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KOREAN AIR LINES CO., LTD.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

In re KOREAN AIR LINES CO.,
LTD. ANTITRUST LITIGATION

This Document Relates To:

All Actions

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MDL No. 1891
Master File No. CV 07-05107 SJO
(AGRx)

STIPULATION OF SETTLEMENT
BETWEEN CLASS PLAINTIFFS AND
DEFENDANT KOREAN AIR LINES
CO., LTD.

Judge: Hon. S. James Otero

1 This Stipulation of Settlement ("Agreement") is made and entered into as of
2 this 11th day of June, 2013 (the "Execution Date," as defined below), by and
3 between defendant Korean Air Lines Co., Ltd. ("Korean Air," as defined below)
4 and the Class Plaintiffs (as defined below), both individually and on behalf of the
5 Class Members (as defined below).

6 WHEREAS, Class Plaintiffs are prosecuting the above-captioned litigation
7 (the "Action," as defined below) on their own behalf and on behalf of the Class
8 (defined below) against defendant Korean Air;

9 WHEREAS, Class Plaintiffs allege that Korean Air participated in an
10 unlawful conspiracy to fix, raise, maintain, and stabilize the prices of Passenger Air
11 Transportation (as defined below) in violation of Section 1 of the Sherman Act, 15
12 U.S.C. § 1 *et seq.*;

13 WHEREAS, Korean Air denies Class Plaintiffs' allegations, has not
14 conceded or admitted any civil liability, and has asserted affirmative defenses to
15 Class Plaintiffs' claims, and the parties agree that this Agreement shall not be
16 construed to be an admission or evidence against Korean Air;

17 WHEREAS, Class Plaintiffs have conducted an investigation into the facts
18 and the law regarding the Action and have concluded that a settlement with Korean
19 Air according to the terms set forth below is in the best interest of the Class;

20 WHEREAS, Korean Air, despite its belief that it has good defenses to the
21 claims alleged, has nevertheless agreed to enter into this Agreement to avoid further
22 expense, inconvenience, and the distraction of burdensome and protracted
23 litigation;

24 WHEREAS, Class Plaintiffs have agreed to accept the Settlement Amount
25 (as defined below) based, in part, on Korean Air's representations regarding both its
26 present and projected financial condition and its inability to pay more; and

27 WHEREAS, arm's-length settlement negotiations have taken place between
28 counsel for Class Plaintiffs and Korean Air under the supervision and with the

1 assistance of United States District Judge (Retired) Layn Phillips as the parties'
2 mediator, and this Agreement embodies all of the terms and conditions of the
3 settlement between Korean Air and Class Plaintiffs, both individually and on behalf
4 of the Class, and has been reached as a result of the parties' negotiations.

5 NOW, THEREFORE, in consideration of the mutual covenants, agreements,
6 and releases set forth herein and for other good and valuable consideration, it is
7 agreed by and among the undersigned that this Action be settled, compromised, and
8 dismissed on the merits with prejudice as to Korean Air, without costs as to Class
9 Plaintiffs, the Class, or Korean Air, except as otherwise expressly set forth, subject
10 to the approval of the Court, on the following terms and conditions:

11 **A. Definitions**

12 The following terms, as used in this Agreement, have the following meanings:

13 1. "Action" means the antitrust class actions consolidated under the
14 caption *In re Korean Air Lines Co., Ltd. Antitrust Litigation*, MDL No. 1891,
15 Master File No. CV 07-05107 SJO (AGRx).

16 2. "Korean Air" means Korean Air Lines Co. Ltd. and its
17 subsidiaries, predecessors, and affiliates.

18 3. "Claims Administrator" means a third party retained by Class
19 Counsel to manage and administer the process by which Class Members are
20 notified and paid pursuant to this Agreement, all consistent with this Agreement
21 and any orders of the Court.

22 4. "Class" means all persons and entities (excluding governmental
23 entities, Defendants, and Defendants' respective predecessors, subsidiaries, and
24 affiliates) who purchased Passenger Air Transportation on the airlines of
25 Defendants in the Action, or any predecessor, subsidiary, or affiliate of the
26 Defendants, at any time during the time period January 1, 2000 through August
27 1, 2007. As used in this definition, "affiliates" means entities controlling,
28 controlled by, or under common control with a Defendant. The term "affiliates"

1 does not include any travel agents.

