APPENDIX

A

SETTLEMENT AGREEMENT BETWEEN HACHETTE BOOK GROUP, INC. AND PLAINTIFF STATES

This Settlement Agreement is made and entered into this 11th day of June, 2012, by and between the States of Texas, Connecticut and Ohio, plus any other State, Commonwealth, Territory or Possession that has elected, or elects, to participate in the terms of this Settlement Agreement ("Plaintiff States") through their respective Attorneys General, and Hachette Book Group, Inc. ("Hachette") (collectively "Parties"). The terms of this Settlement Agreement shall be available to all States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands as provided under the terms of Section XI. Any State electing to join the Settlement Agreement shall do so by executing a signature page that shall be annexed to this Agreement.

WHEREAS, the Plaintiff States will file a complaint against Hachette in the United States District Court for the Southern District of New York (the "Court"), both in their sovereign capacity and as *parens patriae,* on behalf of Consumers residing in such States who have purchased E-books from a Named Publisher, alleging an unlawful agreement to fix, maintain or stabilize prices of E-books in violation of federal and state antitrust laws and seeking, among other relief, damages, injunctive relief and costs of investigation and litigation ("Complaint");

WHEREAS, this Settlement Agreement does not constitute any admission by Hachette that the law has been violated or of any issue of fact or law, other than that the jurisdictional facts as alleged in the Complaint are true;

WHEREAS, the Plaintiff States and Hachette have determined it to be in their best interests to resolve this dispute and enter into this Settlement Agreement;

NOW, THEREFORE, **WITNESSETH:**

I. DEFINITIONS

As used herein:

A. "Plaintiff States" means any State, Commonwealth, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Northern Mariana Islands, which originally signs on to or opts to enter into the terms of this Settlement Agreement as provided in Section XI.B in its sovereign capacity and as *parens patriae* on behalf of Consumers residing in such Plaintiff State.

B. "Hachette" means Hachette Book Group, Inc., a Delaware corporation with its principal place of business in New York, New York, its successors and assigns, and its subsidiaries, and divisions, including its wholly-owned subsidiary, Hachette Digital, Inc.

C. "HarperCollins" means HarperCollins Publishers L.L.C., a Delaware limited liability company with its principal place of business in New York, New York, its successors and assigns, and its subsidiaries, and divisions.

D. "Simon & Schuster" means Simon & Schuster, Inc., a New York corporation with its principal place of business in New York, New York, its successors and assigns, and its subsidiaries, and divisions, including its wholly-owned subsidiary, Simon & Schuster Digital Sales, Inc.

E. "Claims" means all claims, counterclaims, set-offs, demands, actions, rights, liabilities, costs, debts, expenses, attorneys' fees, and causes of action of any type, whether accrued in whole or in part, including, without limitation, past, present, and future claims arising under federal or state antitrust, unfair competition or consumer protections laws, or state common or equitable law, and that were asserted or that could have been asserted, known or unknown, against Hachette, Hachette's parent and affiliated entities and their officers, directors,

employees and attorneys, arising from the facts, matters, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act set forth or alleged in the Plaintiff States' Complaint. For purposes of this paragraph, "affiliated entities" shall mean entities that are currently or were formerly controlling, controlled by or under common control with Hachette.

F. "Consumers" mean natural persons in the Plaintiff States who have purchased E-books published by Named Publishers during the period from April 1, 2010 until May 21, 2012.

G. "Distribution Plan" means the plan or method of allocation of the Hachette Consumer Compensation Account among Consumers who have not filed with the Court valid and timely requests for exclusion from this Settlement. The Distribution Plan will be submitted to the Court separate from the Settlement Agreement and is not part of this Settlement Agreement.

H. "Effective Date" means the date on which this Settlement Agreement becomes effective. The Effective Date shall occur when all of the following conditions have been satisfied, unless one or more of such conditions is modified in a writing signed by the Parties:

1. Execution of this Settlement Agreement;
2. Entry by the Court of a Preliminary Approval Order;
3. Expiration of the period within which Consumers must exercise their rights to be excluded from *parens patriae* representation;
4. Hachette has not availed itself of the right to void this Settlement Agreement pursuant to Section X;
5. Final approval by the Court of the settlement embodied herein;
6. Entry by the Court of the Final Judgment;

7. Entry by the Court of the Order and Stipulated Injunction (as required in Section III); and

8. The Final Judgment shall have become Final (as defined in K, below).

I. "Escrow Agent" means the entity selected pursuant to Section V below.

J. "E-book" means an electronically formatted book designed to be read on a computer, a handheld device, or other electronic devices capable of visually displaying E-books. For purposes of this Settlement Agreement, the term E-book does not include (1) an audio book, even if delivered and stored digitally; (2) a standalone specialized software application or "app" sold through an "app store" rather than through an E-book store (*e.g.*, through Apple Inc.'s "App Store" rather than through its "iBookstore" or "iTunes") and not designed to be executed or read by or through a dedicated E-book reading device; or (3) a media file containing an electronically formatted book for which most of the value to Consumers is derived from audio or video content contained in the file that is not included in the print version of the book.

K. "Final" means: (1) final affirmance on an appeal of the Final Judgment, the expiration of the time for a petition for, or a denial of, a writ of certiorari to review the Final Judgment and, if certiorari is granted, the date of final affirmance for the Final Judgment following review pursuant to that grant; or (2) final dismissal of any appeal from the Final Judgment or the final dismissal of any proceedings on certiorari to review the Final Judgment; or (3) if no appeal is filed, the time for the filing or noticing of any appeal from the Court's Final Judgment approving the Settlement Agreement has expired (i.e., thirty (30) days after entry of the Final Judgment). Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to the Distribution Plan and/or application for attorneys' fees, costs or expenses, shall not in any way delay or preclude the Final Judgment from becoming Final.

L. "Final Judgment" means the judgment to be rendered by the Court in this matter, substantially in the form attached hereto as Attachment A.

M. "Including" means including, but not limited to.

N. "Named Publishers" means Hachette, HarperCollins, Simon & Schuster, Holtzbrinck Publishers, LLC, d/b/a MacMillan, and Penguin Group (USA), Inc.

O. "Notice Period" means the period during which notice shall be disseminated to Consumers. The Notice Period shall be a minimum of sixty (60) days or such other time period set by the Court.

P. "Notice Plan" means the plan specifying the manner and content of the program whereby Consumers are notified of this Settlement Agreement and informed of their rights to object to or exclude themselves from the settlement. The Notice Plan shall specify the manner in which Consumers are to be notified of this settlement, which shall consist, at a minimum, of direct notice to each Consumer whose e-mail address can be obtained voluntarily from E-book retailers.

Q. "Purchase" means a Consumer's acquisition of one or more E-books as a result of a Sale.

R. "Released Claims" shall mean all Claims as defined in Section VIII.

S. "Sale" means delivery of access to a Consumer to read one or more E-books (purchased alone, or in combination with other goods or services) in exchange for payment; "Sold" means to make or to have made a Sale of an E-book to a Consumer.

T. "Settlement Accounts" mean the Hachette Consumer Compensation Settlement Account, the States' Compensation Settlement Account, and the Settlement Cost Account described in Section IV. The Settlement Accounts shall be held in interest-bearing escrow

accounts established by Plaintiff States and administered by an Escrow Agent appointed pursuant to Section V.A. for the purpose of implementing this Settlement Agreement.

U. "Settlement Administration Costs" means all customary and reasonable costs to be paid from the Settlement Cost Account in connection with the administration of this Settlement Agreement, including all reasonable costs and fees incurred (1) in compiling necessary Consumer information for direct notice as well as such notice by publication as may be needed to effectuate adequate notice, (2) in completing administrative tasks, (3) in processing and paying claims, including distributing credits and/or cash to Consumers, (4) for the employment of a Escrow Agent and/or claims administrator, and (5) to secure Court approval of the Settlement agreement, such as expert affidavits.

V. "State Liaison Counsel" or "Liaison Counsel for Plaintiff States" means the designated representatives for the Attorneys General of the States of Texas, Connecticut, and Ohio.

W. "Written Direction" means a written notification directed to the Escrow Agent and/or claims administrator relating to disbursements from the Settlement Accounts, signed by at least two Liaison Counsel for Plaintiff States and counsel for Hachette. Each Written Direction shall include a certification by Liaison Counsel for Plaintiff States and counsel for Hachette that the instructions in the notification are being made pursuant to the Settlement Agreement.

II. AGREEMENT

It is stipulated and agreed by and among counsel for the Plaintiff States and Hachette that, subject to Final Approval by the Court, the litigation initiated by the Complaint and the Released Claims shall be finally and fully compromised, settled and released, upon and subject to the terms and conditions of this Settlement Agreement.

III. ORDER AND STIPULATED INJUNCTION

As part of this Settlement Agreement, the Plaintiff States and Hachette have agreed to the entry of an Order and Stipulated Injunction in the form of Attachment B, the terms and conditions of which are incorporated into this Settlement Agreement as though set forth in this Section III in full. The Order and Stipulated Injunction shall be modified to take into account any changes made to the language of the United States Department of Justice's Proposed Final Judgment as entered in *United States of America v. Apple, Inc., et al.*, Case No. 12-cv-2826, in the United States District Court for the Southern District of New York. The terms set forth in the Order and Stipulated Injunction shall govern the enforcement of this Section III.

IV. MONETARY PAYMENTS

A. Hachette agrees to pay to the Plaintiff States the sum of $32.25 million for Consumer compensation for alleged actual losses arising from the acts alleged in the Complaint. This amount shall be paid to the Plaintiff States, c/o the Escrow Agent appointed pursuant to Section V.A. within thirty (30) days of the Court entering the Preliminary Approval Order. The Escrow Agent shall establish the Hachette Consumer Compensation Settlement Account from the monies received from Hachette under this Paragraph. These monies, plus any accrued interest, shall be used to fund the Consumer distribution as described in Section VI.A. The Escrow Agent shall only distribute funds in the Hachette Consumer Compensation Settlement Account pursuant to a Court-approved Distribution Plan which has become Final within the meaning of Section I.K.

