group shall have, in its sole and absolute discretion, the option to terminate this Stipulation in accordance with the procedures set forth in the Supplemental Agreement. In the event of a termination of this Settlement pursuant to the Supplemental Agreement, this stipulation shall become null and void and of no further force and effect, with the exception of the provisions of ¶¶ 5.3 – 5.5 hereof, which shall continue to apply. The Supplemental Agreement will not be filed with the Court unless and until a dispute

among the Parties concerning its interpretation or application arises. Copies of all Requests for Exclusion received, together with copies of all written revocations of Requests for Exclusion, shall be delivered to Defendant's Counsel within three (3) business days of receipt by Lead Plaintiffs' Counsel but in no event later than one (1) business day before the Settlement Hearing. The Carlyle Group may terminate the Stipulation by serving written notice of termination on the Court and Lead Plaintiffs' Counsel postmarked on or before five (5) business days after the receipt of all of the copies of the Requests for Exclusion, on or before five (5) business days after the Court grants additional exclusion for any reason, or on or before three (3) business days before the Settlement Hearing, whichever occurs last.

7.3 If some or all of the conditions specified in ¶ 7.1 are not met, or in the event that this Stipulation is not approved by the Court, or the Settlement set forth in the Stipulation is terminated or fails to become effective in accordance with its terms, then this Stipulation shall be canceled and terminated unless Lead Plaintiffs' Counsel, and Defendant's Counsel mutually agree in writing to proceed with this Stipulation. None of the Parties, or any of them, shall have any obligation whatsoever to proceed under any terms other than provided for and agreed herein. If any Party engages in a material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Stipulation, may terminate this Stipulation on notice to all of the Parties.

7.4 If this Stipulation is terminated or fails to become effective for the reasons set forth in ¶ 7.1 and ¶ 7.3 above, the Parties shall be restored to their respective positions in the Action as of February 1, 2009. In the event that the Stipulation is not approved by the Court or the Settlement set forth in this Stipulation is terminated or fails to become effective in accordance with its terms, the terms and provisions of this Stipulation, with the exception of ¶¶

1.1-1.24, 7.3-7.5, and 8.4 hereof, shall have no further force and effect with respect to the settling Parties and shall not be used in this Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*.

I. Miscellaneous Provisions

8.1 The settling Parties (a) acknowledge that it is their intent to consummate this agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Stipulation and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Stipulation. Lead Plaintiffs' Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Order for Notice of Hearing, the Stipulation, and the Settlement, and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Settlement.

8.2 The Parties intend this Stipulation to be a final and complete resolution of all disputes between them with respect to the Action as well as any disputes which could have been raised in the Action by the Lead Plaintiffs, the Settlement Class, and their Corresponding Released Parties, and each or any of them, against The Carlyle Group and the Carlyle Corresponding Released Parties, Defendant's Counsel, and each or any of them, on the one hand, and by The Carlyle Group, and each or any of them, against the Lead Plaintiffs, the Settlement Class, their Corresponding Released Parties, or other plaintiffs' counsel, and each or any of them, on the other hand, except as expressly excluded in ¶ 1.23. Accordingly, the Parties agree not to assert in any forum that the Action was brought by the Lead Plaintiffs, or each or any of them, or defended by The Carlyle Group in bad faith or without a reasonable basis. The Final

Judgment and Order of Dismissal with Prejudice will contain a statement that during the course of the Action, the parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure. The Parties further agree that settlement consideration and the other terms of the Settlement were negotiated at arm's length and in good faith by the Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

8.3 Pursuant to 15 U.S.C. § 78u-4(f)(7) of the PSLRA, the Final Judgment and Order of Dismissal With Prejudice shall include a contribution bar order substantially in the form contained in paragraph 13 of the form of Final Judgment and Order of Dismissal With Prejudice that is attached hereto as Exhibit B.

8.4 Whether or not the Effective Date occurs or this Stipulation is terminated, neither this Stipulation nor the Settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Stipulation or the Settlement:

(i) may be deemed, or shall be used, offered or received against The Carlyle Group or the Carlyle Corresponding Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by the Plaintiffs, the deficiency of any defense that has been or could have been asserted in the litigation, or of any alleged wrongdoing, liability, negligence, or fault of The Carlyle Group and the Carlyle Corresponding Released Parties, or any of them;

(ii) may be deemed, or shall be used, offered or received against The Carlyle Group as an admission, concession or evidence of, any fault, misrepresentation or omission with respect to any statement or written document approved or made by The Carlyle Group or the Carlyle Corresponding Released Parties, or any of them;

(iii) may be deemed, or shall be used, offered or received against the Lead Plaintiffs, the Settlement Class, Plaintiffs' Corresponding Released Parties, or each or any of them, as an admission, concession or evidence of, the validity or invalidity of any of Released 's Claims, the infirmity or strength of any claims raised in the Action, the truth or falsity of any fact alleged by The Carlyle Group, or the availability or lack of availability of meritorious defenses to the claims raised in the Action;

(iv) may be deemed, or shall be used, offered or received against the Lead Plaintiffs, the Settlement Class, and Plaintiffs' Corresponding Released Parties, or each or any of them, or against The Carlyle Group, the Carlyle Corresponding Released Parties, or each or any of them, as an admission or concession with respect to any liability, fault or wrongdoing as against any Parties to the Stipulation, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the Settlement, this Stipulation, and any acts performed and/or documents executed in furtherance of or pursuant to this Stipulation and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Stipulation. If this Stipulation is approved by the Court, any party or any of the Corresponding Released Parties may file this Stipulation and/or the Final Order and Judgment in any action that may be brought against such party or parties in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

(v) may be deemed, or shall be construed against the Lead Plaintiffs, the Settlement Class, and Plaintiffs' Corresponding Released Parties, or each or any of them, or against The Carlyle Group, the Carlyle Corresponding Released Parties, or each or any of them,

as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount which could have or would have been recovered after trial; and

(vi) may be deemed, or shall be construed as or received in evidence as an admission or concession against the Lead Plaintiffs, the Settlement Class, and Plaintiffs' Corresponding Released Parties, or each and any of them, or against The Carlyle Group, the Carlyle Corresponding Released Parties, or each or any of them, that any of their claims are with or without merit or that damages recoverable under the GAC or SAC would have exceeded or would have been less than the Settlement Fund.

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

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

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

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

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

8.10 Each counsel or other Person executing this Stipulation, any of its Exhibits, or any related settlement documents on behalf of any party hereto hereby warrants and represents that such Person has the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

8.11 This Stipulation may be executed in one or more counterparts, including by signature transmitted by facsimile or electronic mail. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Stipulation all exchange original signed counterparts. A complete set of original executed counterparts shall be filed with the Court.

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

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

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

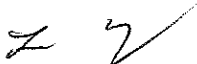
8.15 This Stipulation is deemed to have been prepared by counsel for all parties, as a result of arm's length negotiations among the parties. Whereas all parties have contributed

substantially and materially to the preparation of this Stipulation, it shall not be construed more strictly against one party than another.

8.16 The Parties agree that this Stipulation supercedes the MOU.

Dated: April 21, 2009

GLANCY BINKOW & GOLDBERG LLP

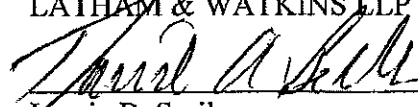


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