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*Attorneys for Defendants Inventure Foods
Inc., Terry McDaniel, and Steve
Weinberger*

9 ***Additional Counsel for the Parties on Signature Page***
10 **SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **COUNTY OF MARICOPA**

12 WESTMORELAND COUNTY
13 EMPLOYEE RETIREMENT FUND, a
14 public pension fund, individually and on
behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 INVENTURE FOODS INC., a foreign
18 corporation, TERRY MCDANIEL,
individual, STEVE WEINBERGER,
19 individual, WILLIAM BLAIR &
20 COMPANY, L.L.C., a foreign limited
liability company, CANACCORD
21 GENUITY, a foreign corporation, and
22 ROTH CAPITAL PARTNERS, a foreign
partnership,

23 Defendants.

No. CV2016-002718

STIPULATION OF SETTLEMENT

(Assigned to the Honorable Randall
Warner)

24 This Stipulation and Agreement of Settlement dated as of April 24, 2018 (the
25 “Stipulation”), is made and entered into by and among the following Settling Parties:

26 (i) Westmoreland County Employee Retirement Fund (“Plaintiff” or “Westmoreland”)

1 (on behalf of itself and each of the members of the class), by and through its counsel of
2 record; (ii) defendants, Inventure Foods, Inc. (“Inventure”), Terry McDaniel
3 (“McDaniel”) and Steve Weinberger (“Weinberger”) (McDaniel and Weinberger
4 collectively, “Individual Defendants” and with Inventure collectively, the “Inventure
5 Defendants”) and William Blair & Company, L.L.C. (“William Blair”), Canaccord
6 Genuity Inc. (“Canaccord”) and Roth Capital Partners, LLC (“Roth Capital”) (William
7 Blair, Canaccord, and Roth Capital, collectively the “Underwriter Defendants”) by and
8 through their respective counsel of record in the above-captioned action (the “Litigation”).

9 Subject to Court approval, this Stipulation is intended by Plaintiff, on behalf of
10 itself and the Class (as herein defined), on the one hand, and each of the Defendants, on
11 the other hand (collectively, the “Settling Parties” and individually a “Settling Party”), to
12 fully, finally, and forever compromise, resolve, discharge and settle the Released Claims
13 (defined herein), upon and subject to the terms and conditions hereof.

14 Unless otherwise noted, capitalized terms in this Stipulation have the meanings
15 assigned to them in Section 1, below.

16 **WHEREAS:**

17 A. On April 6, 2016, this Litigation was commenced in the Superior Court of
18 Arizona in Maricopa County (the “Court”), alleging that Defendants undertook a course
19 of conduct in violation of Sections 11, 12(a)(2) and/or 15 of the Securities Act of 1933,
20 15 U.S.C. §§ 77k, 77(a)(2) and 77o (the “Securities Act”), with respect to Plaintiff and a
21 class of persons and entities who purchased or otherwise acquired Inventure common
22 stock pursuant and/or traceable to Inventure’s secondary public offering that closed on
23 September 14, 2014 (the “SPO”) of 4.1 million shares of common stock at an offering
24 price of \$12.85 per share.

25 B. On May 6, 2016, the Inventure Defendants removed the Litigation to federal
26 court. *See Westmoreland County Employee Retirement Fund v. Inventure Foods Inc. et*

1 *al.*, 2:16-cv-01410-SMM (D. Ariz.). Plaintiff filed its motion for remand on May 26,
2 2016, and the federal court granted the motion on August 11, 2016.

3 C. On October 17, 2016, Plaintiff filed with the Court an Amended Complaint.
4 On November 21, 2016, Defendants moved to dismiss the Amended Complaint and the
5 Litigation in its entirety. After a February 23, 2017 oral argument, the Court issued an
6 Under Advisement Ruling (the “February Ruling”) with Orders granting in part and
7 denying in part Defendants’ Motions to Dismiss the Amended Complaint. In the February
8 Ruling, the Court held that: (i) Plaintiffs sufficiently pleaded statutory standing for a
9 Section 11 claim against all Defendants and statutory standing for a Section 12 claim
10 against Defendant William Blair (but not Defendants Canaccord or Roth Capital), and that
11 the Individual Defendants are “controlling persons” under Section 15; and (ii) while the
12 allegations supported at least some misstatements and omissions, Plaintiff needed to
13 satisfy Rule 9(b) by providing in an amended complaint a clearer delineation of which
14 statements or omissions are alleged to be false or misleading and why.

15 D. On March 27, 2017, Plaintiff filed its Second Amended Complaint (“SAC”).
16 On May 3, 2017, Defendants jointly moved to dismiss the SAC, which motion Plaintiff
17 opposed.

18 E. On May 26, 2017, the Court convened a status conference. During the
19 conference, the Court ordered Defendants to answer the SAC, and converted Defendants’
20 Motion to Dismiss the SAC to a Motion for Judgment on the Pleadings.

21 F. On July 10, 2017, Defendants answered the SAC and asserted over 44
22 separate defenses, including, but not limited to, their assertion that the SAC failed to state
23 a claim upon which relief may be granted.

24 G. On August 4, 2017, the Court held oral argument on Defendants’ Motion for
25 Judgment on the Pleadings and later that day issued its ruling denying in part and granting
26 in part Defendants’ motion.

1 H. In May 2017, the Settling Parties agreed to participate in a mediation with
2 Robert Meyer (“Mediator Meyer”). The mediation was scheduled for August 24, 2017,
3 and in advance of the mediation, Plaintiff requested a number of categories of documents
4 from Defendants, which Defendants provided to Plaintiff in advance of mediation.

5 I. On August 18, 2017, the Settling Parties exchanged mediation statements
6 and also submitted them to Mediator Meyer. On August 24, 2017, the Settling Parties
7 participated in a day-long mediation. At the conclusion of the session, the Settling Parties
8 had not reached a resolution; however, the parties agreed to continue discussions with the
9 assistance of Mediator Meyer and to exchange detailed information prepared by their
10 respective consulting experts concerning damages. Over the next few weeks, the Settling
11 Parties exchanged affirmative and rebuttal damages analyses, and conferred with
12 Mediator Meyer concerning the claims and damages.

13 J. On October 31, 2017, Defendants filed a Motion for a Temporary Stay of
14 the Litigation, seeking to stay the Litigation pending a ruling in *Cyan, Inc. v. Beaver*
15 *County Retirement Fund*, U.S. Supreme Court No. 15-1439, in which the Supreme Court
16 was set to address whether state courts have subject matter jurisdiction over class actions
17 asserting claims under the Securities Act.

18 K. After extensive arm’s-length negotiations with the assistance of Mediator
19 Meyer, on November 7, 2017, the Settling Parties agreed to a mediator's proposal to settle
20 the case for \$4.2 million. This sum reflects a compromise result, and therefore, is less
21 than the full amount of damages alleged by Plaintiff. The proposed settlement remained
22 contingent upon the Settling Parties’ negotiation and agreement to the Stipulation and,
23 subsequently, the Court’s approval.

24 L. In a November 13, 2017 filing and during a telephonic conference on
25 November 17, 2017, the Settling Parties notified the Court that they had reached an
26 agreement with respect to certain terms for a proposed global settlement that would

1 resolve all of the claims asserted in the Litigation as to all parties, but had not yet
2 exchanged the draft documents that will be material to the Settlement.

3 M. On December 14, 2017, Utz Quality Foods, LLC ("Utz") announced the
4 completion of its acquisition of Inventure whereby Utz acquired all of Inventure's
5 outstanding shares of common stock in an all-cash transaction.