B. The $32.25 million to be paid by Hachette for Consumer compensation shall be reduced proportionately by the percentage of Hachette's E-book sales for 2011 attributable to

each State, Commonwealth, or Territory that does not exercise its option to participate in this Settlement Agreement.

C. Hachette further agrees to pay to the Plaintiff States the sum of $2,541,666.66 for their costs of investigation and litigation and other related costs as provided in Section VI.B. This amount shall be paid to the Plaintiff States, c/o the Escrow Agent appointed pursuant to Section V.A. herein within thirty (30) days of the Court entering the Preliminary Approval Order. The Escrow Agent shall establish the States' Compensation Settlement Account from the monies received from Hachette under this Paragraph, in addition to the funds received from HarperCollins and Simon & Schuster. These monies, plus any accrued interest, shall be apportioned among the Plaintiff States in a manner to be determined among and between them as set forth in Section VI.B. Hachette shall pay this amount in full, regardless of the percentage of States and Territories participating in the Settlement Agreement, and there shall be no reduction for non-participating States.

D. Hachette will also pay its per capita share of all reasonable Settlement Administration Costs. The per capita share will be determined by the number of settling parties that have executed an agreement with Plaintiff States that is substantially similar to this Settlement Agreement by June 11, 2012. The Escrow Agent shall establish the Settlement Cost Account from the monies received from settling parties pursuant to this Paragraph and Paragraph E. These monies, plus any accrued interest, shall be used to pay the Settlement Administration Costs pursuant to Section VI.C. The Escrow Agent shall pay invoices only as provided in this Settlement Agreement, by an order of the Court, or pursuant to Written Direction.

E. Payments for the Settlement Cost Account will be made as follows:

1. $100,000 shall be paid by Hachette to the Plaintiff States, c/o the Escrow Agent within five (5) business days of the execution of this Settlement Agreement by Liaison Counsel for the States and Hachette.

2. $650,000 shall be paid by Hachette to the Plaintiff States, c/o the Escrow Agent within five (5) business days of the filing of the Motion for Preliminary Approval.

3. Upon notice that additional funds are necessary to pay Settlement Administration Costs, Hachette shall make a supplemental deposit of its per capita share into the Settlement Cost Account within ten (10) business days of such notice.

4. After counsel for the Liaison States have confirmed in writing that all incurred, committed or anticipated settlement administration costs have been paid or accounted for, the Escrow Agent shall refund to Hachette its per capita share of the unused funds in the Settlement Cost Account within a reasonable period of time.

F. Hachette warrants that, as of the date of this Settlement Agreement, it is not insolvent, nor will its payment to the Settlement Accounts render it insolvent within the meaning of and/or for the purposes of the United States Bankruptcy Code. If a case is commenced with respect to Hachette under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the payment of the principal amount of the Settlement Accounts and any accrued interest, or any portion thereof, by or on behalf of Hachette, to be a preference, voidable transfer, fraudulent transfer or similar transaction, and if pursuant to an order of a court of competent jurisdiction monies paid by Hachette pursuant to this Settlement Agreement are either not delivered or are returned to Hachette or the trustee, receiver,

or conservator appointed by a court in any bankruptcy proceeding with respect to Hachette, the releases given and judgment entered in favor of Hachette pursuant to this Settlement Agreement shall be null and void.

G. The payments hereunder do not constitute nor shall they be treated as payments in lieu of treble damages, fines, penalties, punitive recoveries or forfeitures.

H. The payments made by Hachette to the Settlement Accounts (including the additional payments contemplated pursuant to Paragraph E.3) shall be the total amount to be paid by Hachette under this Settlement Agreement or in connection with Released Claims.

I. Except as otherwise provided in this Settlement Agreement, upon the Effective Date all remaining interest or right of Hachette in or to the Settlement Accounts shall be absolutely and forever extinguished.

V. SETTLEMENT ADMINISTRATION

A. The Escrow Agent for the Settlement Accounts shall be determined by the Plaintiff States, after consultation with Hachette, by separate written agreement. The costs of the Escrow Agent shall be borne by Hachette, pursuant to Sections IV.D and E. Other than maintaining an account to meet short-term obligations, the Escrow Agent shall invest the funds in the Settlement Accounts in obligations of, or obligations guaranteed by, the United States of America or any of its departments or agencies, to obtain the highest available return on investment, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then current market rates. The Escrow Agent shall bear all risks related to the investment of the escrow funds.

B. The Escrow Agent shall not disburse the funds of the Settlement Accounts except by an order of the Court or pursuant to Written Direction.

C. All funds held by the Escrow Agent shall be deemed to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until the funds shall be distributed pursuant to the Settlement Agreement and/or further order(s) of the Court.

D. In addition to the Escrow Agent, the Plaintiff States, after consultation with Hachette, may employ a claims administrator in order to facilitate the provision of notice and to distribute and/or administer the distribution of the funds in the Hachette Consumer Compensation Settlement Account in accordance with the terms of this Settlement Agreement. The costs of such claims administrator shall be borne by Hachette, pursuant to Sections IV.D and E.

E. If this Settlement Agreement is not approved or is terminated, canceled, voided or fails to become effective, all monies paid into the Settlement Accounts, including any interest accrued thereon, shall be refunded to Hachette, reduced by the amount of actual out-of-pocket costs and expenses incurred or committed for Settlement Administration Costs as of the date of disapproval, cancellation, termination or voiding. In such event, the refund shall occur within twenty (20) business days of the cancellation, termination or voiding. In the case of disapproval by the Court, refund shall occur within five (5) business days of the Court's decision becoming Final, as defined in Section I.K.

F. If this Settlement Agreement is not approved or is terminated, canceled, voided or fails to become effective, Plaintiff States shall retain full rights to assert any and all causes of action against Hachette, including the right to amend the Complaint to include additional allegations, claims, causes of action and requests for relief and Hachette shall retain any and all defenses thereto.

G. Tax Treatment of Settlement Accounts

1. Settling Parties and Escrow Agent agree to treat the Settlement Accounts as being, at all times from and after expiration or waiver of the period within which Hachette may void this Settlement Agreement under Section X, a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1(a). In addition, the Escrow Agent and, as required, settling Parties shall jointly and timely make such elections as necessary or advisable to carry out the provisions of this Section V.G., including the "relation-back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)(ii)), back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulation. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary Parties, and thereafter to cause the appropriate filing to occur.

2. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Accounts (including without limitation the returns described in Treas. Reg. § 1.468B-2(k) and (l)). Such returns (as well as the election described in Section V.G.1.) shall be consistent with this Section V.G and in all events shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Accounts shall be paid out of the Settlement Accounts.

3. All taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Accounts, including any taxes that may be imposed upon Hachette with respect to any income earned by the Settlement Accounts for any

period during which the Settlement Accounts do not qualify as a "qualified settlement fund" for federal, state, or local income tax purposes ("Taxes") shall be paid out of the Settlement Accounts and in all events Hachette and its insurers shall have no liability or responsibility for such Taxes or the filing of any tax returns or other documents with the Internal Revenue Service or any other state or local taxing authority in respect of such Taxes. Taxes shall be treated as, and considered to be, a cost of administration of the Settlement Agreement and shall be timely paid by the Escrow Agent out of the Settlement Accounts without prior order from the Court and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Plaintiff States any funds necessary to pay such amounts including the establishment for adequate reserves for any Taxes (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l)(2)); Hachette and its insurers are not responsible and shall have no liability therefore or for any reporting requirements that may relate thereto. The Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Section V.G. For purposes of this Section V.G., references to the Settlement Accounts shall include the Settlement Accounts and any earnings thereon.

VI. SETTLEMENT DISBURSEMENTS

A. Distribution to Consumers: All funds in the Hachette Consumer Compensation Settlement Account shall be distributed, according to a Court-approved Distribution Plan, for the benefit of Consumers who have not filed with the Court valid and timely requests for exclusion from this settlement.

1. Plaintiff States will strive to devise a Distribution Plan that will maximize direct Consumer recovery, minimize any residue, and minimize administrative expenses

consistent with the provision of fair, adequate and reasonable notice to Consumers. The Distribution Plan shall be devised by the Plaintiff States, after consultation with Hachette, and shall, at minimum and to the extent practicable, provide Consumers with the option of receiving payment in the form of a check or a credit for the purchase of either print books or E-books. The Distribution Plan shall provide that credits may be used for any print book or E-book purchase, regardless of publisher. Unless otherwise ordered by the Court, credits may be applied to purchases for a period of one (1) year from the date they are made available to Consumers. The Distribution Plan may also contain provisions for multiple distributions, or a single, later distribution to Consumers if appropriate.

2. Any amount remaining in the Hachette Consumer Compensation Settlement Account after redemption of all cash and credits within the time period approved by the Court will be subject to any applicable Plaintiff State's unclaimed property laws. If any residual amount thereafter remains in the Hachette Consumer Compensation Settlement Account, subject to any other applicable state law prohibiting *cy pres* distribution and mandating a different distribution by a particular Plaintiff State of its share of any residual amount, it shall be distributed by the Plaintiff States for *cy pres* purposes to one or more charitable organizations whose purposes relate to reading, literacy, or access by the public to electronic books.

3. The Parties agree and understand that any proposed Distribution Plan is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the settlement set forth in the Settlement Agreement, and any order or proceedings relating to the Distribution Plan shall not operate to terminate or cancel the Settlement Agreement or affect the finality of the Court's Final Judgment approving the

Settlement Agreement and the settlement set forth herein, or any other orders entered pursuant to the Settlement Agreement.

4. The Distribution Plan shall be submitted to the Court for approval in connection with the Plaintiff States' Motion for Preliminary Approval of the Settlement ("Motion for Preliminary Approval").

