

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

ANDREW TYLER FOSTER, et al.,	)	
	)	Case No. 6:15-cv-03519-BCW
Plaintiffs,	)	
	)	Consolidated with:
vs.	)	
	)	Case No. 4:16-cv-00095-BCW
L-3 COMMUNICATIONS CORPORATION,	)	Case No. 6:16-cv-03109-BCW
	)	Case No. 4:16-cv-00438-BCW
Defendant.	)	Case No. 4:16-cv-00439-BCW

**CLASS ACTION SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement, dated February 10, 2017, is made and entered into by and among the following Settling Parties: (i) Andrew Tyler Foster, Jesse Rolfes, Bruce Gibson, Alan Gibbs, Jason Brooks, Chris Drummond, Kainoa Kaku, Travis Young, Richard Morgan, Rob Dunkley, Chad Mingo, Jerry Chen, Michael Ma, April Smith, Jim Richard, Timothy Braginton, and Clay Pittman, individually and as named representatives of the Settlement Class, by and through Tim Dollar and Dollar Burns & Becker, L.C.; Craig Heidemann, Douglas Haun & Heidemann PC; Bonner Walsh, Walsh LLC; Nadeem Faruqi, Faruqi & Faruqi, LLP; Sharon S. Almonrode of The Miller Law Firm, P.C. and Adam Gonnelli of The Sultz Law Group, P.C.; and (ii) L-3 Communications Corporation, now doing business as and referred to herein as L3Technologies, Inc., including its EOTech division, by and through their counsel.

**I. RECITALS**

A. L3 Technologies Inc. is a corporation organized under the laws of the state of Delaware. Its EOTech Division is engaged in the business of designing, manufacturing, and marketing holographic weapon sights.

B. On December 4 and December 10, 2015, actions were filed by counsel for Plaintiffs in federal court in Missouri and Oregon.

C. In January 2016, EOTech, prompted in significant part by the filing of the lawsuits and written demands made by Plaintiffs and their counsel, offered a refund to people who were dissatisfied with their holographic weapon sight (“HWS”).

D. Plaintiffs are the named plaintiffs in the Second Consolidated Amended Complaint (the “SCAC”) entitled *Andrew Tyler Foster, et al. v. L-3 Communications EOTech, et al.*, Case No. 6:15-cv-03519-BCW, filed September 19, 2016, in the United States District Court for the Western District of Missouri.

E. The SCAC alleges violation of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, breach of express warranty, breach of implied warranty, unjust enrichment, and statutory claims under various state laws relating to the marketing, labeling, advertising, and performance of Defendant’s holographic weapons sights. Plaintiffs in the SCAC seek compensatory damages, punitive damages, other damages and declaratory relief on behalf of themselves and a putative class of consumers in the United States who purchased any of Defendant’s HWSs, and all such claims, damages and theories of liability are extinguished, discharged and released by the terms of this Settlement Agreement.

F. Defendant disputes and denies the Plaintiffs’ claims, has raised various defenses, and contends it would prevail in litigation. By entering into this Settlement Agreement, Defendant is not admitting to any liability whatsoever, and instead, expressly denies each and every one of Plaintiffs’ claims.

G. After careful consideration, Plaintiffs and Class Counsel have concluded that it is in the best interests of Plaintiffs and the Class to compromise and settle the claims asserted or that could have been asserted in the SCAC by the Class against Defendant and other Released Persons in consideration of the terms and benefits of the settlement set forth in this Settlement Agreement. After arm's length negotiations with Defendant's counsel, including the use of an impartial mediator, Plaintiffs and Class Counsel have considered, among other things, (1) the complexity, expense, and likely duration of the litigation; (2) the stage of the litigation; (3) the potential for Plaintiffs or Defendant prevailing on the merits; and (4) the range of possible recovery and uncertainty of damages; and have determined the Settlement Agreement is fair, reasonable, adequate and in the best interests of Plaintiffs and the Class Members.

H. Defendant has concluded that, in light of the costs, risks, burden, and delay of litigation, settlement in this litigation is appropriate. In this regard, Defendant and its counsel agree this Settlement Agreement is fair, reasonable, and an adequate resolution of the SCAC.