6 N. Plaintiff believes that the claims asserted in the Litigation have merit.
7 Plaintiff and Class Counsel recognize and acknowledge, however, the terms of the
8 proposed settlement relative to scale of the expense and time to continuing the
9 proceedings and necessary to prosecute the Litigation against Defendants through class
10 certification, completion of fact and expert discovery, summary judgment, trial, and
11 appeals, warrant resolution. Plaintiff and Class Counsel also have taken into account the
12 risks and uncertain outcome of any litigation, especially in complex actions such as this
13 Litigation, as well as the difficulties and delays inherent in such litigation. Plaintiff and
14 Class Counsel also are mindful of the inherent problems of proof regarding and possible
15 defenses to the violations asserted in the Litigation. Plaintiff and Class Counsel believe
16 that the Settlement set forth in this Stipulation is in the best interest of the Class and
17 confers substantial benefits upon the Class reflective of the statutory violations and
18 economic harm alleged.

19 O. Defendants have denied and continue to deny each and all of the claims and
20 contentions alleged by Plaintiff in the Litigation. Defendants expressly have denied and
21 continue to deny all charges of wrongdoing or liability against them arising out of any of
22 the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the
23 Litigation. Defendants also have denied and continue to deny, inter alia, the allegations
24 that Plaintiff or Class Members have suffered damage, or were otherwise harmed by the
25 conduct alleged in the Litigation. Nonetheless, Defendants have determined that it is
26 desirable and beneficial to them that the Litigation be settled in the manner and upon the

1 terms and conditions set forth in this Stipulation to avoid the further expense,
2 inconvenience, and burden of this Litigation, the distraction and diversion of personnel
3 and resources, and to obtain the dismissal and/or release of this Litigation and Released
4 Claims (defined herein). The Settling Parties agree that this Stipulation, the Settlement, or
5 their terms, shall not constitute an admission or finding of wrongful conduct, acts or
6 omissions on the part of any Defendant or be admissible in any proceeding or arbitration
7 for any purpose whatsoever other than a proceeding to enforce the terms of this
8 Stipulation and/or Judgment.

9 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and
10 among the Settling Parties, by and through their respective attorneys, subject to the
11 approval of the Court pursuant to Rule 23 of the Rules of Civil Procedure for the Superior
12 Courts of Arizona (“Rule 23”), that in consideration of the benefits flowing to the Settling
13 Parties from the Settlement, all Released Claims (defined herein) shall be finally and fully
14 compromised, settled, and released, and the Litigation shall be dismissed with prejudice,
15 as to all Settling Parties, upon and subject to the following terms and conditions:

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17 **1. DEFINITIONS**

18 In addition to the terms that may be defined elsewhere in this Stipulation, the
19 following terms as used in the Stipulation have the meanings specified below:

20 1.1 “Authorized Claimant” means any Class Member whose claim for recovery
21 has been allowed pursuant to the terms of the Stipulation, that is approved for payment
22 from the Net Settlement Fund.

23 1.2 “Claim” means a completed and signed Proof of Claim Form submitted to
24 the Claims Administrator in accordance with the instructions on the Proof of Claim Form.

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1 1.3 “Claimant” means a member of the Class that submits a Proof of Claim
2 Form to the Claims Administrator seeking to share in the proceeds of the Net Settlement
3 Fund.

4 1.4 “Claims Administrator” means the firm of Angeion Group.

5 1.5 “Class” means all Persons who purchased the common stock of Inventure
6 pursuant or traceable to Inventure’s shelf registration statement on Forms S-3 and S-3/A
7 (Registration No. 333-196795), prospectus dated August 28, 2014, and/or prospectus
8 supplement dated September 11, 2014, issued in connection with Inventure’s SPO of 4.1
9 million shares of common stock which closed on or about September 14, 2014. Excluded
10 from the Class are each of the Defendants, their directors and officers; members of their
11 immediate families; any entity in which a Defendant has a controlling interest (but in the
12 case of the Underwriter Defendants, only such entities in which they have a majority
13 ownership interest); any Person who timely and validly requests exclusion from the Class;
14 and the heirs, successors, and assigns of any such excluded party. Notwithstanding the
15 foregoing, the Class shall include any investment company or pooled investment fund,
16 including, but not limited to, mutual fund families, exchange-traded funds, fund of funds
17 and hedge funds, in which the Underwriter Defendants, or any of them, have, has or may
18 have a direct or indirect interest, or as to which any Underwriter Defendant’s affiliates
19 may act as an investment advisor, but as to which any Underwriter Defendant alone or
20 together with any of its respective affiliates is neither a majority owner nor the holder of a
21 majority beneficial interest.

22 1.6 “Class Counsel” means Chimicles & Tikellis LLP and Gallagher &
23 Kennedy, P.A.

24 1.7 “Class Member” or “Member of the Class” means a Person who falls within
25 the definition of the Class as set forth above in ¶1.5 of the Stipulation who did not submit
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1 a timely, signed request for exclusion, or if a request for exclusion was submitted, also
2 submitted a timely signed request to revoke the prior request for exclusion.

3 1.8 “Class Notice and Administration Expenses” means all the costs and
4 expenses reasonably and actually incurred in connection with providing Notice and
5 Summary Notice, locating Class Members, soliciting Class claims, assisting with the
6 filing of claims, administering and distributing the Net Settlement Fund to Authorized
7 Claimants, processing Proofs of Claim, and paying escrow fees and costs, if any.

8 1.9 “Class Period” means the period beginning on September 12, 2014 through
9 and including April 23, 2015.

10 1.10 “Defendants” means Inventure, McDaniel, Weinberger, William Blair,
11 Canaccord, and Roth Capital.

12 1.11 “Effective Date” means the first business day after which all of the events
13 and conditions specified in ¶8.1 of the Stipulation have been met and have occurred.

14 1.12 “Escrow Account” means an account maintained at Huntington Bank to
15 hold the Settlement Fund, which account, subject to the Court’s supervisory authority,
16 shall be under the exclusive control of Class Counsel.

17 1.13 “Escrow Agent” means Chemicles & Tikellis LLP or its successor(s).

18 1.14 “Final” means the later of: (i) the entry of judgment approving the
19 Stipulation, substantially in the form of Exhibit B attached hereto; (ii) the date of final
20 affirmance on an appeal of the Judgment, the expiration of the time for a petition for or a
21 denial of a writ of certiorari to review the Judgment and, if certiorari is granted, the date
22 of final affirmance of the Judgment following review pursuant to that grant; (iii) the date
23 of final dismissal of any appeal from the Judgment or the final dismissal of any
24 proceeding or certiorari to review the Judgment; or (iv) if no appeal is filed, the expiration
25 date of the time for the filing or noticing of any appeal from the Court’s Judgment
26 approving the Stipulation, substantially in the form of Exhibit B attached hereto; provided,

1 however, that an appeal relating solely to Plaintiff’s Counsel Fees and Expenses
2 Application or Award shall not delay the date on which the Judgment becomes Final with
3 respect to the Settlement.

4 1.15 “Final Approval Hearing” means the hearing to be held by the Court to
5 determine whether the proposed Settlement is fair, reasonable and adequate and should be
6 approved pursuant to Rule 23.

7 1.16 “Individual Defendants” means Terry McDaniel and Steve Weinberger.

8 1.17 “Inventure” or the “Company” means Inventure Foods, Inc., its
9 predecessors, successors, subsidiaries, and divisions.

10 1.18 “Inventure Defendants” means Inventure, McDaniel and Weinberger.

11 1.19 “Judgment” means the judgment to be rendered by the Court, substantially
12 in the form and content attached hereto as Exhibit B.

13 1.20 “Notice” means the Notice of Pendency of Class Action and Proposed
14 Settlement, Final Approval Hearing and Plaintiffs’ Counsel Fees and Expenses
15 Application which will be sent to the Class Members and, subject to approval of the
16 Court, shall be substantially in the form attached hereto as Exhibit A-1.