B. Distribution of Compensation to Plaintiff States: The States' Compensation Settlement Account shall be used to reimburse counsel for the Plaintiff States for payment of attorneys' fees, costs, administrative expenses incurred by Plaintiff States, and as other payments. Such Account shall be apportioned among the Plaintiff States at their sole discretion. Such apportionments shall then be used collectively or individually by the Plaintiff States' Attorneys General for one or more of the following purposes:

1. Reimbursement for Plaintiff States' consultation or expert fees, including reimbursement of any grants paid to the Plaintiff States in connection with the National Association of Attorneys General Milk Fund Account ("NAAG Milk Fund" or "Fund") for consultant and expert fees expended from the Fund.
2. Reimbursement of attorneys' fees, and investigation, litigation and settlement administration cost expenses incurred by any Plaintiff State;
3. Payment for the ongoing investigation and litigation involving the E-books market;
4. Antitrust or consumer protection enforcement by the Attorney General of such State, provided that, with respect to the State of Washington, these funds shall only be used for antitrust enforcement;

5. Deposit into a state antitrust or consumer protection account, (*e.g.*, revolving account, trust account), for use in accordance with the state laws governing that account, provided that, with respect to the State of Washington, these funds shall only be used for antitrust enforcement;

6. Deposit into a fund exclusively dedicated to assisting the state Attorney General to defray the cost of experts, economists, and consultants in multistate antitrust investigations and litigations; or

7. As otherwise required or provided by the applicable state law enacted as of the Effective Date of this Settlement Agreement.

C. Disbursement for Payment of Administrative Costs: Upon Written Direction or Court Order, the Settlement Cost Account shall be used by the Escrow Agent to pay the Settlement Administration Costs.

VII. NOTICE AND SETTLEMENT HEARING

A. Within sixty-eight (68) days after execution of this Settlement Agreement by Liaison Counsel for the Plaintiff States and Hachette, Liaison Counsel for Plaintiff States shall file the Motion for Preliminary Approval with the Court. The motion shall request entry of a preliminary approval order (the "Preliminary Approval Order"). Such Preliminary Approval Order shall include, among other things: (1) the preliminary approval of the settlement set forth in this Settlement Agreement as fair, reasonable and adequate and in the best interests of Consumers in the Plaintiff States, (2) a finding that the State Attorneys General are the superior representatives of natural persons in the Plaintiff States, (3) approval of a Notice Plan, including when the Notice shall be disseminated and the length of the Notice Period, (4) approval of a Distribution Plan that includes the time period during which eligible Consumers can object,

exclude themselves, and/or obtain credits and/or a check, and (5) a schedule for a hearing by the Court after notice is given (the "Settlement Hearing") to approve the settlement of the litigation initiated by the Complaint, as set forth herein. At least five (5) days prior to filing their Motion for Preliminary Approval, the Plaintiff States shall provide a copy of such motion (including all exhibits and attachments of such motion) to Hachette for review and comment.

B. Liaison Counsel for Plaintiff States will provide Hachette a substantially final copy of the Notice Plan, including the Notice, at least five (5) business days prior to filing the Motion for Preliminary Approval.

C. Liaison Counsel for the Plaintiff States shall disseminate Notice of the Settlement Agreement to potentially affected Consumers as soon as practicable after entry of the Preliminary Approval Order. The Parties contemplate a Notice Period of at least sixty (60) days, unless another time period is set by the Court.

D. Within forty-five (45) days following the conclusion of the Notice Period, Liaison Counsel for Plaintiff States shall file with this Court a motion seeking final approval of the Settlement Agreement, including a determination by the Court (1) that the Settlement Agreement is approved finally as fair, reasonable and adequate, (2) that a Final Judgment approving the Settlement Agreement, substantially in the form of Attachment A, should be entered, (3) that the Order and Stipulated Injunction, substantially in the form of Attachment B, should be entered, and (4) that an award of attorneys' fees, expenses and other payments should be made from the States' Compensation Settlement Account to counsel for the Plaintiff States pursuant to Section VI.B.

VIII. RELEASED CLAIMS

A. In consideration of the monetary and injunctive provisions contained in this Settlement Agreement, each Plaintiff State will be deemed, upon the Effective Date, to have (and by operation of the Final Judgment shall have), fully, finally, and forever released Hachette, Hachette's parent and affiliated entities and their officers, directors, employees, and attorneys (collectively "Releasees") from all Claims that were asserted or could have been asserted by any Consumers who did not timely file with the Court a valid request for exclusion from this settlement. The Final Judgment shall be deemed *res judicata* as to any such released Claim.

B. In further consideration of the monetary and injunctive provisions contained in this Settlement Agreement, each Plaintiff State will be deemed, upon the Effective Date, to have released the Releasees from all Claims that were asserted or could have been asserted by each Plaintiff State's Attorney General in his or her sovereign capacity as chief law enforcement officer of his or her respective state.

C. In further consideration of the monetary and injunctive provisions contained in this Settlement Agreement, each Plaintiff State's Attorney General covenants and agrees, to the fullest extent permitted by law, that it shall not hereafter seek to establish liability or assert Claims, in whole or in part, on behalf of itself or any other person or entity or class thereof, against the Releasees.

D. The Plaintiff States and Hachette expressly agree that they do not intend this Settlement Agreement nor any documents executed or submitted pursuant to this Settlement Agreement to be construed as a release or otherwise affect any rights Plaintiff States have or may have against any other entity whosoever, including HarperCollins, Simon & Schuster,

Holtzbrinck Publishers, LLC, d/b/a MacMillan, Penguin Group (USA), Inc., Apple, Inc., or any of their parents, affiliated entities, officers, directors, employees, or attorneys. The Final Judgment approving this Settlement Agreement shall include a provision that this Settlement Agreement and anything done pursuant thereto shall not constitute a release except as to Releasees, and the Plaintiff States and Consumers reserve their rights as aforesaid.

E. To the fullest extent permitted by law, the Parties each expressly waive any right or benefit available to them under Section 1542 of the California Civil Code, which provides as follows: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor," and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, that is similar, comparable or equivalent in effect to Section 1542 of the California Civil Code.

IX. COOPERATION AND IMPLEMENTATION

A. The Parties, and their respective counsel, agree to cooperate fully to implement the terms and conditions of this Settlement Agreement.

B. If a Plaintiff State determines that Hachette is not in compliance with the terms of the Settlement Agreement, it shall give Hachette written notice of such non-compliance and Hachette shall have fifteen (15) working days to respond in writing. If Plaintiff State is not satisfied with Hachette's response, it shall notify Hachette in writing and Hachette shall have fifteen (15) working days to cure such non-compliance. If after such time a Plaintiff State shall determine that Hachette is still not in compliance, such Plaintiff State may seek the civil

remedies available to it under the terms of the Final Judgment and Order and Stipulated Injunction.

C. This Settlement Agreement shall not be used or construed by any person as an admission of liability by Hachette to any party or person, or be deemed evidence of any violation of any statute or law or admission of any liability or wrongdoing by Hachette or of the truth of any of the claims or allegations contained in the Complaint.

X. AGREEMENT VOIDABLE

A. This Settlement Agreement shall only be voidable pursuant to this Section X.

B. This Settlement Agreement is voidable at the option of Hachette if, after sixty (60) days following the execution of this Settlement Agreement by the Liaison States and Hachette, the Attorneys General of a number of states accounting for ninety percent (90%) of Hachette's 2011 national dollar-weighted sales volume of E-books have not elected to participate in the Settlement Agreement.

C. Hachette must exercise its option to void this Settlement Agreement pursuant to Paragraph B by notifying the Liaison Counsel for Plaintiff States in writing within five (5) days of the expiration of the sixty (60) day time frame specified in Paragraph B. This Settlement Agreement shall not be voidable pursuant to Paragraph B after that date.

D. This Agreement is void if the settlement embodied herein is not approved by the Court.

E. If, during the Notice Period, Consumers who otherwise would be represented by the Plaintiff States have filed with the Court valid and timely requests for exclusion from this settlement, Liaison Counsel for Plaintiff States shall promptly provide Hachette with all the requests for exclusion. Hachette has the option to void this Settlement Agreement if the

following two percentages exceed 10%, combined: (1) the percentage of Hachette's 2011 national dollar-weighted sales volume of E-books represented by states that have elected not to participate in the Settlement Agreement, and (2) the percentage of the total Named Publisher E-book sales volume for the period from April 1, 2010 to May 21, 2012 represented by Consumers requesting exclusion from this settlement. Hachette must exercise its option to void this Settlement Agreement, as set forth in this Paragraph, no later than ten (10) business days after receiving the information about the Consumers requesting exclusion from this settlement.

XI. BENEFIT AND BINDING EFFECT

A. The terms of this Settlement Agreement shall be binding on, and shall inure to the benefit of the Parties and their successors. The Parties expressly disclaim any intention to create rights under this Settlement Agreement which may be enforced by any other person under any circumstances whatsoever.

B. The terms of this Settlement Agreement may be entered into by the Attorney General of any State, Commonwealth, and Territory, who takes the following actions prior to the date that is sixty (60) days after the execution of this Settlement Agreement by Liaison Counsel for the Plaintiff States and Hachette:

1. Signs a signature page which will be appended onto the body of the Settlement Agreement which will be filed with the Court; and

2. Designates the Liaison Counsel for Plaintiff States to represent such State, Commonwealth, or Territory and agrees to be named as a plaintiff in the Complaint to be filed by the Plaintiff States in the United States District Court for the Southern District of New York alleging an unlawful agreement to fix, maintain or stabilize retail prices of E-books in violation of federal antitrust laws.

XII. MISCELLANEOUS

A. Hachette may file the Settlement Agreement and/or the Final Judgment in any action that may be brought against it in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment, bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

B. Liaison Counsel for Plaintiff States are expressly authorized by the Plaintiff States to take all appropriate action required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms.

C. Each counsel or other person executing the Settlement Agreement or any of its Attachments on behalf of any party hereto warrants that such person has full authority to do so.

D. This Settlement Agreement and the Attachments contain the entire agreement and understanding of the Parties. There are no additional promises or terms of the Settlement Agreement other than those contained herein. This Settlement Agreement shall not be modified except in writing signed by State Liaison Counsel and Hachette or by their authorized representatives.

E. All dates and time periods in this Settlement Agreement shall be calculated pursuant to the Federal Rules of Civil Procedure. All such dates and time periods may be modified if mutually agreed upon, in writing, signed by State Liaison Counsel and Hachette or by their authorized representatives.