2 5. "Class Cash Fund" means Thirty-Nine Million U.S. Dollars
3 (\$39,000,000 USD).

4 6. "Class Counsel" means Marc M. Seltzer of Susman Godfrey
5 L.L.P., 1901 Avenue of the Stars, Suite 950, Los Angeles, CA 90067; Susan G.
6 Kupfer of Glancy Binkow & Goldberg LLP, One Embarcadero Center, Suite
7 760, San Francisco, CA 94111; and Jeff S. Westerman of Westerman Law
8 Corp., 1925 Century Park East, Suite 2100, Los Angeles, CA 90067.

9 7. "Class Coupon Fund" means the equivalent of Twenty-Six Million
10 U.S. Dollars (\$26,000,000 USD) in coupons as defined in Paragraph 27 below
11 and its subparts.

12 8. "Class Member" means each member of the Class who does not
13 timely and validly request to be excluded from the Class.

14 9. "Class Period" means the period from January 1, 2000 through
15 August 1, 2007.

16 10. "Class Plaintiffs" means Laura Albee, Joon Chung, Timothy
17 Murphy, Sungshic Park, Yoon Park, Howard Ree, Leon Song, and Edward Yoo.

18 11. "Court" means the United States District Court for the Central
19 District of California.

20 12. "Defendant" means any person or entity named as a defendant in
21 this Action.

22 13. "Effective Date" means the date on which final approval has been
23 obtained in this Action, as further defined in Paragraph 34 below.

24 14. "Escrow Account" means the account to be established by Class
25 Counsel for receipt of the Class Cash Fund to be paid by Korean Air pursuant to
26 the Agreement.

27 15. "Execution Date" means the date first appearing above.

28 16. "Passenger Air Transportation" means passenger air transportation

1 service purchased in the United States for flights originating in the United States
2 and ending in the Republic of Korea ("Korea") or flights originating in Korea
3 and ending in the United States.

4 17. "Releasees" means Korean Air, its past and present officers,
5 directors, employees, agents, attorneys, servants, representatives, parents,
6 subsidiaries, and affiliates and the predecessors, successors, heirs, executors,
7 administrators, and assigns of each of the foregoing. As used in this definition,
8 "affiliates" means entities controlling, controlled by, or under common control
9 with a Releasee. The term "Releasees" does not include Asiana Airlines or any
10 of its past or present officers, employees, or agents acting in such capacity.

11 18. "Released Claims" means any and all claims, demands, actions,
12 suits, and causes of action (whether class, individual, or otherwise in nature)
13 that any Releasors, or any one of them, ever had, now has, or hereafter can,
14 shall or may have against the Releasees, whether known or unknown, which
15 were or could have been alleged in this Action on account of or arising out of,
16 resulting from or related in any respect to the alleged conspiracy or conspiracies
17 to fix the prices of Passenger Air Transportation during the Class Period. This
18 release does not include any claims that are not related to those asserted in the
19 Action. The Releasors shall not, after the Effective Date, seek to recover
20 against any of the Releasees for any of the Released Claims.

21 19. "Releasors" means the Class Plaintiffs and the Class Members, and
22 their successors, heirs, and assigns.

23 20. "Released Defendant's Claims" means any and all claims, rights or
24 causes of action or liabilities whatsoever, whether based on federal, state, local,
25 statutory or common law or any other law, rule or regulation, including both
26 known claims and unknown claims, that have been or could have been asserted
27 in the Action or any forum by Korean Air or any of the Releasees or the
28 successors and assigns of any of them against any of the Class Plaintiffs, other

1 Class Members, or their attorneys, which arise out of or relate in any way to the
2 institution, prosecution, or settlement of the Action (except for claims to enforce
3 the Settlement).

4 21. "Settlement Amount" means the aggregate amount of the Class
5 Cash Fund and the Class Coupon Fund.

6 22. "Settlement Fund" means the Settlement Amount plus any interest
7 earned on that amount.

8 23. "Taxes" means any sums due to be paid to governmental taxing
9 authorities from the Settlement Fund, including taxes, estimated taxes, interest,
10 and penalties.

11 24. "Tax Expenses" means any and all reasonable fees and costs due to
12 be paid to tax preparers, tax consultants, or others for determining the tax
13 liability of the Settlement Fund and otherwise assisting Class Counsel in
14 carrying out their responsibilities set forth in this Agreement.