17 1.21 “Person” means an individual, corporation, limited liability corporation,
18 professional corporation, limited liability partnership, partnership, limited partnership,
19 association, joint stock company, estate, legal representative, trust, unincorporated
20 association, government or any political subdivision or agency thereof, and any business
21 or legal entity and their spouses, heirs, predecessors, successors, representatives, or
22 assignees.

23 1.22 “Plaintiff” means Westmoreland.

24 1.23 “Plaintiff’s Counsel” means the law firms of Chimicles & Tikellis LLP and
25 Gallagher & Kennedy, P.A.
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1 1.24 “Plaintiff’s Counsel Fees and Expenses Application” means a request from
2 Class Counsel to the Court for an award of fees and expenses to Plaintiff’s Counsel.

3 1.25 “Plaintiff’s Counsel Fees and Expenses Award” means such amount as the
4 Court may award to Plaintiff’s Counsel from the Settlement Fund (as hereinafter defined)
5 pursuant to ¶ 7 of this Stipulation as: reasonable attorneys’ fees and payment of costs and
6 expenses incurred by Plaintiff’s Counsel in the prosecution of the Litigation; and,
7 payment to Plaintiff for its time and expenses in representing the Class (“Service Award”).

8 1.26 “Plan of Allocation” means a plan of allocating the Net Settlement Fund (as
9 hereinafter defined) whereby the Net Settlement Fund shall be distributed to Authorized
10 Claimants after payment of expenses of notice and administration of the Settlement, Taxes
11 and Tax Expenses (as defined herein in ¶3.10), and such attorneys’ fees, costs, expenses,
12 and interest as may be awarded by the Court. The Plan of Allocation is not part of the
13 Stipulation and Defendants shall have no responsibility or liability with respect thereto.

14 1.27 “Preliminary Approval Order” means the Order Preliminarily Approving
15 Settlement and Providing for Notice, as approved by the Court, proposed substantially in
16 the form attached hereto as Exhibit A.

17 1.28 “Proof of Claim Form” means the Proof of Claim and Release form for
18 submitting a Claim, which shall be substantially in the form attached hereto as Exhibit A-
19 2, that a Class Member must complete and timely submit for that Class Member to be
20 eligible to share in the distribution of the Net Settlement Fund.

21 1.29 “Qualified Settlement Fund” means a Qualified Settlement Fund as defined
22 by Treas. Reg. § 1.468B-1.

23 1.30 “Related Persons” means with respect to each of the Released Defendants,
24 its/his present, former and future (i) parents, subsidiaries, affiliates, predecessors,
25 successors, joint venturers and assigns, and (ii) each of their respective officers, directors,
26 employees, partners, controlling shareholders, principals, trustees, attorneys, auditors,

1 accountants, investment bankers, underwriters, consultants, agents, insurers, re-insurers,
2 spouses, estates, related or affiliated entities, any entity in which a Defendant has a
3 controlling interest, any members of any Individual Defendant's immediate family, any
4 trust of which any Individual Defendant is the settlor or which is for the benefit of any
5 Individual Defendant and/or member(s) of his family, and each of the heirs, executors,
6 administrators, predecessors, successors, and assigns of the foregoing.

7 1.31 "Released Claims" shall collectively mean any and all claims, causes of
8 action, demands, rights, actions, liabilities, damages, losses, obligations, judgments, suits,
9 fees, expenses, costs, matters, and issues of any kind or nature whatsoever, whether fixed
10 or contingent, accrued or unaccrued, suspected or unsuspected, disclosed or undisclosed,
11 liquidated or unliquidated, matured or unmatured (including "Unknown Claims" as
12 defined in ¶1.43 hereof), arising out of, relating to, or in connection with both (i) the
13 purchase, acquisition, holding, sale, or disposition of Inventure common stock pursuant or
14 traceable to Inventure's shelf registration statement on Forms S-3 and S-3/A (Registration
15 No. 333-196795), prospectus dated August 28, 2014, and/or prospectus supplement dated
16 September 11, 2014, filed in connection with Inventure's SPO of 4.1 million shares of
17 common stock that closed on or about September 14, 2014; and (ii) the facts, events,
18 transactions, acts, occurrences, statements, representations, alleged misrepresentations, or
19 omissions, which were, could have been, or in the future can or might be alleged in the
20 Litigation or in any forum whatsoever, by Plaintiff or any member of the Class, whether
21 individual, class, derivative, representative, legal, equitable, or any other type or in any
22 other capacity, against any of the Released Defendants, whether or not any such Released
23 Defendants were named, served with process, or appeared in the Litigation, based upon
24 the Securities Act, any other federal, state, local, statutory, common, foreign or
25 international law, rule, or regulation or any other law, rule, or regulation or any common
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1 law causes of action; *provided that* the Released Claims do not include claims based upon
2 the interpretation or enforcement of the terms of the Settlement.

3 1.32 “Released Defendants” means each and all of the Defendants, dismissed
4 defendant Capital Foods, LLC, and each and all of their respective Related Persons.

5 1.33 “Released Defendants’ Claims” means all claims (including, but not limited
6 to, “Unknown Claims” as defined in ¶1.43 hereof), demands, losses, rights, and causes of
7 action of any nature whatsoever, that have been or could have been asserted in the
8 Litigation or any forum by Defendants or any of them against Released Plaintiffs, which
9 arise out of or relate in any way to the institution, prosecution, assertion, settlement, or
10 resolution of the Litigation (except for claims to enforce the Settlement).

11 1.34 “Released Parties” means, collectively, Released Defendants and Released
12 Plaintiffs.

13 1.35 “Released Plaintiffs” means Plaintiff, each and every Member of the Class,
14 Plaintiff’s Counsel, and each and all of their respective predecessors, successors,
15 representatives, agents, attorneys, heirs, executors, trustees, personal representatives,
16 estates, administrators and assigns; and any other Person who has the right, ability,
17 standing or capacity to assert, prosecute or maintain any of the Released Claims; *provided*
18 *however*, that Released Plaintiffs shall not include any Person who or which properly
19 excludes himself, herself or itself by filing a valid and timely request for exclusion.

20 1.36 “Settlement” means the compromise and settlement among the Settling
21 Parties contemplated by and provided for in this Stipulation.

22 1.37 “Settlement Amount” means Four Million Two Hundred Thousand Dollars
23 (\$4,200,000.00) in cash to be paid into an escrow account controlled by the Escrow Agent
24 pursuant to ¶¶3.1 and 3.2 of this Stipulation.

25 1.38 “Settlement Fund” means the principal amount of Four Million Two
26 Hundred Thousand Dollars (\$4,200,000.00) in cash, plus any accrued interest.

1 1.39 “Settling Parties” means, collectively, each of the Defendants and Plaintiff
2 on behalf of itself and Class Members.

3 1.40 “Summary Notice” means the summary of the Notice which, subject to the
4 approval of the Court, shall be substantially in the form attached hereto as Exhibit A-3 and
5 published as set forth in the Preliminary Approval Order.

6 1.41 “Taxes” means any and all taxes, fees, levies, duties, tariffs, imposts, and
7 other charges of any kind (together with any and all interest penalties, additions to tax and
8 additional amounts imposed with respect thereto) imposed by any governmental authority.

9 1.42 “Underwriter Defendants” means William Blair, Canaccord, and Roth
10 Capital.