I. Now, therefore, it is agreed that the foregoing recitals are hereby expressly incorporated into this Settlement Agreement, and made a part hereof, and further, that in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned that the claims against Defendant in the litigation be settled, compromised, and dismissed on the merits with prejudice on the following terms and conditions:

## II. DEFINITIONS

A. **As used in the Settlement Agreement, the following terms have the meanings specified below:**

1. “Claim Deadline” means the date by which a Claim Form must be submitted electronically or postmarked to be considered timely and shall be a date no later than sixty (60) days after the Notice Deadline at 11:59 p.m. Eastern Standard Time. The Claim Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Class Notice and the Claim Form.

2. “Claim Form” means the document (in paper or electronic form) to be submitted by Class Members seeking a benefit that shall be substantially in the form attached hereto as Exhibit A, which will be available through the Settlement Website as well as upon request from the Claims Administrator.

3. “Claim Period” means the time within which a Class Member must submit a Claim Form to be eligible to receive a monetary or in-kind benefit as part of the Settlement. The Claim Period shall commence upon the Notice Deadline and conclude by the Claim Deadline.

4. “Claims Administrator” means such claims administrator as may be selected by the Settling Parties and approved by the Court.

5. “Class Counsel” means Tim Dollar, Dollar Burns & Becker, L.C.; Craig Heidemann and Nathan Duncan, Douglas Haun & Heidemann PC; Bonner Walsh, Walsh LLC; Nadeem Faruqi, Faruqi & Faruqi, LLP; Adam Gonnelli of The Sultzer Law Group, and Sharon S. Almonrode of The Miller Law Firm, P.C.

6. “Class” means all U.S. residents who are current owners of one or more Qualifying Holographic Weapon Sights that were manufactured between January 1, 2005 and November 1, 2016, and purchased for personal use on or before the Preliminary Approval Order date or who previously returned one of these HWS models to EOTech and received a refund. Specifically excluded from the Class are Defendant and any of Defendant’s subsidiaries, divisions, affiliates, officers, employees and directors, as well as any assigned judges, and members of their families within the first degree of consanguinity, all members of the Court’s staff, Plaintiffs’ lawyers in this lawsuit; all Governmental Entities and residents of one of the U.S. territories.

7. “Class Member(s)” means a Person(s) who falls within the definition of the Class.

8. “Class Notice” means the long form notice substantially in the form attached hereto as Exhibit B to be issued when the Notice Program begins and to be published on the Settlement Website or be available by request from the Claims Administrator. A Short Form Notice, substantially in the form attached hereto as Exhibit C, shall be published in accordance with the Notice Program and sent by double-sided postcard or other means to all known Class Members.

9. “Current Model Holographic Weapons Sight” means holographic weapons sights manufactured by Defendant and currently sold with a manufacture date of November 1, 2016 to the present.

10. “Defendant” means L-3 Communications Corporation, including its EOTech division.

11. “Effective Date” means the fifth business day after the last of the following dates: (1) the date the Court has entered an order granting final approval of the Settlement Agreement under Federal Rule of Civil Procedure 23(e) and a final judgment dismissing the Litigation with prejudice as to Representative Plaintiffs’ and Settlement Class Members’ claims against Defendants; (2) the date on which time to appeal or to seek permission to appeal from the Court’s approval of the Settlement Agreement has expired or, if appealed, approval of the Settlement Agreement has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review, or upon the denial of a writ of certiorari to review the order and final judgment.

12. “Governmental Entity” or “Governmental Entities” shall mean: (a) the government of the United States of America; (b) any state or local government; (c) any agency, branch, commission, department, or unit of the government of the United States of America or of any state or local government; or (d) any affiliate of or any business or organization of any type that is owned in whole or at least 51% in part by the government of the United States of America or local government, or any of their agencies, branches, commissions, departments or units.

13. “Litigation” means all actions consolidated in the United States District Court for the Western District of Missouri in *Foster, et al. v. L-3 Communications EOTech, Inc., et al.*, 6:15-cv-03519-BCW.

14. “MSRP” means Manufacturer’s Suggested Retail Price for the specific model of the Qualifying Holographic Weapons Sight. The MSRP varies from model to model and varies over time. Attached as Exhibit D is the MSRP for the models of HWSs sold to class members. The range of MSRP is \$299 to \$1179.

15. “Notice Deadline” means the date the Class Notice is initiated in accordance with the Notice Program.

16. “Notice Program” means the settlement notice program as attached hereto as Exhibit E. The Notice Program shall continue for thirty (30) days after its commencement.