F. The Settlement Agreement shall be deemed to have been mutually prepared by the Parties hereto and shall not be construed against any of them solely by reason of authorship.

G. The captions contained in this Settlement Agreement are inserted only as a matter of convenience and in no way define, limit, extend, or describe the scope of this Settlement Agreement or the intent of any provision hereof.

H. The Settlement Agreement may be executed in one or more counterparts. Scanned signatures, digital signatures or signatures received by facsimile shall be treated the same as originals for the Settlement Agreement and any written, agreed modification thereof. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court.

I. The Settlement Agreement and any related documents shall be subject to, governed by and construed, interpreted and enforced pursuant to the laws of the State of New York.

J. The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Settlement Agreement and all Parties hereby submit to the exclusive jurisdiction of the Court for purposes of implementing and enforcing the Settlement Agreement.

K. Any and all notices, requests, consents, directives, or communications by any party intended for any other party shall be in writing and shall, unless expressly provided otherwise herein, be given personally, by express courier, or by postage prepaid mail, or by facsimile or electronic transmission followed by postage prepaid mail, and shall be addressed as follows:

For Plaintiff States:

Office of the Attorney General of Texas
Chief, Antitrust Section
300 W. 15th St., 7th Floor
Austin, TX 78701

Office of the Attorney General of Connecticut
Chief, Antitrust Department
55 Elm Street
PO Box 120
Hartford, CT 06141-0120

Office of the Attorney General of Ohio
Chief, Antitrust Section
150 E. Gay St., 23rd Floor
Columbus, OH 43215-3428

For Hachette Book Group, Inc.:

Paul Yde, Esq.
Freshfields Bruckhaus Deringer US LLP
701 Pennsylvania Avenue, NW
Washington, DC 20004-2692

Any one of the Parties may, from time to time, change the address to which such notices, requests, consents, directives, or communications are to be delivered, by giving the other Parties prior written notice of the changed address, in the manner herein above provided, ten (10) calendar days before the change is effective.

Agreed to by:

Hachette Book Group, Inc.

Paul L Yde

Paul Yde, Esq.
Freshfields Bruckhaus Deringer US LLP
701 Pennsylvania Avenue, NW
Washington, DC 20004-2692

State of Connecticut
George Jepsen
Attorney General

Gary M. Becker
Assistant Attorney General
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Hartford, CT 06141-0120

State of Texas
Greg Abbott
Attorney General

Rebecca Fisher
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Office of the Attorney General of Texas
Antitrust Section
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Austin, TX 78701

State of Ohio
Mike DeWine
Attorney General

Doreen C. Johnson
Assistant Chief, Antitrust Section
Office of the Attorney General of Ohio
150 East Gay Street, 23rd Floor
Columbus, Ohio 43215

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF ALABAMA
LUTHER STRANGE
Attorney General

Billington M. Garrett

Dated: 6-15-12

By: Billington M. Garrett
Assistant Attorney General
State of Alabama
Office of the Attorney
501 Washington Avenue
Montgomery, AL 36130
(334) 242-7555
(334) 242-2433 (fax)

STATE OF ALASKA
MICHAEL C. GERAGHTY
ATTORNEY GENERAL

Clyde E. Sniffen, Jr.

Dated: 6-12-12

By: Clyde E. Sniffen, Jr.
Senior Assistant Attorney General
Alaska Department of Law
1031 W. 4th Ave. #200
Anchorage, AK 99501
907.269.5200

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

TERRITORY OF AMERICAN SAMOA
FEPULEA'I ARTHUR RIPLEY, JR.

Dated: 8/01/12

By: Mitzie Jessop Folau
Deputy Attorney General
PO Box 7
Pago Pago, AS, 96799
(684) 633-4163

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

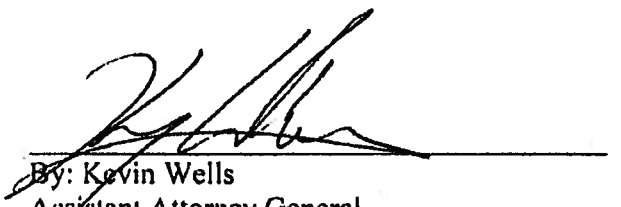
STATE OF ARIZONA
Thomas C. Horne

Dated: 6/22/12

By: Nancy M. Bonnell
Antitrust Unit Chief
1275 West Washington
Phoenix, Arizona 85007
(602) 542-7728

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF ARKANSAS
Dustin McDaniel

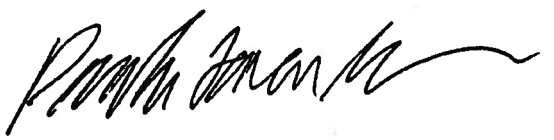


Dated: 6-19-12

By: Kevin Wells
Assistant Attorney General
323 Center Street
Suite 200
Little Rock, AR 72201
(501) 682-8063

STATE OF CALIFORNIA

KAMALA D. HARRIS
Attorney General



Dated: August 8, 2012

By: Paula Lauren Gibson
Deputy Attorney General
300 S. Spring Street, Suite 1720
Los Angeles, CA 90013
Telephone: 213-897-0014
paula.gibson@doj.ca.gov

STATE OF COLORADO
John W. Suthers, Attorney General

Dated: July 18, 2012

By: Devin Laiho
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1525 Sherman Street, Seventh Floor
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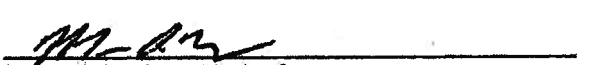
303-866-5079
Devin.Laiho@state.co.us

STATE OF DELAWARE
Joseph R. Biden, III



Dated: 6/24/12

By: Michael A. Undorf
Deputy Attorney General
Delaware Department of Justice
820 N. French St., 5th Floor
Wilmington, DE 19801
(302) 577-8924

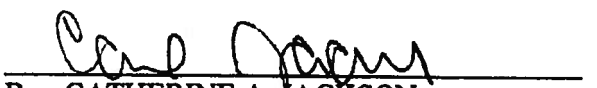
DISTRICT OF COLUMBIA

IRVIN B. NATHAN
Attorney General for the District of Columbia

ELLEN S. EFROS
Deputy Attorney General, Public Interest Division

By: BENNETT RUSHKOFF
Chief, Public Advocacy Section

Dated: July 25, 2012



Dated: July 25, 2012

By: CATHERINE A. JACKSON
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441 Fourth Street, N.W., Suite 600-S
Washington, DC 20001
(202) 442-9864
(202) 741-0655
catherine.jackson@dc.gov

STATE OF FLORIDA
PAMELA JO BONDI

By: _____ Dated: 7/26/2022
Patricia A. Conners
Associate Deputy Attorney General
ANTITRUST DIVISION
Lizabeth A. Brady
Chief, Multistate Antitrust Enforcement
Elizabeth Arthur
Assistant Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
850-414-3300

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF GEORGIA
SAMUEL S. OLENS

Daniel S. Walsh

Dated: 6/28/2012

By: Daniel S. Walsh
Senior Assistant Attorney General
40 Capitol Square, SW
Atlanta, Georgia, 30334-1300
(404) 657-2204

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

TERRITORY OF GUAM

Date: 7/11/12

LEONARDO M. RAPADAS
Attorney General
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Hagåtña, GU 96910
(671) 475-3324

STATE OF HAWAII
David M. Louie

Dated: 6/18/12

By: Rodney I. Kimura
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Department of the Attorney General
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Honolulu, Hawaii 96813
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STATE OF IDAHO
LAWRENCE G. WASDEN

Dated: 6/14/12

By: BRETT T. DeLANGE
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Boise, Idaho 83702
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF ILLINOIS
Lisa Madigan
Attorney General

By: Chadwick O Brooker Dated: June 22, 2012

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Assistant Attorney General
Office of the Illinois Attorney General
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Chicago, Illinois 60601
(312) 793-3891

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

The State of Indiana

GREGORY F. ZOELLER
Attorney General

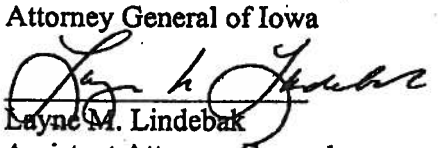
By: _____ Dated: 6/21/12

Jeremy R. Comeau
Deputy Attorney General
Attorney Number 26310-53
302 West Washington Street, 5th Fl.
Indianapolis, IN 46204
Tel: 317.232.6317
Fax: 317.233.4393

Attorneys for the State of Indiana

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF IOWA
Thomas J. Miller
Attorney General of Iowa



Layne M. Lindebak
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Hoover Office Building-Second Floor
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Des Moines, Iowa 50319
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Dated: June 12, 2012

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF KANSAS
ATTORNEY GENERAL DEREK SCHMIDT

Lynette R Bakker

Dated: 6/28/2012

By: Lynette R. Bakker
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

COMMONWEALTH OF KENTUCKY
JACK CONWAY

C. Terrell Miller

Dated: 6/21/12

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Office of the Kentucky Attorney General
Consumer Protection Division
1024 Capital Center Drive Suite 200
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF LOUISIANA
JAMES D. "BUDDY" CALDWELL

Stacie deBlieux

Dated: 6-20-17

By: Stacie Lambert deBlieux
Assistant Attorney General
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STATE OF MAINE
William J. Schneider

Christina M. Moylan

Dated: June 20, 2012

By: Christina M. Moylan
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207/626-8838

STATE OF MARYLAND
DOUGLAS F. GANSLER

Ellen S Cooper

Dated: 6/12/12

By: ELLEN S. COOPER
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Baltimore, Maryland 21202
(410) 576-6470

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

COMMONWEALTH OF MASSACHUSETTS
Attorney General Martha Coakley

Michael Franck

Dated: 7/3/2012

By: Michael Franck (MA BBO No. 668132,
NY Bar Registration No. 4759668)
Assistant Attorney General
Antitrust Division
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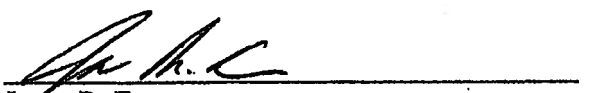
Michael.Franck@state.ma.us