11 1.43 “Unknown Claims” means: (a) any Released Claims that Plaintiff or any
12 Class Member does not know or suspect to exist in his, her, or its favor at the time of the
13 release of the Released Defendants, which, if known by him, her, or it, might have
14 affected his, her, or its settlement with and release of the Released Defendants, or might
15 have affected his, her, or its decision(s) with respect to the Settlement; and (b) any
16 Released Defendants’ Claims that any Defendant does not know or suspect to exist in his
17 or its favor at the time of the release of the Released Plaintiffs, which, if known by him or
18 it, might have affected his or its settlement with and release of the Released Plaintiffs, or
19 might have affected his or its decision(s) with respect to the Settlement. With respect to
20 any and all Released Claims and Released Defendants’ Claims, the Settling Parties
21 stipulate and agree that, upon the Effective Date, Plaintiff and Defendants shall expressly
22 waive, and each of the Class Members shall be deemed to have, and by operation of the
23 Judgment shall have, expressly waived any and all provisions, rights, and benefits
24 conferred by California Civil Code §1542 and any law of any state or territory of the
25 United States, or principle of common law, which is similar, comparable, or equivalent to
26 California Civil Code §1542, which provides:

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

8 Plaintiff and Class Members may hereafter discover facts in addition to or different from
9 those that any of them now knows or believes to be true related to the subject matter of the
10 Released Claims, but Plaintiff and each Class Member, upon the Effective Date, shall be
11 deemed to have, and by operation of the Judgment shall have, fully, finally, and forever
12 settled and released any and all Released Claims, known or unknown, suspected or
13 unsuspected, contingent or non-contingent, disclosed or undisclosed, matured or
14 unmatured, which now exist, or heretofore have existed upon any theory of law or equity
15 now existing or coming into existence in the future, including, but not limited to, conduct
16 that is negligent, intentional, with or without malice, or a breach of any duty, law or rule,
17 without regard to the subsequent discovery or existence of such different or additional
18 facts. Similarly, Defendants may hereafter discover facts in addition to or different from
19 those that any of them now knows or believes to be true related to the subject matter of
20 Released Defendants' Claims, but each Defendant, upon the Effective Date, shall be
21 deemed to have, and by operation of the Judgment shall have, fully, finally, and forever
22 settled and released any and all Released Defendants' Claims, known or unknown,
23 suspected or unsuspected, contingent or non-contingent, disclosed or undisclosed, matured
24 or unmatured, which now exist, or heretofore have existed upon any theory of law or
25 equity now existing or coming into existence in the future, including, but not limited to,
26 conduct that 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. The Settling Parties acknowledge, and Plaintiff, Class Members and

1 Defendants shall be deemed by operation of the Judgment to have acknowledged, that the
2 inclusion of “Unknown Claims” in the definition of Released Claims and Released
3 Defendants’ Claims was separately bargained for and is a key element of the Settlement of
4 which these releases are a part.
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6 **2. SCOPE AND EFFECT OF SETTLEMENT**

7 2.1 The obligations incurred pursuant to this Stipulation are, subject to the
8 approval by the Court and such approval becoming Final, in full and final disposition of
9 the Litigation with respect to Released Defendants and any and all Released Claims and
10 Released Defendants’ Claims; *provided however* that the effectiveness of the Settlement
11 shall not be contingent upon the Court’s approval of Plaintiff’s Counsel Fees and
12 Expenses Application.

13 2.2. For purposes of this Settlement only, the Settling Parties stipulate to the
14 certification of the Litigation as a class action pursuant to Rule 23 on behalf of the Class
15 and to the appointment of Plaintiff as the class representative for the Class and Chimicles
16 & Tikellis LLP as Class Counsel for the Class.

17 2.3 By operation of the Judgment, as of the Effective Date, and subject to
18 ¶¶1.31 and 1.33, the Settling Parties shall be deemed to have fully, finally, and forever
19 waived, released, discharged and dismissed each and every one of (a) the Released Claims
20 against each and every one of the Released Defendants; and (b) Released Defendants’
21 Claims as against each and every one of the Released Plaintiffs, with prejudice and on the
22 merits, without costs to any party except as otherwise stated herein (including in ¶9.2),
23 including Plaintiff’s Counsel Fees and Expenses Award, to the extent approved by the
24 Court, and shall forever be barred and enjoined from commencing, instituting, prosecuting
25 or maintaining any of the Released Claims against any of the Released Defendants, and
26 Released Defendants’ Claims against any of the Released Plaintiffs.

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3. THE SETTLEMENT CONSIDERATION AND SETTLEMENT FUND

3.1 The Settlement Amount will be funded by certain of Inventure’s insurers.

3.2 The Settlement Amount will be paid into an Escrow Account as follows: (i) within twenty (20) business days after the later of (a) the Court’s entry of the Preliminary Approval Order, or (b) receipt from Class Counsel of full and complete wire transfer instructions or other instructions necessary for such payment and a completed IRS Form W-9 for the Settlement Fund. The Settlement Amount may be paid by wire transfer, by delivering to Class Counsel a check or checks payable to the Settlement Fund, by any combination of those methods, or in any other manner agreed upon by Class Counsel and Inventure. For payments by check, payment should be sent to the attention of Kimberly Donaldson Smith, Chemicles & Tikellis LLP, 361 W. Lancaster Avenue, Haverford, PA 19041 by overnight mail. If the Settlement Amount is not timely paid, the unpaid balance shall earn interest at the rate of 5% per annum until paid. Released Defendants shall have no obligation to make any direct payments to the Escrow Agent or to any Class Member pursuant to this Stipulation.

3.3 The Escrow Agent shall invest the Settlement Amount deposited pursuant to ¶¶3.1 and 3.2 hereof in short term United States Agency or Treasury Securities or other instruments backed by the full faith and credit of the United States Government or an agency thereof, or fully insured by the United States Government or an agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. All risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne by the Settlement Fund, and Released Parties shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions or the actions of the Escrow Agent, or any transactions executed by the Escrow Agent.

1 3.4 The Escrow Account shall be controlled by the Escrow Agent subject to the
2 Court’s oversight for the benefit of the Class. The Escrow Agent shall not disburse the
3 Settlement Fund except as provided in the Stipulation or by an order of the Court.

4 3.5 Subject to further order(s) and/or directions as may be made by the Court, or
5 as provided in the Stipulation, the Escrow Agent is authorized to execute such transactions
6 as are consistent with the terms of the Stipulation.

7 3.6 All funds held by the Escrow Agent shall be deemed and considered to be in
8 *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until
9 such time as such funds shall be distributed pursuant to the Stipulation and/or further
10 order(s) of the Court.

11 3.7 The Settlement Fund and any and all interest earned on any monies held in
12 the Escrow Account shall be applied to pay the following in the manner and in accordance
13 with the provisions contained in this Stipulation and the Judgment: (i) Class Notice and
14 Administration Expenses; (ii) all Taxes and Tax Expenses (as defined herein in ¶3.10);
15 and (iii) Plaintiff’s Counsel Fees and Expenses Award. The balance remaining in the
16 Settlement Fund (the “Net Settlement Fund”) shall be distributed to Authorized Claimants
17 after the Effective Date as provided below. **If the Settlement is not approved by the**
18 **Court or does not become effective pursuant to the terms of the Stipulation, then any**
19 **amounts paid or incurred for the expenses described in subparts (i) and (ii) of this**
20 **paragraph only shall not be subject to return to Defendants and/or their insurers.**

21 3.8 The Settling Parties and the Escrow Agent agree that the Settlement Fund is
22 intended to be a Qualified Settlement Fund. All necessary steps to enable the Escrow
23 Account to be a Qualified Settlement Fund shall be taken by Class Counsel, including the
24 timely filing by Class Counsel, the Claims Administrator, and/or their agents of all
25 elections and statements, and all federal, state and local tax returns required pursuant to
26 Treas. Reg. §1.468B-1 as necessary or advisable to carry out the provisions of this ¶3.8,

1 including the “relation-back election” (as defined in Treas. Reg. §1.468B-1) back to the
2 earliest permitted date. Such elections shall be made in compliance with the procedures
3 and requirements contained in such regulations. It shall be the responsibility of the Escrow
4 Agent to timely and properly prepare and deliver the necessary documentation for
5 signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

6 3.9 For the purpose of §1.468B of the Internal Revenue Code of 1986, as
7 amended, and the regulations promulgated thereunder, the “administrator” shall be the
8 Claims Administrator. The Claims Administrator shall timely and properly file all
9 informational and other tax returns necessary or advisable with respect to the Settlement
10 Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)).
11 Such returns (as well as the election described in ¶3.8 hereof) shall be consistent with this
12 ¶3.9 and in all events shall reflect that all Taxes (including any estimated Taxes, interest,
13 or penalties) on the income earned by the Settlement Fund shall be paid out of the
14 Settlement Fund, as provided in ¶3.10 hereof.