17. “Objection Deadline” means the last date on which a Settlement Class Member may object to the settlement or any aspect thereof, and/or the request of Class Counsel for attorneys’ fees and reimbursement of their costs, and other expenses related to the litigation. The Objection Deadline will be sixty (60) days after the Notice Deadline.

18. “Opt-Out” means a request by a Class Member to be excluded from the Settlement Class, by following the procedures set forth in the Class Notice.

19. “Opt-Out Deadline” means the last date on which a Class Member may request to be excluded from the Settlement Class and thereafter not be bound by the Settlement Agreement or any aspect thereof, but also not be entitled to share in any of the compensation available to Settlement Class Members pursuant to the Settlement Agreement. The Opt-Out Deadline will be sixty (60) days after the Notice Deadline.

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

21. “Preliminary Approval Date” means the date on which the Court enters the Preliminary Approval Order.

22. “Preliminary Approval Order” means the Order preliminarily approving the Settlement in the form of Exhibit F.

23. “Qualifying Holographic Weapon Sight” mean the following models of HWSs, with a valid serial number, originally manufactured by EOTech between January 1, 2005, and November 1, 2016: Models 400, 502, 511, 512, 512 CAMO, 512.XBOW, 512.LBC1, 516, 517, 518, 551, 552, 552.XR, 552.LBC1, 552.LBC2, 553, 555, 555.USMC, 556, 557, 557.4XFTS, 557.4XFXD, 557.3X.FTS, 557.G23.FTS, 558, EXPS2, EXPS3, HHS I, HHS II, MPO II, MPO III, XPS2, XPS2-RF, XPS2-Z, XPS2-Z2, XPS2-300,and XPS3. Qualifying Holographic Weapon Sight does not include any model of HWSs provided by a Governmental Entity to a Person for use in performing official duties for a Governmental Entity. No such Person is eligible to return any such Holographic Weapons Sight or to receive benefits under this settlement for any such sight.

24. “Related Entities” means (1) any past or present director, officer, employee, agent, attorney, predecessor, successor, assignee, affiliate, parent, subsidiary, insurer, attorneys, insurers and division of Defendant; and (2) any and all

wholesalers, distributors, retailers, resellers or other entities anywhere in the stream of commerce that sold, marketed and/or distributed Qualifying Holographic Weapons Sights.

25. “Released Claims” mean, without limitation, any and all claims (including Unknown Claims, as defined below), actions, demands, rights, liabilities, suits, complaints, causes of action (including, but not limited to, violation of the Magnuson-Moss Warranty Act, breach of express warranty, breach of implied warranty, unjust enrichment, and unfair and deceptive acts and practices under state laws), requests for damages, requests for injunctive relief, requests for disgorgement of monies, requests for statutory damages, requests for statutory penalties, requests for punitive or exemplary damages, requests for attorneys’ fees, any other matters and issues, whether known or unknown, whether suspected or unsuspected, whether contingent or non-contingent, whether asserted or that could or might have been asserted in any pleading or amended pleading by or on behalf of any Settlement Class Member against Defendant and the Related Entities, related to or arising out of Defendant’s or any Related Entity’s manufacture, marketing, or sale of HWSs. Released Claims shall not include the right of any Settlement Class Member or Released Person to enforce the terms of the Settlement Agreement. Released Claims shall not include any claims held by any persons who reside in the US Territories, and shall only be binding upon United States residents. Without limiting the foregoing, the release specifically extends to claims that the Settlement Class Members do not know or suspect to exist in their favor at the time that the Settlement Agreement, and the release contained herein, becomes effective. This

Paragraph constitutes a waiver of, without limitation as to any other applicable law, section 1542 of the California Civil Code, which provides:

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

The Settlement Class Members understand and acknowledge the significance of these waivers of California Civil Code section 1542 and any other applicable federal or state statute, case law, rule or regulation relating to limitations on releases. In connection with such waivers and relinquishment, the Settlement Class Members acknowledge they are aware that they may hereafter discover facts in addition to, or different from, those facts they now know or believe to be true with respect to the subject matter of the Settlement Agreement, but that it is their intention to release fully, finally and forever all Released Claims with respect to the Released Persons, and in furtherance of such intention, the release of the Released Claims will be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

26. “Released Persons” means Defendants and the Related Entities.