STATE OF MICHIGAN
BILL SCHUETTE
Attorney General of Michigan



Dated: June 13, 2012

Jason R. Evans
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Corporate Oversight Division
525 West Ottawa Street, 6th Floor
Lansing, MI 48933
Phone: (517) 373-1160
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

JIM HOOD, ATTORNEY GENERAL
STATE OF MISSISSIPPI

Date: 7-27-12

CRYSTAL M. UTLEY
SPECIAL ASSISTANT ATTORNEY GENERAL
State of Mississippi

Crystal Utley, MSBN 102132
Consumer Protection Division
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Fax: 601-359-4231
Email: cutle@ago.state.ms.us

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

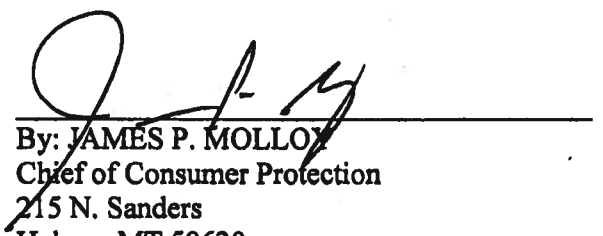
STATE OF MISSOURI
CHRIS KOSTER
Attorney General

Dated: 6/19/12

By: Brianna L. Lennon
Assistant Attorney General
Missouri Attorney General's Office
P.O. Box 899
Jefferson City, MO 65102
(573) 751-3376

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF MONTANA
STEVE BULLOCK



Dated: 7/23/12

By: JAMES P. MOLLOY
Chief of Consumer Protection
215 N. Sanders
Helena, MT 59620
(406) 444-2026

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF NEBRASKA
Jon Bruning

Melissa R. Vincent

Dated: 06.21.12

By: Melissa R. Vincent
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Nebraska Attorney General's Office
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF NEVADA
CATHERINE CORTEZ MASTO
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ERIC WITKOSKI
Chief Deputy Attorney General
Consumer Advocate

Dated: June 28, 2012

By: BRIAN ARMSTRONG
Senior Deputy Attorney General
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF NEW HAMPSHIRE
Michael A. Delaney

Dated: June 19, 2012

By: David Rienzo
Assistant Attorney General
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Concord, New Hampshire 03301
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

Dated: 6/19/12

By: Glenn T. Graham
Jah-Juin Ho
Joshua Rabinowitz
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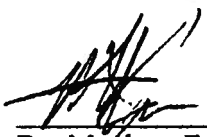
Newark, New Jersey 07101
(973) 648-7457

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF NEW MEXICO
GARY K. KING, Attorney General

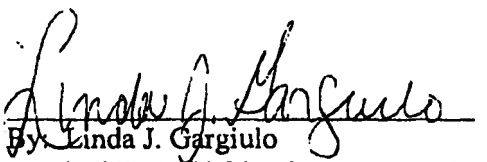


Dated: 7/11/12

By: Matthew E. Jackson
Assistant Attorney General
P.O. Drawer 1508
Santa Fe, NM 87504-1508
505-827-6021

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF NEW YORK
ERIC T. SCHNEIDERMAN
Attorney General



Dated: July 9, 2012

By: Linda J. Gargiulo
Robert L. Hubbard
Assistant Attorneys General
STATE OF NEW YORK
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Antitrust Bureau
120 Broadway, 26th Floor
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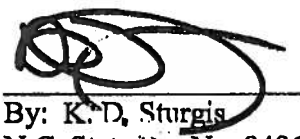
Linda.Gargiulo@ag.ny.gov
Robert.Hubbard@ag.ny.gov

STATE OF NORTH CAROLINA
ROY COOPER, Attorney General



Dated: August 7, 2012

By: K. D. Sturgis
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Assistant Attorney General
114 West Edenton Street
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF NORTH DAKOTA
Wayne Stenehjem
Attorney General

Parrell D. Grossman

June 18, 2012
DATED

Parrell D. Grossman (ND ID No. 04684)
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Director, Consumer Protection and
Antitrust Division
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Edward T. Buckingham, Attorney General

Dated: 7.27.2012

By: Charles E. Brasington
Assistant Attorney General
Hon. Juan A. Sablan Mem. Bldg., 2nd Floor
Saipan, MP 96950-8907
Tel: (670)-664-2393
Fax: (670)-664-2349

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF OKLAHOMA
E. Scott Pruitt
Attorney General

Julie A Bays

Dated: 6-26-12

By: Julie A. Bays
Assistant Attorney General
Office of the Attorney Geneal
313 N.E. 21st Street
Oklahoma City, OK 73105
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF OREGON

ELLEN F. ROSENBLUM
Attorney General

_____ Dated: 7/20/12

By: Michael A. Kakuk
Assistant Attorney General
Oregon Department of Justice
1162 Court St. NE
Salem, OR 97301
(503) 934-4400

COMMONWEALTH OF PENNSYLVANIA

Linda L. Kelly
Attorney General

James A. Donahue, III
Chief Deputy Attorney General
Attorney ID No.: 42624

Dated: 6.13.12

Joseph S. Betsko
Senior Deputy Attorney General
Attorney ID No.: 82620

Jennifer J. Kirk
Deputy Attorney General
Attorney ID No.: 90544

Office of Attorney General
Antitrust Section
14th Floor, Strawberry Square
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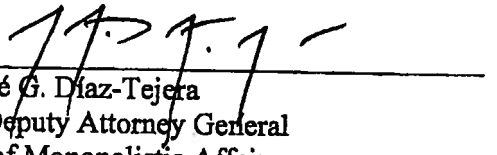
Attorneys for the Commonwealth of Pennsylvania

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

COMMONWEALTH OF PUERTO RICO
Hon. Guillermo A. Somoza-Colombani



Dated: June 19, 2012

By: José G. Díaz-Tejera
Chief Deputy Attorney General
Office of Monopolistic Affairs
P.O. Box 9020192
San Juan, P.R. 00902-0192
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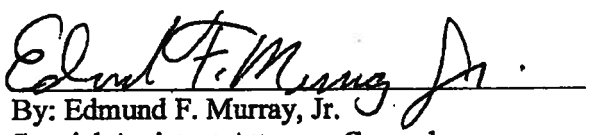
STATE OF RHODE ISLAND
PETER F. KILMARTIN
ATTORNEY GENERAL



Dated: June 18, 2012

By: Edmund F. Murray, Jr.
Special Assistant Attorney General
Rhode Island Department of Attorney General
150 South Main Street
Providence, Rhode Island 02903
(401) 274-4400 Ext. 2401

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF SOUTH CAROLINA
Alan Wilson

_____ Dated: 6/21/17

By: C. Havird Jones, Jr.
Assistant Deputy Attorney General
South Carolina Attorney General's Office
1000 Assembly Street
Columbia, SC, 29201
Phone: (803) 734-3680

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

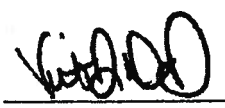
STATE OF SOUTH DAKOTA
MARTY J. JACKLEY

By: Marty J. Jackley
Attorney General
Jeffrey P. Hallem
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605) 773-3215

Dated: 6-15-12

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

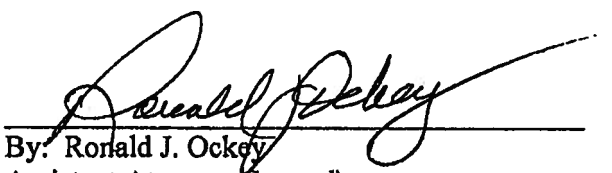
STATE OF TENNESSEE
ROBERT E. COOPER, JR.
Attorney General & Reporter



Dated: 6/18/12

By: VICTOR J. DOMEN, JR. BPR#15803
Senior Counsel
425 Fifth Avenue North
Nashville, TN 37202
(615) 253-3327

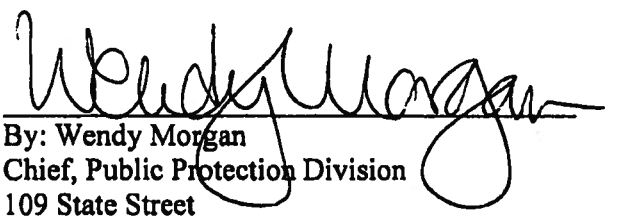
STATE OF UTAH
MARK L. SHURTLEFF
ATTORNEY GENERAL OF UTAH



Dated: July 16, 2012

By: Ronald J. Ockey
Assistant Attorney General\
Office of the Attorney General of Utah
160 East 300 South, Fifth Floor
Salt Lake City, Utah 84114
801-366-0310

STATE OF VERMONT
William H. Sorrell



Dated: 06/21/12

By: Wendy Morgan
Chief, Public Protection Division
109 State Street
Montpelier, Vermont
05609-1001
(802) 828-5479

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

TERRITORY OF THE VIRGIN ISLANDS
OF THE UNITED STATES

By: _____ Date: August 10, 2012

Vincent F. Frazer, Esq.
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Virgin Islands Department of Justice
34-38 Kronprindsens Gade
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St. Thomas, VI 00802
Telephone: 340-774-5666

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

COMMONWEALTH OF VIRGINIA
Kenneth T. Cuccinelli, II

Sarah Oxenham Allen

Dated: 6/28/12

By: Sarah Oxenham Allen
Assistant Attorney General
Office of the Attorney General
900 East Main Street
Richmond, VA 23219
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF WASHINGTON
ROBERT M. MCKENNA

Dated: 7/25/12

By: Jonathan A. Mark
Assistant Attorney General
800 Fifth Ave, Suite 2000
Seattle, WA 98104
(206) 389-3806

HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF WEST VIRGINIA ex rel.
DARRELL V. McGRAW, JR.,
ATTORNEY GENERAL

Dated: June 14, 2012

By: Douglas L. Davis
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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

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Dated: 6/20/12

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HACHETTE BOOK GROUP E-BOOKS SETTLEMENT

STATE OF WYOMING
Attorney General Gregory A. Phillips

Gregory A Phillips

Dated: 6-27-12

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EXHIBIT

A

ATTACHMENT A

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE ELECTRONIC BOOKS ANTITRUST LITIGATION	No. 11-md-02293 (DLC)
This Document Relates to:	ECF Case
THE STATE OF TEXAS, et al., Plaintiffs, v. HARPERCOLLINS PUBLISHERS L.L.C., et al., Defendants.	No.