15 3.10 All: (i) Taxes (including any estimated Taxes, interest, or penalties) arising
16 with respect to the income earned by the Settlement Fund, including any Taxes or tax
17 detriments that may be imposed upon Released Parties or their counsel with respect to any
18 income earned by the Settlement Fund for any period during which the Settlement Fund
19 does not qualify as a “Qualified Settlement Fund” for federal or state income tax
20 purposes, and (ii) expenses and costs incurred in connection with the operation and
21 implementation of ¶¶3.8-10 (including, without limitation, expenses of tax attorneys
22 and/or accountants and mailing and distribution costs and expenses relating to filing (or
23 failing to file) the returns described in this ¶¶3.8-9) (“Tax Expenses”), shall be paid out of
24 the Settlement Fund; in all events Released Parties and their counsel shall have no liability
25 or responsibility for the Taxes or the Tax Expenses. The Escrow Agent, through the
26 Settlement Fund, shall indemnify and hold each of the Released Parties and their counsel

1 harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by
2 reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as,
3 and considered to be, a cost of administration of the Settlement Fund and shall be timely
4 paid at the direction of the Claims Administrator out of the Settlement Fund without prior
5 order from the Court and the Claims Administrator shall be authorized (notwithstanding
6 anything herein to the contrary) to withhold from distribution to Authorized Claimants
7 any funds necessary to pay such amounts, including the establishment of adequate
8 reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to
9 be withheld under Treas. Reg. §1.468B-2(l)(2)); none of the Released Parties are
10 responsible or have any liability for any Taxes or Tax Expenses. The Settling Parties
11 hereto agree to cooperate with the Claims Administrator, each other, and their tax
12 attorneys and accountants to the extent reasonably necessary to carry out the provisions of
13 this ¶¶3.8-10.

14 3.11 In the event that the Stipulation is not approved or the Stipulation is
15 terminated, canceled, or fails to become effective for any reason, the Settlement Fund
16 (including accrued interest) less expenses paid, incurred or due and owing consistent with
17 this Stipulation, including those incurred providing notice to the Class, locating Class
18 Members, soliciting claims, assisting with the filing of claims, administering and
19 distributing the Net Settlement Fund to Authorized Claimants, processing Proof of Claim
20 and Release forms, escrow fees and costs if any, and all Taxes and Tax Expenses, provided
21 for herein, shall be refunded pursuant to written instructions from counsel for Inventure
22 (in accordance with ¶8.6 herein).

23
24 **4. PRELIMINARY APPROVAL ORDER, SETTING OF THE FINAL**
APPROVAL HEARING, AND NOTICE

25 4.1 Shortly after execution of the Stipulation, Plaintiff shall submit the
26 Stipulation together with its exhibits (the “Exhibits”) to the Court and apply for entry of

1 the Preliminary Approval Order, substantially in the form of Exhibit A attached hereto,
2 requesting, *inter alia*, (i) the preliminary approval of the Settlement set forth in the
3 Stipulation; (ii) approval and conditional certification of the Class for settlement purposes;
4 (iii) approval of the form of Notice and Proof of Claim and publication of the Summary
5 Notice, substantially in the forms of Exhibits A-1, A-2, and A-3 attached hereto; and (iv)
6 the setting of a date for the Court to hold the Final Approval Hearing to determine
7 whether the proposed Settlement as set forth in the Stipulation is fair, reasonable and
8 adequate and should be approved, whether to approve the Plan of Allocation, whether to
9 enter the Judgment, and whether to approve Plaintiff's Counsel Fees and Expenses
10 Application.

11 4.2 Within twenty-one (21) calendar days after the entry of the Preliminary
12 Approval Order, the Claims Administrator shall cause a copy of the Notice and Proof of
13 Claim Form to be mailed by first-class mail to all Class Members who can be identified
14 with reasonable effort, including through transfer and ownership records from the SPO to
15 be made available to the Claims Administrator by Defendants within ten (10) calendar
16 days after the entry of the Preliminary Approval Order.

17 4.3 In addition, the Claims Administrator shall use reasonable efforts to give
18 notice to nominee owners such as brokerage firms and other persons or entities who
19 purchased in the SPO either as record owners and/or beneficial owners. Nominee owners
20 shall be requested to send the Notice and Proof of Claim Form to all such beneficial
21 owners within ten (10) calendar days after receipt thereof, or to send a list of the names
22 and addresses of such beneficial owners to the Claims Administrator within ten (10)
23 calendar days of receipt thereof, in which event the Claims Administrator shall promptly
24 mail the Notice and Proof of Claim Form to such beneficial owners. Such nominees may
25 seek reimbursement of their reasonable expenses in providing notice to beneficial owners
26 who are Class Members, which would not have been incurred except for the sending of

1 such notice, by providing the Claims Administrator with proper documentation supporting
2 the expenses for which reimbursement is sought. Such properly documented expenses
3 incurred by nominees in compliance with the terms of the Preliminary Approval Order
4 shall be paid from the Settlement Fund, subject to further order of the Court with respect
5 to any dispute concerning such compensation.

6 4.4 Furthermore, no later than ten (10) calendar days after the mailing of the
7 Notice, the Claims Administrator shall cause the Summary Notice to be published once in
8 the national edition of *Investor's Business Daily*, and once over the *Business Wire*.

9 4.5 At least fourteen (14) calendar days before the Final Approval Hearing,
10 Class Counsel shall serve on Defendants' Counsel and file with the Court proof, by
11 affidavit or declaration, of such mailing and publishing.

12
13 **5. ADMINISTRATION AND DISTRIBUTION OF THE SETTLEMENT**
14 **FUND**

15 5.1 Within one-hundred and twenty (120) calendar days after the entry of the
16 Preliminary Approval Order or such other time as may be set by the Court, each Class
17 Member shall be required to submit to the Claims Administrator a completed Proof of
18 Claim, substantially in the form and content of Exhibit A-2 attached hereto, signed under
19 penalty of perjury.

20 5.2 Except as otherwise ordered by the Court, any and all Class Members who
21 fail to timely submit a valid Proof of Claim within such period, or such other period as
22 may be ordered by the Court or otherwise allowed, shall be forever barred from receiving
23 any payments or distribution pursuant to this Stipulation and from the Net Settlement
24 Fund, but will in all other respects be subject to and bound by the provisions of this
25 Stipulation, including the releases provided for in this Stipulation and the terms of the
26 Judgment. Proof of Claim shall be deemed to be submitted when mailed, if received with
a postmark indicated on the envelope and if mailed by first-class or overnight U.S. Mail

1 and addressed in accordance with the instructions on the Proof of Claim. Notwithstanding
2 the foregoing, Class Counsel shall have the discretion (but not the obligation) to accept for
3 processing late submitted claims so long as the distribution of the Net Settlement Fund to
4 Authorized Claimants is not materially delayed. Plaintiff's Counsel shall have no liability
5 for not accepting late claims.