27. “Representative Plaintiffs” means Andrew Tyler Foster, Jesse Rolfes, Bruce Gibson, Alan Gibbs, Jason Brooks, Chris Drummond, Kainoa Kaku, Travis Young, Richard Morgan, Rob Dunkley, Chad Mingo, Jerry Chen, Michael Ma, April Smith, Jim Richard, Timothy Braginton, and Clay Pittman.

28. “Service Awards” means the amount sought by application to, and approved by, the Court, and that is payable solely from the amount approved by the Court as described in Section V.B. of this Settlement Agreement, to the Representative Plaintiffs, for commencing this action, subjecting him or herself to the loss of privacy, depositions, and other discovery, appearance at trial, and to otherwise incentivize similarly situated persons to seek appropriate recourse in the courts.

29. “Settlement Agreement” means this Agreement, including its attached Exhibits, which are incorporated herein by reference, duly executed by Class Counsel, Defendant, and Defendant’s counsel and class representatives.

30. “Settlement Class” means all Class Members who do not submit a timely and valid Opt-Out. Specifically excluded from the Settlement Class are Defendant and any of Defendant’s subsidiaries, divisions, affiliates, officers, employees and directors, as well as any assigned judges, and members of their families within the first degree of consanguinity, all members of the Court’s staff, Plaintiffs’ lawyers in this lawsuit; all Governmental entities; residents of one of the U.S. Territories, and all Persons who timely filed an Opt Out request.

31. “Settlement Class Member(s)” means a Person(s) who falls within the definition of the Settlement Class.

32. “Settlement Website” means the website to be created for this settlement that will include information about the Litigation and the settlement, relevant documents, and electronic and printable forms relating to the settlement, including a full and complete copy of this Settlement Agreement. The Settlement Website shall be activated when Class Notice is commenced.

33. “Settling Parties” means, collectively, Defendant and Representative Plaintiffs, individually and on behalf of the Settlement Class.

34. “Specialist” means such individual or entity as may be agreed upon by the Settling Parties and approved by the Court, with significant experience in class action notice.

35. “Unknown Claims” means any claims that any Settlement Class Member does not know or suspect to exist at the time of the release, including those that, if known by him or her, might have affected his or her decision to participate in the Settlement Class with, and release of, the Released Persons, or might have affected his or her decision not to object to this Settlement Agreement or any portion or aspect of the Settlement Agreement reached by Settling Parties. Unknown Claims do not include any claims for personal injury.

36. “Valid Claim” means a Claim Form submitted by a Settlement Class Member that: (1) is submitted in accordance with the directions accompanying the Claim Form and the provisions of this Settlement Agreement; (2) is, on the initial submission, accurately, fully, and truthfully completed and signed either physically or by e-signature under penalty of perjury, with all of the information requested in the Claim Form, by a Settlement Class Member; (3) attaches or includes proof of purchase if available, the amount actually paid for the Qualifying Holographic Weapon Sight or otherwise the Settlement Class Member’s best estimate of the purchase price, serial number, and all other information requested on the Claim Form on the first submission to the Claims Administrator; (4) is not submitted by a third-party whether individually or en masse – e.g., bundled or aggregated with other claims – or with the Claim Forms of any other Class Settlement Member or

other natural person or entity; and (5) is returned via mail and post-marked by the Claims Deadline or received by mail or on-line submission by the Claims Deadline. The Claims Administrator may require additional information from the Settlement Class Member to validate the Claim, including but not limited to questions regarding the validity or legitimacy of the physical or e-signature.

### **III. SETTLEMENT CONSIDERATION**

A. The settlement includes cash payments and non-monetary relief, described in Tiers 1-3 below, to each Settlement Class Member who elects a benefit, or who previously received a refund from Defendant, and otherwise complies with all conditions and requirements of the applicable Claim Form and this Settlement Agreement.