FINAL JUDGMENT

WHEREAS Plaintiff States filed a complaint in this Court on <<date>> against E-book publishers HarperCollins, Hachette and Simon & Schuster (collectively "Defendants") alleging an unlawful agreement to fix, maintain or stabilize prices of E-books in violation of federal antitrust laws ("Complaint");

WHEREAS Plaintiff States seek damages and injunctive relief in their sovereign capacity and as *parens patriae* on behalf of Consumers residing in the Plaintiff States who have purchased E-books from Named Publishers;

WHEREAS, in order to resolve any and all disputes arising from the Complaint, the Plaintiff States and each Defendant executed a Settlement Agreement (the "Settlement Agreements") which were filed with the Court on <<date>> and are incorporated by reference herein;

WHEREAS, the Settlement Agreements do not constitute an admission of liability by any Defendant;

WHEREAS, in full and final settlement of the claims set forth in the Complaint, Defendants have paid compensatory damages, costs of notice and settlement administration and payments to the Plaintiff States;

WHEREAS, Defendants' payments do not constitute nor will be treated as payments in lieu of treble damages, fines, penalties, punitive recoveries or forfeitures;

WHEREAS, pursuant to a Preliminary Approval Order, notice of the Settlement Agreements was given pursuant to Court order in accordance with 15 U.S.C. § 15c and the requirements of due process. An opportunity to be heard was given to all persons requesting to be heard in accordance with this Court's orders. The Court has reviewed the terms of the Settlement Agreements, the submissions of the parties in support of them, and the comments received in response to the notice. A hearing was held on _____, 2012;

NOW, THEREFORE, without trial or adjudication of any issue of law or fact, before the taking of any testimony at trial, without the admission of liability or wrongdoing by any Defendant and upon the consent of the parties hereto, this Court finds as follows:

I. DEFINITIONS

All capitalized terms in this Final Judgment shall have the same meaning as defined in the Settlement Agreements among Plaintiff States and Hachette Book Group, Inc., Simon & Schuster, Inc. and HarperCollins Publishers L.L.C, individually, dated June 11, 2012.

II. JURISDICTION

This Court has jurisdiction over the subject matter of this action and over the Defendants. The Complaint states a claim upon which relief may be granted against Defendants under

Section 1 of the Sherman Act, as amended, 15 U.S.C. § 1, Section 4c of the Clayton Act, 15 U.S.C. § 15c, and Section 16 of the Clayton Act, 15 U.S.C. § 26. Jurisdiction lies in this Court pursuant to 28 U.S.C. § 15.

III. APPLICABILITY

A. This Final Judgment shall apply to the Plaintiff States, Defendants and Consumers in the Plaintiff States who did not file with the Court valid and timely requests for exclusion from the Settlement Agreements.

B. Except with respect to Releasees, this Final Judgment does not constitute a release or otherwise affect any rights the Plaintiff States and Consumers have or may have against any other entity whatsoever, including Apple Inc., Holtzbrinck Publishers, LLC, d/b/a Macmillan, Penguin Group (USA), Inc., or any of their parents, affiliated entities, officers, directors, employees or attorneys.

IV. SETTLEMENT AGREEMENT APPROVAL

The Court has determined that the Settlement Agreements are, in all respects fair, reasonable, and adequate and in the best interest of Consumers in the Plaintiff States, and that notice thereof comports in all respects with 15 U.S.C. § 15c and due process, and hereby approves the Settlement Agreements.

V. CONSUMER DISTRIBUTION PLAN

The Consumer Distribution Plan set forth in the Plaintiff States' Motion for Final Approval of the Settlement Agreements is fair, reasonable and adequate and is hereby approved. Plaintiff States are directed to cause the consumer funds to be distributed in accordance with said Consumer Distribution Plan.

VI. INJUNCTION

The Court approves the injunctive relief as set forth in the attached Order and Stipulated Injunction, which is incorporated herein by reference. The Order and Stipulated Injunction shall, without further Order of this Court, be modified to take into account any changes made to the language of the United States Department of Justice's Proposed Final Judgment, as entered in *United States of America v. Apple, Inc., et al.*, Case No. 12-cv-2826, in the United States District Court for the Southern District of New York.

VII. STATE PAYMENTS

The Court hereby approves the distribution to Plaintiff States of the payments made pursuant to Section IV.C of the Settlement Agreements. Plaintiff States may allocate and distribute these funds at their discretion as set out in Section VI.B of the Settlement Agreements without further order of this Court.

VIII. NO ADMISSION OF LIABILITY

Neither this Final Judgment nor the Settlement Agreements shall be used or construed by any person as an admission of liability by any Defendant to any party or person, or be deemed evidence of any violation of any statute or law or admission of any liability or wrongdoing by a Defendant or of the truth of any of the claims or allegations contained in the Complaint. Neither this Final Judgment and Order nor the Settlement Agreements shall be offered in evidence or used for any other purpose in this or any other matter or proceeding other than as may be necessary to consummate or enforce the Settlement Agreements or the terms of this Final Judgment and Order, or by Defendants in connection with any action asserting Released Claims.

IX. DISMISSAL OF ACTIONS AND RELEASE

Upon the Effective Date, and subject to the provisions of Section X of this Final Judgment and Order, the Plaintiff States' Complaint is dismissed with prejudice. Plaintiff States and Consumers in the Plaintiff States who did not file with the Court valid and timely requests for exclusion from the Settlement Agreements are barred from further prosecution of the Released Claims, and Releasees are released and forever discharged from liability for the Released Claims.

X. FINALITY OF JUDGMENT

The Court finds that this Final Judgment and Order adjudicates all the claims, rights and liabilities of the parties, and is final and shall be immediately appealable.

XI. RETENTION OF JURISDICTION

Without affecting the finality of this Final Judgment, the Court retains jurisdiction for the purpose of enforcing the terms of the Settlement Agreements and enabling any party hereto to apply for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment and Order, the modification of any of the provisions hereto to the extent such modification is permitted, and to remedy of a violation of any of the provisions contained herein. This Court shall have the authority to specifically enforce the provisions of this Final Judgment and Order.

So ordered this _____ day of _____, 20__.

_____

Hon. Denise L. Cote
United States District Court
Southern District of New York

EXHIBIT

B

ATTACHMENT B

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE ELECTRONIC BOOKS ANTITRUST LITIGATION	No. 11-md-02293 (DLC)
This Document Relates to:	ECF Case
THE STATE OF TEXAS, et al., Plaintiffs, v. HARPERCOLLINS PUBLISHERS L.L.C., et al., Defendants.	No.

[PROPOSED] ORDER AND STIPULATED INJUNCTION

WHEREAS, Plaintiffs, the States, Commonwealths, Territories and Possessions of, XX, XX (hereinafter "Plaintiff States") filed their Complaint on _____, 2012, alleging that Defendants and others conspired to raise retail prices of E-books in violation of Section 1 of the Sherman Act, as amended, 15 U.S.C. § 1, and Plaintiff States and Defendants, by their respective attorneys, have consented to the entry of this Order and Stipulated Injunction without trial or adjudication of any issue of fact or law;

AND WHEREAS, this Order and Stipulated Injunction does not constitute any admission by Defendants that the law has been violated or of any issue of fact or law, other than that the jurisdictional facts as alleged in the Complaint are true;

AND WHEREAS, this Order and Stipulated Injunction shall be modified to take into

account any changes made to the language of the United States Department of Justice's Proposed Final Judgment, as entered in *United States of America v. Apple, Inc., et al.*, Case No. 12-cv-2826, in the United States District Court for the Southern District of New York (the "DOJ Final Judgment").

AND WHEREAS, Defendants agree to be bound by the provisions of this Order and Stipulated Injunction pending its approval by the Court;

AND WHEREAS, Plaintiff States require Defendants to agree to undertake certain actions and refrain from certain conduct for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to the Plaintiff States that the actions and conduct restrictions can and will be undertaken and that they will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of Defendants, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of this action and over the Defendants. The Complaint states a claim upon which relief may be granted against Defendants under Section 1 of the Sherman Act, as amended, 15 U.S.C. § 1.

II. DEFINITIONS

As used in this Order and Stipulated Injunction:

A. "Agency Agreement" means an agreement between an E-book Publisher and an E-

book Retailer under which the E-book Publisher Sells E-books to consumers through the E-book Retailer, which under the agreement acts as an agent of the E-book Publisher and is paid a commission in connection with the Sale of one or more of the E-book Publisher's E-books.

B. "Apple" means Apple, Inc., a California corporation with its principal place of business in Cupertino, California, its successors and assigns, and its parents, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Defendants" means Hachette, HarperCollins, and Simon & Schuster. Where the Order and Stipulated Injunction imposes an obligation on Defendants to engage in or refrain from engaging in certain conduct, that obligation shall apply to each Defendant individually and to any joint venture or other business arrangement established by a Defendant and one or more Publishers.

D. "E-book" means an electronically formatted book designed to be read on a computer, a handheld device, or other electronic devices capable of visually displaying E-books. For purposes of this Order and Stipulated Injunction, the term E-book does not include (1) an audio book, even if delivered and stored digitally; (2) a standalone specialized software application or "app" sold through an "app store" rather than through an E-bookstore (*e.g.*, through Apple's "App Store" rather than through its "iBookstore" or "iTunes") and not designed to be executed or read by or through a dedicated E-book reading device; or (3) a media file containing an electronically formatted book for which most of the value to consumers is derived from audio or video content contained in the file that is not included in the print version of the book.