6 5.3 The Claims Administrator, subject to such supervision and direction of the
7 Court as may be necessary or as circumstances may require, shall administer and calculate
8 the claims submitted by Class Members and shall oversee distribution of the Net
9 Settlement Fund to Authorized Claimants. The Settlement Fund shall be applied as
10 follows:

11 (a) to pay all the costs and expenses reasonably and actually incurred in
12 connection with providing notice, locating Class Members, soliciting Class claims,
13 assisting with the filing of claims, administering and distributing the Net Settlement Fund
14 to Authorized Claimants, processing Proofs of Claim, and paying escrow fees and costs, if
15 any;

16 (b) to pay the Taxes and Tax Expenses described in ¶¶1.41, 3.8-10 above;

17 (c) to pay Plaintiff's Counsel Fees and Expenses Award and Service Award
18 to Plaintiff, if and to the extent allowed by the Court; and

19 (d) to distribute the Net Settlement Fund to Authorized Claimants as
20 allowed by the Stipulation, the Plan of Allocation, or the Court.

21 5.4 The Claims Administrator shall determine each Authorized Claimant's share
22 of the Net Settlement Fund based upon each Authorized Claimant's recognized loss, as
23 defined in the Plan of Allocation, prepared by Plaintiff, which is included in the Notice, or
24 in such other plan of allocation as the Court may approve. Defendants have had the
25 opportunity to review but take no position with respect to the Plan of Allocation. The Plan
26 of Allocation is a matter separate and apart from the proposed Settlement between

1 Plaintiff and Defendants, and any decision by the Court concerning the Plan of Allocation
2 shall not affect the validity or finality of the proposed Settlement. The Plan of Allocation
3 is not a necessary term of this Stipulation, and it is not a condition of this Stipulation that
4 any particular plan of allocation be approved by the Court. Plaintiff and Plaintiff's
5 Counsel may not cancel or terminate the Stipulation or the Settlement based on the
6 Court's or any appellate court's ruling with respect to the Plan of Allocation or any plan
7 of allocation in the Action.

8 5.5 Upon the Effective Date and thereafter, and in accordance with the terms of
9 the Stipulation, the Plan of Allocation, or such further approval and further order(s) of the
10 Court as may be necessary or as circumstances may require, the Net Settlement Fund shall
11 be distributed to Authorized Claimants.

12 5.6 Released Defendants shall have no responsibility for, interest in, or liability
13 whatsoever with respect to the investment or distribution of the Net Settlement Fund or
14 the Plan of Allocation, the determination, administration, or calculation of claims, the
15 payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection
16 therewith.

17 5.7 No Person shall have any claim against Plaintiff, Plaintiff's Counsel, any
18 Claims Administrator, any other Person designated by Plaintiff's Counsel, or any of the
19 Released Parties based on the distributions made substantially in accordance with this
20 Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s)
21 of the Court.

22 5.8 Following the Effective Date, Defendants shall not have a reversionary
23 interest in the Net Settlement Fund. The Net Settlement Fund shall be distributed to
24 Authorized Claimants substantially in accordance with the Plan of Allocation set forth in
25 the Notice and approved by the Court. If there is any balance remaining in the Net
26 Settlement Fund after at least six (6) months from the initial date of distribution of the Net

1 Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise), Class
2 Counsel shall, if feasible, reallocate such balance among Authorized Claimants in an
3 equitable and economic fashion. These redistributions shall be repeated until the balance
4 remaining in the Net Settlement Fund is no longer feasible to distribute to Class Members.
5 Thereafter, any balance which still remains in the Net Settlement Fund shall be donated to
6 the Partnership for Food Safety.

7 5.9 All proceedings with respect to the administration, processing and
8 determination of Claims described by ¶¶ 5.4–5.9 of this Stipulation and the determination
9 of all controversies relating thereto, including disputed questions of law and fact with
10 respect to the validity of Claims, shall be subject to the jurisdiction of the Court, but shall
11 not in any event delay or affect the finality of the Judgment.

12 **6. REQUESTS FOR EXCLUSION AND OBJECTIONS**

13 6.1 The Claims Administrator shall cause the Notice to be provided to the Class,
14 subject to the approval of the Court, pursuant to ¶¶ 4.2-4.4. A Person requesting
15 exclusion from the Class must provide a written, signed request for exclusion to the
16 Claims Administrator containing the following information: (i) name; (ii) address; (iii)
17 telephone number; (iv) number of shares purchased pursuant or traceable to the SPO; (v)
18 prices or other consideration paid for such shares; (vi) the date of each purchase and sale
19 transaction; and (vii) a statement that the Person wishes to be excluded from the
20 Settlement. Members of the Class may not exclude themselves by filing requests for
21 exclusion as a group or class, but must in each instance individually and personally
22 execute the request.

23 6.2 Unless otherwise ordered by the Court, any Class Member who or which
24 does not submit a timely written request for exclusion as provided by this section shall,
25 upon entry of the Final Approval Order, be bound by this Stipulation, whether or not such
26

1 Person objected to the Settlement and whether or not such Person received Settlement
2 consideration. Plaintiff shall request that the Court set as the deadline for submitting
3 requests for exclusion thirty (30) calendar days prior to the Final Approval Hearing.

4 6.3 The Claims Administrator shall scan and electronically send copies of all
5 requests for exclusion in PDF format (or such other format as agreed to by the Settling
6 Parties) to Defendants' Counsel and Class Counsel expeditiously (and not more than three
7 (3) business days) after the Claims Administrator receives each such request. As part of
8 the motion papers in support of the final approval of the Settlement, Class Counsel will
9 provide to Defendants' Counsel a list of all the Persons who or which have requested
10 exclusion from the Class and certify that all requests for exclusion received by the Claims
11 Administrator have been copied and provided to Defendants' Counsel.

12 6.4 The Notice shall also provide the process by which Class Members must
13 comply in order to submit for the Court's consideration any objection to the Settlement. In
14 addition, upon the filing of an objection, Class Counsel may take the deposition of the
15 objecting Class member pursuant to the Rules of Civil Procedure for the Superior Courts
16 of Arizona at an agreed-upon time and location, and to obtain any evidence relevant to the
17 objection. Failure by an objector to make himself or herself available for a deposition or
18 comply with expedited discovery may result in the Court striking the objection. The Court
19 may tax the costs of any such discovery to the objector or the objector's counsel if the
20 Court determines that the objection is frivolous or is made for an improper purpose.
21 Plaintiff shall request that the Court set as the deadline for submitting objections thirty
22 (30) calendar days prior to the Final Approval Hearing.

23
24 **7. PLAINTIFF'S COUNSEL'S ATTORNEYS' FEES AND EXPENSES**

25 7.1 Plaintiff's Counsel intends to submit an application or applications,
26 Plaintiff's Counsel Fees and Expenses Application, for distributions to them from the

1 Settlement Fund for: (a) an award of attorneys' fees; plus (b) expenses and costs incurred
2 in connection with prosecuting the Litigation, plus any interest on such attorneys' fees,
3 costs, and expenses at the same rate and for the same periods as earned by the Settlement
4 Fund (until paid) as may be awarded by the Court; plus (c) payment to Plaintiff for its
5 time and expenses in representing the Class ("Service Award"). Class Counsel reserves
6 the right to make additional applications for fees and expenses incurred.

7 7.2 Plaintiff's Counsel agrees to request, and Defendants agree not to oppose,
8 up to 27% of the Settlement Fund as the reasonable amount of attorneys' fees, and costs
9 not to exceed \$80,000 to be paid to Plaintiff's Counsel from the Settlement Fund, subject
10 to Court approval.

11 7.3 Class Counsel agrees to request, and Defendants agree not to oppose, a
12 Service Award of \$5,000, to be paid to Plaintiff from the Settlement Fund, subject to
13 Court approval.

14 7.4 Plaintiff's Counsel Fees and Expenses Award, including the fees of experts
15 and consultants, as awarded by the Court, shall be payable to Class Counsel from the
16 Settlement Fund, as ordered, immediately after the Court executes an order awarding such
17 fees and expenses notwithstanding any objection thereto. Class Counsel shall thereafter
18 allocate the attorneys' fees amongst Plaintiff's Counsel.