15 **B. Payment**

16 25. The total amount of the Class Cash Fund and the Class Coupon
17 Fund is Sixty-Five Million U.S. Dollars (\$65,000,000 USD).

18 26. Korean Air shall deposit the Class Cash Fund into the Escrow
19 Account established by Class Counsel as follows: Thirteen Million U.S. Dollars
20 (\$13,000,000 USD) on or before Thirty (30) days from the entry of the Court's
21 order granting preliminary approval of the Settlement; Thirteen Million U.S.
22 Dollars (\$13,000,000 USD) on or before Ninety (90) days from the entry of the
23 Court's order granting preliminary approval of the Settlement; and Thirteen
24 Million U.S. Dollars (\$13,000,000 USD) Five (5) business days before the
25 hearing on the application for an order granting final approval of the Settlement.
26 All funds held in the Escrow Account shall be deemed and considered to be *in*
27 *custodia legis* of the Court, and shall remain subject to the jurisdiction of the
28 Court, until such time as such funds shall be distributed pursuant to this

1 Agreement and/or further orders of the Court.

2 27. Korean Air shall make available on or before Thirty (30) business
3 days from the Effective Date the equivalent of Twenty-Six Million U.S. Dollars
4 (\$26,000,000 USD) in coupons for passenger flight tickets sold by Korean Air.

5 a. Each coupon shall be (i) designated with a unique identifier; (ii)
6 redeemable for a period no later than the third anniversary of the
7 issuance of the coupon to the Class Member (all coupons shall
8 be issued on a single issuance date); (iii) transferable by the
9 Class Member; (iv) subject to no "black-out" dates; and (v) not
10 subject to a service or redemption charge of any kind. Each
11 coupon may be redeemed toward any one-way or round-trip
12 ticket for on Korean Air. A coupon cannot be used to purchase
13 a ticket for a codeshare flight operated by Korean Air but sold
14 by another carrier. If warranted, a Class Member may receive
15 more than one coupon.

16 b. The monetary face amount of the coupons allotted will be based
17 on the claims submitted or as otherwise provided in the
18 proposed plan of allocation. Korean Air and Class Counsel shall
19 set the maximum coupon redemption value per ticket by mutual
20 agreement. The claims administrator shall maintain a record of
21 each coupon recipient, including the recipient's name and
22 address, and provide a copy of the record to Korean Air.

23 c. The full value of any unexercised coupons shall be made
24 available for a *cy pres* distribution, upon Court approval, to
25 charitable organizations to be identified by Class Counsel, and
26 shall be valid for an additional six (6) months upon issuance to
27 the Court approved *cy pres* recipients. All such coupons shall
28 be issued on a single issuance date.

1 d. The conditions set forth in Paragraphs 27(a) and (b) except
2 27(a)(ii) shall apply to the *cy pres* distribution described in
3 Paragraph 27(c).

4 e. Class Counsel agrees Korean Air and its counsel shall participate
5 in the process for determining a proposed plan of allocation.
6 The plan of allocation shall be subject to the approval of the
7 Court.

8 **C. Stipulation to Class Certification**

9 28. Subject to the approval of the Court and for the purpose of this
10 Agreement, the parties agree and stipulate to the certification of the Class
11 pursuant to Rule 23 of the Federal Rules of Civil Procedure.

12 **D. Approval of This Agreement, Notice, and Dismissal of Claims**

13 29. Class Plaintiffs, Class Counsel, Korean Air, and its counsel agree
14 to use their best efforts to effectuate this Agreement, and shall cooperate
15 promptly to seek and obtain both preliminary and final approval of this
16 Agreement (including the giving of class notice under Federal Rule of Civil
17 Procedure 23(c) and (e)) and to secure the complete and final dismissal with
18 prejudice of this Action as to Korean Air.

19 30. On or before twenty-eight (28) days from the Execution Date or as
20 soon thereafter as may be practicable, Class Plaintiffs shall submit a motion to
21 the Court in this Action for preliminary approval of this Agreement and
22 authorization to disseminate notice of the settlement to the Class and for a stay
23 of all Class proceedings in this Action by or against Korean Air, except for
24 proceedings provided for, by, or in connection with this Agreement as set forth
25 herein (the "Motion"). Except as provided in Paragraph 28 above, the Motion
26 shall include (i) the definition of the Class as set forth in this Agreement; and
27 (ii) a proposed form of, method for, and date of dissemination of notice to the
28 Class. Except as otherwise provided in this Agreement, the text of the items

1 referenced in clauses (i) and (ii) of this Paragraph 30 shall be agreed upon by
2 the Class Plaintiffs and Korean Air before submission of the Motion.