E. "E-book Publisher" means any Person that, by virtue of a contract or other

relationship with an E-book's author or other rights holder, owns or controls the necessary copyright or other authority (or asserts such ownership or control) over any E-book sufficient to distribute the E-book within the United States to E-book Retailers and to permit such E-book Retailers to Sell the E-book to consumers in the United States. Named Publishers are E-book Publishers. For purposes of this Order and Stipulated Injunction, E-book Retailers are not E-book Publishers.

F. "E-book Retailer" means any Person that lawfully Sells (or seeks to lawfully Sell) E-books to consumers in the United States, or through which a Named Publisher, under an Agency Agreement, Sells E-books to consumers. For purposes of this Order and Stipulated Injunction, Publishers and all other Persons whose primary business is book publishing are not E-book Retailers.

G. "Hachette" means Hachette Book Group, Inc., a Delaware corporation with its principal place of business in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, and partnerships, and their directors, officers, managers, agents, and employees.

H. "HarperCollins" means HarperCollins Publishers L.L.C., a Delaware limited liability company with its principal place of business in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, and partnerships, and their directors, officers, managers, agents, and employees.

I. "Including" means including, but not limited to.

J. "Liaison Counsel for Plaintiff States" means the designated representatives for the Attorneys General of the States of Texas, Connecticut, and Ohio. All documents or information

received by Liaison Counsel for Plaintiff States pursuant to this Order may be shared with all Plaintiff States pursuant to confidentiality provisions contained herein.

K. "Macmillan" means (1) Holtzbrinck Publishers, LLC d/b/a Macmillan, a New York limited liability company with its principal place of business in New York, New York; and (2) Verlagsgruppe Georg von Holtzbrinck GmbH, a German corporation with its principal place of business in Stuttgart, Germany, their successors and assigns, and their parents, subsidiaries, divisions, groups, affiliates, and partnerships, and their directors, officers, managers, agents, and employees.

L. "Named Publishers" means Hachette, HarperCollins, Macmillan, Penguin, and Simon & Schuster. Where this Order and Stipulated Injunction imposes an obligation on an E-Book Publisher to engage in or refrain from engaging in certain conduct, that obligation shall apply to each Defendant individually and to any joint venture or other business arrangement established by any two or more Publishers.

M. "Penguin" means (1) Penguin Group (USA), Inc., a Delaware corporation with its principal place of business in New York, New York, and (2) The Penguin Group, a division of U.K. corporation Pearson PLC with its principal place of business in London, England, their successors and assigns, and their parents, subsidiaries, divisions, groups, affiliates, and partnerships, and their directors, officers, managers, agents, and employees.

N. "Person" means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental.

O. "Plaintiff States" means any State, Commonwealth, the District of Columbia, Puerto

Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands, which signs onto the Complaint.

P. "Price MFN" means a term in an agreement between an E-book Publisher and an E-book Retailer under which:

1. the Retail Price at which an E-book Retailer or, under an Agency Agreement, an E-book Publisher Sells one or more E-books to consumers depends in any way on the Retail Price, or discounts from the Retail Price, at which any other E-book Retailer or the E-book Publisher, under an Agency Agreement, through any other E-book Retailer Sells the same E-book(s) to consumers;

2. the Wholesale Price at which the E-book Publisher Sells one or more E-books to that E-book Retailer for Sale to consumers depends in any way on the Wholesale Price at which the E-book Publisher Sells the same E-book(s) to any other E-book Retailer for Sale to consumers; or

3. the revenue share or commission that the E-book Retailer receives from the E-book Publisher in connection with the Sale of one or more E-books to consumers depends in any way on the revenue share or commission that (a) any other E-book Retailer receives from the E-book Publisher in connection with the Sale of the same E-book(s) to consumers, or (b) that the E-book Retailer receives from any other E-book Publisher in connection with the Sale of one or more of the other E-book Publisher's E-books.

For purposes of this Final Judgment, it will not constitute a Price MFN under subsection 3 of this definition if a Defendant agrees, at the request of an E-book Retailer, to meet more favorable pricing, discounts, or allowances offered to the E-book Retailer by another E-book Publisher for

the period during which the other E-book Publisher provides that additional compensation, so long as that agreement is not or does not result from a pre-existing agreement that requires the Defendant to meet all requests by the E-book Retailer for more favorable pricing within the terms of the agreement.

Q. "Purchase" means a consumer's acquisition of one or more E-books as a result of a Sale.

R. "Retail Price" means the price at which an E-book Retailer or, under an Agency Agreement, an E-book Publisher Sells an E-book to a consumer.

S. "Sale" means delivery of access to a consumer to read one or more E-books (purchased alone, or in combination with other goods or services) in exchange for payment; "Sell" or "Sold" means to make or to have made a Sale of an E-book to a consumer.

T. "Simon & Schuster" means Simon & Schuster, Inc., a New York corporation with its principal place of business in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, and partnerships, and their directors, officers, managers, agents, and employees.

U. "Wholesale Price" means (1) the net amount, after any discounts or other adjustments (not including promotional allowances subject to Section 2(d) of the Robinson-Patman Act, 15 U.S.C. § 13(d)), that an E-book Retailer pays to an E-book Publisher for an E-book that the E-book Retailer Sells to consumers; or (2) the Retail Price at which an E-book Publisher, under an Agency Agreement, Sells an E-book to consumers through an E-book Retailer minus the commission or other payment that E-book Publisher pays to the E-book Retailer in connection with or that is reasonably allocated to that Sale.

III. APPLICABILITY

This Order and Stipulated Injunction applies to Defendants and all other Persons in active concert or participation with any of them who receive actual notice of this Order and Stipulated Injunction by personal service or otherwise.

IV. REQUIRED CONDUCT

A. Within seven days after entry of this Order and Stipulated Injunction, each Defendant shall have terminated any agreement with Apple relating to the Sale of E-books that was executed prior to April 11, 2012.

B. For each agreement between a Defendant and an E-book Retailer other than Apple that (1) restricts, limits, or impedes the E-book Retailer's ability to set, alter, or reduce the Retail Price of any E-book or to offer price discounts or any other form of promotions to encourage consumers to Purchase one or more E-books; or (2) contains a Price MFN, the Defendant shall have notified the E-book Retailer, no later than April 21, 2012, that the E-book Retailer may terminate the agreement with thirty-days notice and shall, thirty days after the E-book Retailer provides such notice, release the E-book Retailer from the agreement. For each such agreement that the E-book Retailer has not terminated within thirty days after entry of this Order and Stipulated Injunction, each Defendant shall, as soon as permitted under the agreement, take each step required under the agreement to cause the agreement to be terminated and not renewed or extended.

C. Defendants shall notify the Liaison Counsel for Plaintiff States in writing at least sixty days in advance of the formation or material modification of any joint venture or other business arrangement relating to the Sale, development, or promotion of E-books in the United

States in which a Defendant and at least one other E-book Publisher (including another Named Publisher) are participants or partial or complete owners. Such notice shall describe the joint venture or other business arrangement, identify all E-book Publishers that are parties to it, and attach the most recent version or draft of the agreement, contract, or other document(s) formalizing the joint venture or other business arrangement. Within thirty days after a Defendant provides notification of the joint venture or business arrangement, the Plaintiff States may make a written request for additional information. If the Plaintiff States make such a request, the Defendant shall not proceed with the planned formation or material modification of the joint venture or business arrangement until thirty days after substantially complying with such additional request(s) for information. The failure of the Plaintiff States to request additional information or to bring an action under the antitrust laws to challenge the formation or material modification of the joint venture shall neither give rise to any inference of lawfulness nor limit in any way the right of the Plaintiff States to investigate the formation, material modification, or any other aspects or activities of the joint venture or business arrangement and to bring actions to prevent or restrain violations of the antitrust laws.

The notification requirements of this Section IV.C shall not apply to ordinary course business arrangements between a Defendant and another E-book Publisher (not a Named Publisher) that do not relate to the Sale of E-books to consumers, or to business arrangements the primary or predominant purpose or focus of which involves: (i) E-book Publishers co-publishing one or more specifically identified E-book titles or a particular author's E-books; (ii) a Defendant licensing to or from another E-book Publisher the publishing rights to one or more specifically identified E-book titles or a particular author's E-books; (iii) a Defendant providing technology

services to or receiving technology services from another E-book Publisher (not a Named Publisher) or licensing rights in technology to or from another E-book Publisher; or (iv) a Defendant distributing E-books published by another E-book Publisher (not a Named Publisher).

D. Each Defendant shall furnish to the Liaison Counsel for Plaintiff States (1) within seven days after entry of this Order and Stipulated Injunction, one complete copy of each agreement, executed, renewed, or extended on or after January 1, 2012, between the Defendant and any E-book Retailer relating to the Sale of E-books, and, (2) thereafter, on a quarterly basis, each such agreement executed, renewed, or extended since the Defendant's previous submission of agreements to the Plaintiff States.

V. PROHIBITED CONDUCT

A. For two years, Defendants shall not restrict, limit, or impede an E-book Retailer's ability to set, alter, or reduce the Retail Price of any E-book or to offer price discounts or any other form of promotions to encourage consumers to Purchase one or more E-books, such two-year period to run separately for each E-book Retailer, at the option of the Defendant, from either:

1. the termination of an agreement between the Defendant and the E-book Retailer that restricts, limits, or impedes the E-book Retailer's ability to set, alter, or reduce the Retail Price of any E-book or to offer price discounts or any other form of promotions to encourage consumers to Purchase one or more E-books; or

2. the date on which the Defendant notifies the E-book Retailer in writing that the Defendant will not enforce any term(s) in its agreement with the E-book Retailer that restrict, limit, or impede the E-book Retailer from setting, altering, or reducing the Retail Price of one or more E-books, or from offering price discounts or any other form of promotions to encourage

consumers to Purchase one or more E-books.

Each Defendant shall notify the Liaison Counsel for Plaintiff States of the option it has selected for each E-book Retailer.

B. Until April 11, 2014, Defendants shall not enter into any agreement with any E-book Retailer that restricts, limits, or impedes the E-book Retailer from setting, altering, or reducing the Retail Price of one or more E-books, or from offering price discounts or any other form of promotions to encourage consumers to Purchase one or more E-books.