19 7.5 All Plaintiff's Counsel who receive any payment of attorneys' fees or
20 expenses agree that they accept payment subject to the obligation of each Plaintiff's
21 Counsel (including their respective partners, shareholders and/or firms) receiving
22 payments to make repayment to the Settlement Fund within ten (10) business days from
23 receiving notice from Defendants' Counsel or from a court of appropriate jurisdiction, of
24 the amount required to be refunded, in the event, for any reason, including, without
25 limitation, appeal, further proceeding on remand or successful collateral attack, Plaintiff's
26 Counsel Fees and Expenses Award is reduced or reversed, consistent with such reduction

1 or reversal. Furthermore, all Plaintiff's Counsel (including their respective partners,
2 shareholders and/or firms) agree that they remain subject to the continuing jurisdiction of
3 the Court for the purpose of enforcing their obligation to repay required attorneys' fees
4 and expenses to the Settlement Fund as provided in this paragraph.

5 7.6 Plaintiff and Class Counsel may not cancel or terminate this Stipulation or
6 the Settlement based on the Court's or any appellate court's ruling with respect to
7 Plaintiff's Counsel Fees and Expenses Application, and any order or proceeding relating
8 to Plaintiff's Counsel Fees and Expenses Application, or any appeal from any order
9 relating thereto or reversal or modification thereof, shall not operate to terminate or cancel
10 the Stipulation, or affect or delay the finality of the Judgment approving the Stipulation
11 and the Settlement of the Litigation set forth therein. The Settling Parties agree that the
12 denial, in whole or in part, of any application for attorneys' fees shall in no way affect the
13 enforceability, validity, or finality of this Stipulation or affect or delay the finality of the
14 Judgment approving the Stipulation and the Settlement of the Litigation set forth therein.

15 7.7 Released Defendants shall have no responsibility for, and no liability
16 whatsoever with respect to, any payment to Plaintiff's Counsel from the Settlement Fund.

17 7.8 Released Defendants shall have no responsibility for, and no liability
18 whatsoever with respect to, the allocation among Plaintiff's Counsel, and/or any other
19 Person who may assert some claim thereto, of any Plaintiff's Counsel Fees and Expenses
20 Award that the Court may make in the Litigation.

21
22 **8. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL,
23 CANCELLATION, OR TERMINATION**

24 8.1 The Effective Date of the Stipulation is expressly subject to, and
25 conditioned upon, the occurrence of all of the following events: (a) Inventure has made, or
26 caused to be made, the payment of the Settlement Amount, as required by ¶¶3.1 and 3.2
hereof; (b) the Court has entered the Judgment, or a judgment substantially in the form

1 and content of Exhibit B attached hereto, or a judgment in a form other than that provided
2 above acceptable to all of the Settling Parties (the “Alternate Judgment”); and (c) the
3 Judgment (or Alternate Judgment) has become Final, as defined in ¶1.14 hereof.

4 8.2 Upon the occurrence of all of the events referenced in ¶8.1 hereof, any and
5 all remaining interest or right of the Released Parties in or to the Settlement Fund, if any,
6 shall be absolutely and forever extinguished.

7 8.3 The Inventure Defendants and Plaintiff shall each have the right to terminate
8 and the Underwriter Defendants shall have the right to opt out of being a party to the
9 Settlement and this Stipulation if any of the following occur: (a) a final refusal by the
10 Court to enter the Preliminary Approval Order in any material respect; (b) a final refusal
11 by the Court to approve this Stipulation or any material part of it; (c) a final refusal by the
12 Court to enter the Judgment in any material respect; (d) the Judgment is modified or
13 reversed in any material respect by the Arizona Court of Appeals or the Arizona Supreme
14 Court; or (e) or the date upon which an Alternate Judgment is modified or reversed in any
15 material respect by the Arizona Court of Appeals or the Arizona Supreme Court. The
16 Inventure Defendants or Plaintiff may terminate the Settlement or the Underwriter
17 Defendants may opt out by giving written notice of this election to all other Settling
18 Parties within thirty (30) calendar days of the event giving rise to the right to make that
19 election. The Settling Parties agree, irrespective of whether the Underwriter Defendants
20 opt out of the Settlement and this Stipulation, that the Settling Parties will oppose any
21 effort to materially change the agreed upon language in the Preliminary Approval Order
22 (Exhibit A) or the Judgment (Exhibit B), including, without limitation, the agreed upon
23 definitions of Released Claims and Released Defendants, and any language affecting the
24 waiver, release, discharge, and dismissal of the Released Claims. In the event that the
25 Underwriter Defendants opt out of the Settlement, a judgment shall be entered for the
26 Underwriter Defendants upon all claims asserted against them (including, but not limited

1 to, any claims asserted only against the Underwriter Defendants) on the same terms as a
2 judgment is entered for the Inventure Defendants and all releases provided the Inventure
3 Defendants shall apply to all claims that were asserted or could have been asserted against
4 the Underwriter Defendants, but no other portion of this Stipulation or any Judgment of
5 the Court shall bind them, be used against them or inure to their benefit.

6 8.4 If all of the conditions specified in ¶8.1 hereof are not met, then the
7 Stipulation shall be canceled and terminated subject to ¶8.7 hereof unless Plaintiff and the
8 Inventure Defendants mutually agree in writing to proceed with the Stipulation.

9 8.5 Simultaneously with the execution of this Stipulation, Defendants' Counsel
10 and Class Counsel are executing the Supplemental Agreement, which is incorporated
11 herein by reference. The Supplemental Agreement sets forth certain conditions under
12 which the Inventure Defendants shall have the option (which option shall be exercised
13 unilaterally by the Inventure Defendants in their discretion) to terminate the Settlement
14 and render this Stipulation null and void in the event that timely and valid requests for
15 exclusion from the Class exceed the threshold agreed to by the Settling Parties (the "Class
16 Opt-Out Threshold"), *provided however*, that Plaintiff shall have ten (10) business days
17 from the date by which notice must be given by the Class Members to request exclusion to
18 reduce such opt-outs below the Class Opt-Out Threshold. The Settling Parties agree to
19 maintain the confidentiality of the Class Opt-Out Threshold set forth in the Supplemental
20 Agreement, which shall neither be filed with the Court unless a dispute arises as to its
21 terms, or as otherwise ordered by the Court, nor otherwise disclosed unless required by
22 applicable securities or other law. If submission of the Supplemental Agreement is
23 required for resolution of a dispute or is otherwise ordered by the Court, the Settling
24 Parties shall submit it to the Court for *in camera* review.

25 8.6 Unless otherwise ordered by the Court, in the event the Stipulation shall
26 terminate, or be canceled, or shall not become effective for any reason, within ten (10)

1 business days after written notification of such event is sent by counsel for any of the
2 Inventure Defendants or Class Counsel to the Escrow Agent, the Settlement Fund, less
3 expenses which have either been disbursed pursuant to ¶¶3.7(i) and (ii) and 3.8 hereof, or
4 are determined to be chargeable to the Settlement Fund, shall be refunded directly to the
5 party or parties who contributed to the Settlement Fund in proportion to their contribution.
6 The Escrow Agent or its designee shall apply for any tax refund owed on the Settlement
7 Fund and pay the proceeds, after deduction of any fees or expenses incurred in connection
8 with such application(s) for refund, pursuant to written instructions from Inventure's
9 counsel.