3 31. Individual notice of the settlement shall be given to persons and
4 entities who may be identified through reasonable effort as potential members
5 of the Class, to the extent available. Notice of the settlement and other forms of
6 notice are to be determined in joint consultation with the Claims Administrator
7 consistent with the requirements of Rule 23.

8 32. The Escrow Account containing the Class Cash Fund may be used
9 by Class Counsel to pay costs and expenses reasonably and actually incurred in
10 connection with providing notice to the Class, locating Class Members,
11 processing Class claims, assisting with the filing of claims, administering and
12 distributing the Settlement Fund to authorized claimants, processing Proof of
13 Claim and Release forms, and paying escrow fees and costs, if any. Such
14 payments, if any, shall be made on a non-recoupable basis. If the Settlement is
15 terminated in accordance with its terms, only the balance, if any, of any unspent
16 funds shall be returned to Korean Air, less any Taxes and Tax Expenses due,
17 and after deducting any costs and expenses incurred but not yet paid.

18 33. Class Plaintiffs shall submit a motion for final approval of this
19 Agreement promptly after notice of the settlement hearing is given to the Class.
20 Korean Air shall provide assistance, if necessary, including providing evidence
21 of its financial condition in support of settlement. At the same time, Class
22 Plaintiffs shall seek entry of an Order and Final Judgment, in a form mutually
23 agreeable to the Class Plaintiffs and Korean Air, which shall include the
24 following findings and provisions:

- 25 a. as to the Action, approving finally this Agreement and its terms
26 as being a fair, reasonable, and adequate as to the Class within
27 the meaning of Rule 23 of the Federal Rules of Civil Procedure
28 and directing its consummation according to its terms;

- b. providing that, as to Korean Air, this Action be dismissed with prejudice and, except as otherwise provided in this Agreement, without costs;
- c. notwithstanding the entry of the Order and Final Judgment, the Court shall retain exclusive and continuing jurisdiction over Class Plaintiffs, the Class Members, Korean Air, and the Settlement Fund, for the purposes of effectuating and enforcing the settlement set forth in this Agreement and administering the Settlement Fund; and
- d. determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to Korean Air shall be final and entered forthwith.

34. This Agreement shall become final only when: (i) the Court has entered a final judgment approving this Agreement under Rule 23(e) of the Federal Rules of Civil Procedure and a final judgment dismissing the Action against Korean Air on the merits with prejudice (each side bearing their own costs) has been entered, and (ii) the time for appeal or to seek permission to appeal from the Court's approval of this Agreement and entry of a final judgment as described in clause (i) above has expired or, if appealed, approval of this Agreement and the final judgment has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review ("Effective Date"). It is agreed that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure nor the All Writs Act, 28 U.S.C. § 1651, shall be taken into account in determining the above-stated times.

E. Releases and Discharge

35. Upon the occurrence of the Effective Date and in consideration of

1 payments of the Settlement Amount, and for other valuable consideration, the
2 Releasees shall be completely released, acquitted, and forever discharged from
3 any and all Released Claims as set forth in this Agreement.

4 36. Upon the occurrence of the Effective Date, Korean Air, on behalf
5 of itself, its heirs, executors, administrators, predecessors, successors and
6 assigns, and the other Releasees, shall completely release, acquit, and forever
7 discharge any and all Released Defendant's Claims, and shall forever be
8 enjoined from prosecuting the Released Defendant's Claims against Class
9 Plaintiffs, all other Class Members and their counsel.