C. Defendants shall not enter into any agreement with an E-book Retailer relating to the Sale of E-books that contains a Price MFN.

D. Defendants shall not retaliate against, or urge any other E-book Publisher or E-book Retailer to retaliate against, an E-book Retailer for engaging in any activity that the Defendants are prohibited by Sections V.A, V.B, and VI.B.2 of this Order and Stipulated Injunction from restricting, limiting, or impeding in any agreement with an E-book Retailer. After the expiration of prohibitions in Sections V.A and V.B of this Order and Stipulated Injunction, this Section V.D shall not prohibit any Defendant from unilaterally entering into or enforcing any agreement with an E-book Retailer that restricts, limits, or impedes the E-book Retailer from setting, altering, or reducing the Retail Price of any of the Defendant's E-books or from offering price discounts or any other form of promotions to encourage consumers to Purchase any of the Defendant's E-books.

E. Defendants shall not enter into or enforce any agreement, arrangement, understanding, plan, program, combination, or conspiracy with any E-book Publisher (including another Named Publisher) to raise, stabilize, fix, set, or coordinate the Retail Price or Wholesale Price of any E-book or fix, set, or coordinate any term or condition relating to the Sale of E-books.

This Section V.E shall not prohibit a Defendant from entering into and enforcing agreements relating to the distribution of another E-book Publisher's E-books (not including the E-books of another Named Publisher) or to the co-publication with another E-book Publisher of specifically identified E-book titles or a particular author's E-books, or from participating in output-enhancing industry standard-setting activities relating to E-book security or technology.

F. A Defendant (including each officer of each parent of the Defendant who exercises direct control over the Defendant's business decisions or strategies) shall not convey or otherwise communicate, directly or indirectly (including by communicating indirectly through an E-book Retailer with the intent that the E-book Retailer convey information from the communication to another E-book Publisher or knowledge that it is likely to do so), to any other E-book Publisher (including to an officer of a parent of a Named Publisher) any competitively sensitive information, including:

1. its business plans or strategies;

2. its past, present, or future wholesale or retail prices or pricing strategies for books sold in any format (*e.g.*, print books, E-books, or audio books);

3. any terms in its agreement(s) with any retailer of books Sold in any format; or

4. any terms in its agreement(s) with any author.

This Section V.F shall not prohibit a Defendant from communicating (a) in a manner and through media consistent with common and reasonable industry practice, the cover prices or wholesale or retail prices of books sold in any format to potential purchasers of those books; or (b) information the Defendant needs to communicate in connection with (i) its enforcement or

assignment of its intellectual property or contract rights, (ii) a contemplated merger, acquisition, or purchase or sale of assets, (iii) its distribution of another E-book Publisher's E-books, or (iv) a business arrangement under which E-book Publishers agree to co-publish, or an E-book Publisher agrees to license to another E-book Publisher the publishing rights to, one or more specifically identified E-book titles or a particular author's E-books.

VI. PERMITTED CONDUCT

A. Nothing in this Order and Stipulated Injunction shall prohibit a Defendant unilaterally from compensating a retailer, including an E-book Retailer, for valuable marketing or other promotional services rendered.

B. Notwithstanding Sections V.A and V.B of this Order and Stipulated Injunction, a Defendant may enter into Agency Agreements with E-book Retailers under which the aggregate dollar value of the price discounts or any other form of promotions to encourage consumers to Purchase one or more of the Defendant's E-books (as opposed to advertising or promotions engaged in by the E-book Retailer not specifically tied or directed to the Defendant's E-books) is restricted; *provided that* (1) such agreed restriction shall not interfere with the E-book Retailer's ability to reduce the final price paid by consumers to purchase the Defendant's E-books by an aggregate amount equal to the total commissions the Defendant pays to the E-book Retailer, over a period of at least one year, in connection with the Sale of the Defendant's E-books to consumers; (2) the Defendant shall not restrict, limit, or impede the E-book Retailer's use of the agreed funds to offer price discounts or any other form of promotions to encourage consumers to Purchase one or more E-books; and (3) the method of accounting for the E-book Retailer's promotional activity does not restrict, limit, or impede the E-book Retailer from engaging in any form of retail activity

or promotion.

VII. ANTITRUST COMPLIANCE

Within thirty days after entry of the DOJ Final Judgment, each Defendant shall have designated its general counsel or chief legal officer, or an employee reporting directly to its general counsel or chief legal officer, as Antitrust Compliance Officer with responsibility for ensuring the Defendant's compliance with this Order and Stipulated Injunction. The Antitrust Compliance Officer shall be responsible for the following:

A. furnishing a copy of this Order and Stipulated Injunction, within thirty days of its entry, to each of the Defendant's officers and directors, and to each of the Defendant's employees engaged, in whole or in part, in the distribution or Sale of E-books;

B. furnishing a copy of this Order and Stipulated Injunction in a timely manner to each officer, director, or employee who succeeds to any position identified in Section VII.A of this Order and Stipulated Injunction;

C. ensuring that each person identified in Sections VII.A and VII.B of this Order and Stipulated Injunction receives at least four hours of training annually on the meaning and requirements of the DOJ Final Judgment, this Order and Stipulated Injunction, and the antitrust laws, such training to be delivered by an attorney with relevant experience in the field of antitrust law;

D. obtaining, within sixty days after entry of this Order and Stipulated Injunction and on each anniversary of the entry of the DOJ Final Judgment, from each person identified in Sections VII.A and VII.B of this Order and Stipulated Injunction, and thereafter maintaining, a certification that each such person (a) has read, understands, and agrees to abide by the terms of this Order and Stipulated Injunction; and (b) is not aware of any violation of this Order and Stipulated

Injunction or the antitrust laws or has reported any potential violation to the Antitrust Compliance Officer;

E. conducting an annual antitrust compliance audit covering each person identified in Sections VII.A and VII.B of this Order and Stipulated Injunction, and maintaining all records pertaining to such audits;

F. communicating annually to the Defendant's employees that they may disclose to the Antitrust Compliance Officer, without reprisal, information concerning any potential violation of this Order and Stipulated Injunction or the antitrust laws;

G. taking appropriate action, within three business days of discovering or receiving credible information concerning an actual or potential violation of this Order and Stipulated Injunction, to terminate or modify the Defendant's conduct to assure compliance with this Order and Stipulated Injunction; and, within seven days of taking such corrective actions, providing to the Liaison Counsel for Plaintiff States a description of the actual or potential violation of this Order and Stipulated Injunction and the corrective actions taken;

H. furnishing to the Liaison Counsel for Plaintiff States on a quarterly basis electronic copies of any non-privileged communications with any Person containing allegations of Defendants' noncompliance with any provisions of this Order and Stipulated Injunction;

I. maintaining, and furnishing to the Liaison Counsel for Plaintiff States on a quarterly basis, a log of all oral and written communications, excluding privileged or public communications, between or among (1) any of the Defendant's officers, directors, or employees involved in the development of the Defendant's plans or strategies relating to E-books, and (2) any person employed by or associated with another Named Publisher, relating, in whole or in part, to

the distribution or sale in the United States of books sold in any format, including an identification (by name, employer, and job title) of the author and recipients of and all participants in the communication, the date, time, and duration of the communication, the medium of the communication, and a description of the subject matter of the communication (for a collection of communications solely concerning a single business arrangement that is specifically exempted from the reporting requirements of Section IV.C of this Order and Stipulated Injunction, the Defendant may provide a summary of the communications rather than logging each communication individually); and

J. providing to the Liaison Counsel for Plaintiff States annually, on or before the anniversary of the entry of the DOJ Final Judgment, a written statement as to the fact and manner of the Defendant's compliance with Sections IV, V, and VII of this Order and Stipulated Injunction.

VIII. COMPLIANCE INSPECTION

A. For purposes of determining or securing compliance with this Order and Stipulated Injunction, or of determining whether the Order and Stipulated Injunction should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the Plaintiff States, including consultants and other persons retained by the Plaintiff States, shall, upon written request of an authorized representative of Liaison Counsel for Plaintiff States, and on reasonable notice to Defendants, be permitted:

1. access during the Defendants' office hours to inspect and copy, or at the option of the Plaintiff States, to require Defendants to provide to the Liaison Counsel for Plaintiff States hard copy or electronic copies of all books, ledgers, accounts, records, data, and documents

in the possession, custody, or control of Defendants, relating to any matters contained in this Order and Stipulated Injunction; and

2. to interview, either informally or on the record, the Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of Liaison Counsel for Plaintiff States, Defendants shall submit written reports or respond to written interrogatories, under oath if requested, relating to any of the matters contained in this Order and Stipulated Injunction as may be requested. Written reports authorized under this paragraph may, in the sole discretion of the Plaintiff States, require Defendants to conduct, at their cost, an independent audit or analysis relating to any of the matters contained in this Order and Stipulated Injunction.

C. No information or documents obtained by the means provided in this Section shall be divulged by the Plaintiff States to any person other than an authorized representative of the Plaintiff States, except in the course of legal proceedings to which one or more of the Plaintiff States are a party (including grand jury proceedings), or for the purpose of securing compliance with this Order and Stipulated Injunction, or as otherwise required by law.

D. If at the time information or documents are furnished by a Defendant to the Liaison Counsel for Plaintiff States, the Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and the Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of

Civil Procedure," then the Plaintiff States shall give the Defendant ten calendar days notice prior to divulging such material in any civil or administrative proceeding.

E. Liaison Counsel for Plaintiff States will make reasonable good-faith efforts to coordinate inspections and demands under Paragraphs A and B above with the United States Department of Justice.

IX. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Order and Stipulated Injunction, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

X. NO LIMITATION ON GOVERNMENT RIGHTS

Nothing in this Order and Stipulated Injunction shall limit the right of the Plaintiff States to investigate and bring actions to prevent or restrain violations of the antitrust laws concerning any past, present, or future conduct, policy, or practice of the Defendants.

XI. EXPIRATION OF ORDER AND STIPULATED INJUNCTION

Unless this Court grants an extension, this Order and Stipulated Injunction shall expire five years from the date of the entry of the DOJ Final Judgment.

Date: _____

_____
United States District Judge