10 8.7 In the event that the Stipulation is not approved by the Court or the
11 Settlement set forth in the Stipulation is terminated or fails to become effective in
12 accordance with its terms, the Settling Parties shall be restored to their respective
13 positions in the Litigation as of August 25, 2017. In such event, the terms and provisions
14 of the Stipulation, with the exception of ¶¶1.1-1.43, 3.11, 7.5, 8.7- 8.8, and 9.3-9.4 hereof,
15 shall have no further force and effect with respect to the Settling Parties and shall not be
16 used in the Litigation or in any other proceeding for any purpose, and any judgment or
17 order entered by the Court in accordance with the terms of the Stipulation shall be treated
18 as vacated, *nunc pro tunc*. No order of the Court or modification or reversal on appeal of
19 any order of the Court concerning the Plan of Allocation or the amount of any attorneys'
20 fees, costs, expenses, and interest awarded by the Court to Plaintiff or any of its counsel
21 shall constitute grounds for cancellation or termination of the Stipulation.

22 8.8 If the Effective Date does not occur, or if the Stipulation is terminated
23 pursuant to its terms, neither Plaintiff nor any of Plaintiff's Counsel shall have any
24 obligation to repay any amounts actually and properly disbursed pursuant to ¶¶ 3.7(i), 3.7
25 (ii), 3.8-11. In addition, any expenses already incurred pursuant to ¶¶3.7(i), 3.7 (ii), 3.8-
26 11, hereof, at the time of such termination or cancellation but which have not been paid,

1 shall be paid by the Escrow Agent in accordance with the terms of the Stipulation prior to
2 the balance being refunded in accordance with ¶¶3.11 and 8.6 hereof.
3

4 **9. MISCELLANEOUS PROVISIONS**

5 9.1 The Settling Parties: (a) acknowledge that it is their intent to consummate
6 this Stipulation and (b) agree to cooperate to the extent reasonably necessary to effectuate
7 and implement all terms and conditions of this Stipulation and to exercise their best efforts
8 to accomplish the foregoing terms and conditions of this Stipulation. The Settling Parties
9 agree to jointly take reasonable steps to obtain the dismissal with prejudice of the
10 Litigation and approval of the Settlement, including, but not limited to, opposing any
11 objections to the Stipulation and defending any appeal that may be taken on the Judgment.

12 9.2 Upon and subject to the terms and conditions hereof, Plaintiff, on behalf of
13 themselves and Members of the Class, on the one hand, and each of the Defendants, on
14 the other hand, intend this Settlement to be a final and complete resolution of all disputes
15 between them with respect to the Litigation. Nothing in this Stipulation shall release or
16 otherwise alter any rights, disputes, defenses, or claims that may exist between the
17 Underwriter Defendants, on the one hand, and Inventure or any other party obligated
18 under the Underwriting Agreement, dated September 11, 2014 (“Underwriting
19 Agreement”), on the other hand, including, without limitation, any rights the Underwriter
20 Defendants may have under the Underwriting Agreement. The Settlement compromises
21 claims that are contested and shall not be deemed an admission by any Settling Party as to
22 the merits of any claim or defense. While retaining their right to deny that the claims
23 advanced in the Litigation were meritorious, Defendants will not contend that the
24 Litigation was not filed in good faith. The Settling Parties agree that the amount paid to
25 the Settlement Fund and the other terms of the Settlement were negotiated in good faith
26 by the Settling Parties, and reflect a settlement that was reached voluntarily after

1 consultation with competent legal counsel. The Settling Parties reserve their right to rebut,
2 in a manner that such Settling Party determines to be appropriate, any contention made in
3 any public forum that the Litigation was brought or defended in bad faith or without a
4 reasonable basis.

5 9.3 Neither the Stipulation nor the Settlement, nor any act performed or
6 document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is
7 or may be deemed to be, or may be used as, a presumption, concession, or admission of,
8 or evidence of, the validity of any Released Claim or of any wrongdoing or liability of any
9 of the Released Parties or (b) is or may be deemed to be, or may be used, as a
10 presumption, concession, or admission of, or evidence of, any fault or omission of any of
11 the Released Parties in any civil, criminal, or administrative proceeding in any court,
12 administrative agency, or other tribunal or (c) is or may be deemed to be an admission or
13 evidence that any claims asserted by Plaintiff were not valid in any civil, criminal, or
14 administrative proceeding. Any of the Released Parties may file the Stipulation and/or the
15 Judgment in any action that may be brought against them in order to support a defense or
16 counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith
17 settlement, judgment bar or reduction, or any other theory of claim preclusion or issue
18 preclusion or similar defense or counterclaim.

19 9.4 All agreements made and orders entered during the course of the Litigation
20 relating to the confidentiality of information shall survive this Stipulation.

21 9.5 All of the Exhibits to this Stipulation are material and integral parts hereof
22 and are fully incorporated herein by this reference.

23 9.6 This Stipulation may be amended or modified only by a written instrument
24 signed by or on behalf of all Settling Parties or their respective successors-in-interest.

25 9.7 This Stipulation, the Supplemental Agreement referenced in ¶8.5, and the
26 Exhibits attached hereto constitute the entire agreement between Plaintiff and Class

1 Members, on the one hand, and Defendants, on the other hand, and no representations,
2 warranties, or inducements have been made to any party concerning the Stipulation or its
3 Exhibits other than the representations, warranties, and covenants contained and
4 memorialized in such documents. Except as otherwise provided herein (including ¶9.2),
5 each Settling Party shall bear its own costs. Nothing in this Stipulation shall release or
6 otherwise alter any rights, disputes, defenses, or claims that may exist between the
7 Underwriter Defendants, on the one hand, and Inventure or any other party obligated
8 under the Underwriting Agreement, on the other hand, including, without limitation, any
9 rights the Underwriter Defendants may have under the Underwriting Agreement.

10 9.8 Class Counsel, on behalf of the Class, are expressly authorized by Plaintiff
11 to take all appropriate action required or permitted to be taken by the Class pursuant to the
12 Stipulation to effectuate its terms and also are expressly authorized to enter into any
13 modifications or amendments to the Stipulation on behalf of the Class which they deem
14 appropriate.

15 9.9 Each counsel or other Person executing the Stipulation or any of its Exhibits
16 on behalf of any party hereto hereby warrants that such Person has the full authority to do
17 so.

18 9.10 This Stipulation may be executed in one or more counterparts and the
19 signatures may be by facsimile or electronic. All executed counterparts and each of them
20 shall be deemed to be one and the same instrument. A complete set of executed
21 counterparts shall be filed with the Court.

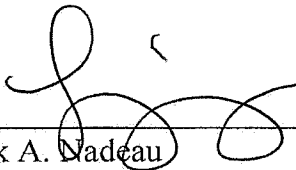
22 9.11 This Stipulation shall be binding upon, and inure to the benefit of, the
23 respective agents, executors, heirs, devisees, successors, and assigns of the Settling
24 Parties.

25 9.12 The Court shall retain jurisdiction with respect to implementation and
26 enforcement of the terms of this Stipulation, and all Settling Parties hereto submit to the

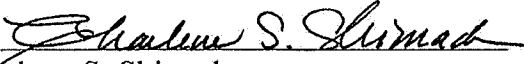
1 jurisdiction of the Court for purposes of implementing and enforcing the Settlement
2 embodied in this Stipulation.

3 9.13 This Stipulation and the Exhibits hereto shall be considered to have been
4 negotiated, executed and delivered, and to be wholly performed, in the State of Arizona,
5 and the rights and obligations of the parties to this Stipulation shall be construed and
6 enforced in accordance with, and governed by, the internal, substantive laws of the State
7 of Arizona without giving effect to that State's choice-of-law principles.

8 **IN WITNESS WHEREOF**, the Settling Parties hereto have caused this
9 Stipulation to be executed, by their duly authorized attorneys, on this 24th day of April,
10 2018.

11 By: 
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13 Laura Sixkiller
14 Cole Schlabach
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22 Foods Inc., Terry McDaniel, and Steve
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By: */s/ Kimberly M. Donaldson Smith*
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Class*

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