10 37. Class Plaintiffs and Korean Air waive California Civil Code
11 Section 1542 ("Section 1542"), Section 20-7-11 of the South Dakota Codified
12 Laws, and similar provisions in other states. Class Plaintiffs and Korean Air
13 hereby certify that they are aware of and have read and reviewed the following
14 provisions of Section 1542 : "A general release does not extend to claims which
15 the creditor does not know or suspect to exist in his or her favor at the time of
16 executing the release, which if known by him or her must have materially
17 affected his or her settlement with the debtor." The provisions of the release set
18 forth above shall apply according to their terms, regardless of the provisions of
19 Section 1542 or any equivalent, similar, or comparable present or future law or
20 principle of law of any jurisdiction. Class Plaintiffs and Korean Air hereby
21 expressly waive and relinquish any and all rights and benefits existing under (a)
22 Section 1542 or any equivalent, similar, or comparable present or future law or
23 principle of law of any jurisdiction; and (b) any law or principle of law of any
24 jurisdiction that would limit or restrict the effect or scope of the provisions of
25 the release set forth above.

26 **F. Persons Requesting Exclusion and Right to Withdraw from Settlement**

27 38. Class Counsel or their designee shall cause copies of any requests
28 for exclusion from the Class to be sent to counsel for Korean Air as they are

1 received.

2 39. On or before five (5) business days after the end of the period to
3 request exclusion from the Class established by the Court and set forth in the
4 notices of settlement described in Paragraph 31("opt-out period"), Class
5 Counsel shall provide Korean Air, through its counsel, with a written list of all
6 potential Class members who have timely exercised their rights to be excluded
7 from the Class. Class Counsel and Korean Air will then ascertain the total
8 dollar amount of U.S. sales of Passenger Air Transportation made during the
9 Class Period to those individuals or entities requesting exclusion from the Class
10 (the "opt-out amount"). In the event that the opt-out amount of U.S. purchases
11 is equal to or greater than ten percent (10%) of the total dollar amount of U.S.
12 sales of Passenger Air Transportation made by Defendants during the Class
13 Period, then Korean Air may in its discretion elect to withdraw from this
14 Agreement by providing written notice to Class Counsel on or before ten (10)
15 business days from receipt of the list of opt-outs. In the event Korean Air
16 exercises its option to terminate this Agreement: (i) this Agreement shall be null
17 and void and shall have no force or effect and shall be without prejudice to the
18 rights and contentions of Korean Air in this or any other litigation and (ii) the
19 Settlement Fund, plus interest thereon, shall be refunded promptly to Korean
20 Air, minus such payment (as set forth in this Agreement) of expenses previously
21 incurred for taxes, class notice, claims administration, or settlement
22 administration costs.

23 40. Class Counsel shall, on or before five (5) business days from
24 receipt of the notice of withdrawal from Korean Air, provide Korean Air with
25 written notice of any challenge by Class Plaintiffs to Korean Air's claim of
26 entitlement to withdraw from the Settlement Agreement. In the event the
27 parties are unable to agree upon the opt-out amount, they shall submit the issue
28 to the Court for decision, and the Court's decision will be final, binding, and not

1 appealable.

2 **G. The Settlement Fund**

3 41. Payment into the Escrow Account shall, when made, be invested in
4 short-term United States Agency or Treasury Securities (or a mutual fund
5 invested solely in such instruments), or in a fully U.S. Government-insured
6 account. Any interest earned thereon shall be collected and reinvested and shall
7 become part of the Class Cash Fund. Any sums required to be held in escrow
8 hereunder before the Effective Date shall be held by Class Counsel as Escrow
9 Agents for the Escrow Account. All funds held by the Escrow Agents shall be
10 deemed to be in the custody of the Court and shall remain subject to the
11 jurisdiction of the Court until such time as the funds shall be distributed or
12 returned to the persons paying the same pursuant to this Agreement and/or
13 further order of the Court. The parties hereto agree that the Escrow Account is
14 intended to be a Qualified Settlement Fund within the meaning of Treasury
15 Regulation § 1.468B-1 and shall be treated as a Qualified Settlement Fund from
16 the earliest date possible, and agree to any relation-back election required to
17 treat the Escrow Accounts as a Qualified Settlement Fund from the earliest date
18 possible. Counsel for Korean Air agree to provide promptly to the Escrow
19 Agents the statement described in Treasury Regulation § 1.468B-3(e).

20 42. Korean Air shall not have any responsibility, financial obligation,
21 or liability whatsoever with respect to the investment, distribution or
22 administration of the Escrow Account, including but not limited to, the costs
23 and expenses of such investment, distribution, and administration, except as
24 expressly provided in this Agreement.

25 43. Class Counsel shall be reimbursed and paid solely out of the
26 Settlement Fund for all expenses including, but not limited to, attorneys' fees
27 and related costs, pursuant to and consistent with a Court order awarding
28 attorneys' fees and costs. Korean Air shall not be liable for any costs, fees or

1 expenses of any of the Class' or Class Plaintiffs' attorneys, experts, advisors,
2 agents or representatives.

3 44. Class Counsel may submit an application to the Court for
4 distribution from the Settlement Fund for (a) an award of reasonable attorneys'
5 fees, plus (b) reimbursement of expenses and costs incurred in connection with
6 prosecuting the Action.

7 45. Any award of attorneys' fees and costs approved by the Court (the
8 "Fee and Expense Award") shall be paid from the Settlement Fund within five
9 (5) Court days after the award is entered by the Court. If any portion of the Fee
10 and Expense Award is disbursed prior to the Effective Date, or in the event the
11 settlement is reversed on appeal or any portion of the Fee & Expense Award is
12 vacated, reversed or reduced by the Court or on appeal, any Class Counsel that
13 received payments of any Fee and Expense Award that are subject to
14 elimination or reduction shall within ten (10) Court days after the applicable
15 order is entered by the court, refund to the Settlement Fund the full amount of
16 the Fee and Expense Award previously paid to such counsel, or, if the Fee &
17 Expense Award is reduced, a proportion of such full amount which shall be
18 equal to the proportion of the reduced Fee & Expense Award to the original
19 award. Any counsel receiving any portion of the Fee & Expense Award shall
20 guarantee repayment to the Settlement Fund consistent with this paragraph.

21 46. Korean Air shall not have any responsibility for, or interest in, or
22 liability whatsoever with respect to any payment of any Fee & Expense Award
23 in the Action to Class Counsel. Additionally, Korean Air shall not have any
24 responsibility for, or interest in, or liability whatsoever with respect to the
25 allocation among Class Counsel and/or any other person who may assert some
26 claim thereto, of any Fee & Expense Award that the Court may make in the
27 Action.
28

1 **H. Termination**

2 47. If the Court presiding over this Action declines to approve the
3 Settlement Agreement without modification, or does not enter a Final Judgment
4 in this Action as to the claims against Korean Air, or if such Final Judgment is
5 entered in this Action and appellate review is sought and, on such review, such
6 Final Judgment is modified or set aside on appeal, Korean Air and Class
7 Plaintiffs each shall, in their sole discretion, have the option to terminate this
8 Agreement in its entirety. If either party terminates, any and all amounts then
9 constituting the Settlement Fund shall be returned forthwith to Korean Air, less
10 only such disbursements that have been properly made, or incurred, or are due
11 and payable, in accordance with this Agreement, which includes, but is not
12 limited to, any costs of administration and claim notice paid or incurred and
13 paid or payable from Class Cash Fund and any Taxes and Tax Expenses due
14 with respect to the Settlement Fund. No amounts paid or incurred for costs of
15 administration and class notice shall be recoupable by Korean Air.
16 Additionally, if any Fee and Expense Award has been paid from the Settlement
17 Fund, such funds shall be returned to the Settlement Fund consistent with the
18 above paragraphs.

19 48. A modification or reversal on appeal of any amount of attorneys'
20 fees or expenses awarded by the Court or of any plan of allocation of settlement
21 proceeds among Class Members in this Action shall not be deemed a
22 modification of this Agreement or of the Order and Final Judgment approving
23 the settlement in this Action.

24 49. Korean Air and Class Plaintiffs expressly reserve all of their
25 respective rights to the extent that the Agreement does not become effective or
26 if it is terminated by either party pursuant to this Agreement. If for any reason
27 this Agreement does not receive final Court approval, then the certification of
28 the Class for purposes of settlement shall become null and void without further

1 Court action, and shall not prejudice any party in arguing for or contesting class
2 certification in this Action or in any other proceeding.

3 **I. Taxes and Tax Expenses**

4 50. Class Counsel or their designee shall be solely responsible for
5 filing all informational and other tax returns necessary to report any taxable
6 income earned by the Settlement Fund and shall file all informational and other
7 tax returns necessary to report any income earned by the Settlement Fund and
8 pay any Taxes due thereon out of the Class Cash Fund, as and when legally
9 required including interest and penalties due on income earned by the
10 Settlement Fund. Class Counsel shall be entitled to pay customary and
11 reasonable Tax Expenses, including professional fees and expenses incurred in
12 connection with carrying out their responsibilities as set forth in this Paragraph
13 from the Class Fund. Korean Air shall have no responsibility to make any tax
14 filings relating to this Agreement or the Settlement Fund or to pay any taxes
15 with respect thereto.

16 **J. Additional Provisions**

17 51. Korean Air warrants, as to the payments made by or on behalf of it,
18 at the time of such payment that Korean Air made or caused to be made
19 pursuant to this Agreement, it was not insolvent, nor did nor will the payment
20 required to be made by or on behalf of it render Korean Air insolvent, within the
21 meaning of and/or for the purposes of the United States Bankruptcy Code,
22 including §§ 101 and 547 thereof, or the insolvency laws of the Republic of
23 Korea. This warranty is made by Korean Air and not by Korean Air's counsel.

24 52. If a case is commenced in respect of Korean Air (or any insurer
25 contributing funds to the Class Cash Fund on behalf of Korean Air) under Title
26 11 of the United States Code (Bankruptcy), or a trustee, receiver, conservator,
27 or other fiduciary is appointed under any similar law (including, but not limited
28 to, in the Republic of Korea), and in the event of the entry of a final order of a

1 court of competent jurisdiction determining the transfer to the Settlement Fund
2 or any portion thereof by or on behalf of Korean Air to be a preference,
3 voidable transfer, fraudulent transfer or similar transaction and any portion
4 thereof is required to be returned, and such amount is not promptly deposited to
5 the Settlement Fund by others, then, at the election of Class Counsel, the parties
6 shall jointly move the Court to vacate and set aside the releases given and
7 Judgment entered in favor of the Releasees pursuant to this Agreement, which
8 releases and Judgment shall be null and void, and the parties shall be restored to
9 their respective positions in the litigation immediately prior to the execution of
10 this Agreement and any cash amounts in the Settlement Fund and the Notice
11 and Administration Costs Fund shall be returned as provided in Paragraph 47
12 above.

13 53. This Agreement constitutes the entire agreement among Class
14 Plaintiffs and Korean Air pertaining to the settlement of this Action against
15 Korean Air only and supersedes any and all prior and contemporaneous
16 undertakings of Class Plaintiffs and Korean Air in connection therewith. This
17 Agreement may be modified or amended only by a writing executed by Class
18 Plaintiffs and Korean Air and approved by the Court.

19 54. Neither this Agreement nor any negotiations, documents or
20 proceedings connected with it shall be deemed or construed to be an admission
21 by any party to this Agreement or any Releasors or Releasees, or evidence of
22 any fact or violation of law or statute in this Action or in any related actions or
23 proceedings, and evidence thereof shall not be discoverable or used, directly or
24 indirectly, in any way, except in a proceeding to interpret or enforce this
25 Agreement.

26 55. Neither Korean Air nor Class Plaintiffs shall be considered to be
27 the drafter of this Agreement or any of its provisions for the purpose of any
28 statute, case law or rule of interpretation or construction that would or might

1 cause any provision to be construed against the drafter of this Agreement.

2 56. This Agreement shall be construed and interpreted to effectuate the
3 intent of the parties, which is to provide, through this Agreement, for a complete
4 resolution of the Released claims and Released Defendant's Claims.

5 57. Nothing express or implied in this Agreement is intended to or
6 shall be construed to confer upon or give any person or entity other than Korean
7 Air, Class Members, Releasers, and Releasees any right or remedy under or by
8 reason of this Agreement. The Agreement shall be binding upon, and inure to
9 the benefit of, Releasers and Releasees.

10 58. This Agreement may be executed in counterparts by Korean Air
11 and Class Plaintiffs, and a facsimile or .pdf signature shall be deemed an
12 original signature for purposes of executing this Agreement.

13 59. The Parties represent and warrant that they are authorized to enter
14 into this Agreement, on their own behalf and on behalf of their subsidiaries and
15 affiliated entities, and that they intend the Agreement to be a valid and binding
16 obligation, enforceable in accordance with its terms.

17 60. The signatories to this Agreement represent and warrant that they
18 have the authority to bind the Parties on whose behalf they are signing, and their
19 subsidiaries and affiliated entities.

20 June 30, 2013

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Its Senior V.P. of Legal Department

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