B. Each Settlement Class Member who is dissatisfied with his EOTech Holographic Weapons Sight may elect one (and only one) of the Tier 1 or Tier 3 benefits below for each Qualifying Holographic Weapons Sight of which that Settlement Class Member is the current owner (subject to the limits discussed below):

1. Tier 1: A Settlement Class Member who elects to return a Qualifying Holographic Weapons Sight to Defendant shall, after returning the Qualifying Holographic Weapons Sight to EOTech, be entitled to:

(a) A refund of the purchase price of the Qualifying Holographic Weapons Sight, if supported by a receipt or the Settlement Class Member's best estimate of the price, provided that in no event will the refund be greater than the MSRP for that model Qualifying Holographic Weapon Sight; (b) \$15.00 for shipping; and (c) a twenty-two dollar and fifty cent (\$22.50) voucher toward the purchase of a Current Model Holographic Weapon Sight or other product of EOTech, a division of Defendant L-3; or

2. Tier 2: A Settlement Class Member who already has returned a Qualifying Holographic Sight to Defendant and received a refund shall be entitled to a twenty-two dollar and fifty cents (\$22.50) voucher toward the purchase of a Current Model Holographic Weapon Sight or other EOTech product; or

3. Tier 3: A Settlement Class Member who does not elect to return a Qualifying Holographic Weapons Sight to Defendant shall, at the election of the Settlement Class Member, be entitled to one of the following:

- (a) A one-hundred-dollar (\$100.00) voucher toward the purchase of a Current Model Holographic Weapon Sight or other EOTech product; or (b) a cash payment by check in an amount ranging from fifty dollars (\$50.00) to approximately twenty-five dollars (\$25.00), depending upon the total number of Valid Claims. The exact method and manner of calculating this benefit is contained in Exhibit G, the Tier 3 Allocation.

C. Defendant is obligated to pay or cause to be paid Valid Claims. There are no unclaimed property rights or interest by Class Members or Settlement Class Members who do not file Valid Claims.

D. To be eligible for a Tier 1 or Tier 3 benefit, the Settlement Class Member must timely submit a Valid Claim.

E. The Claims Administrator will use adequate and customary procedures and standards to prevent the payment of fraudulent claims and to pay only Valid Claims. Such procedures will include, without limitation: (1) screening for duplicate claims or Settlement Class Members seeking more than the maximum cash payment permitted by this Settlement Agreement; (2) failing to provide complete, truthful, and accurate

information on the initial submission of the Claim Form; and (3) reviewing claims for evidence of fraud.

F. A Settlement Class Member may not assign any right to receive a benefit to another Person.

G. The Claims Administrator shall employ reasonable procedures to screen claims for fraud, including rejecting claims for counterfeit sights. The Claims Administrator may request additional information necessary to validate claims and/or reject a Claim Form where – in the Claims Administrator’s sole discretion and judgment – there is evidence or suspicion of fraud. The Claims Administrator may also reject a Claim Form that does not contain all requested information necessary to screen the claim for fraud or abuse. If seeking a refund, the Settlement Class Member must return to Defendant each Qualifying Holographic Weapons Sight for which a claim for refund is submitted pursuant to the procedures to be provided to the Settlement Class Member by the Claims Administrator upon the Claims Administrator’s approval of the Settlement Class Member’s Claim Form. In the event that vouchers are not used within one year of issuance, they will expire, cannot be used, and have no cash value. Upon approval of a claim by the Claims Administrator and verification by the Claims Administrator that the corresponding Qualifying Holographic Weapon Sights have been returned (if required), the Claims Administrator shall mail a check and/or voucher to each such Settlement Class Member at the addresses stated in the respective Claim Form thirty (30) days after the Effective Date.

1. The Claims Administrator shall submit a list weekly to Class Counsel and Defendant and/or its designated representatives, identifying the number of Claims that are submitted.

2. The settlement consideration set forth in Section III-B above shall be the only payment Settlement Class Members are entitled to receive for their Released Claims pursuant to this Settlement Agreement.

3. The Settling Parties agree to the certification of the Class for settlement purposes only and to effectuate the terms of this Settlement Agreement. If the Settlement is not approved by the Court, or if the settlement is terminated or cancelled pursuant to the terms of the Settlement Agreement, then the Settlement Agreement, and the certification of the Class provided for herein, will be vacated and the Litigation shall proceed as though the Class had never been certified, without prejudice to any Party's position on the issue of class certification or any other issue. The Settling Parties' agreement to certification of the Class is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

#### **IV. APPROVAL OF THE SETTLEMENT AGREEMENT AND DISMISSAL OF CLAIMS AGAINST DEFENDANTS**

A. As soon as practicable after the execution of the Settlement Agreement, Representative Plaintiffs, by and through Class Counsel, shall file a motion for preliminary approval of the Settlement Agreement and apply for entry of an order by the Court (the "Preliminary Approval Order") requesting, *inter alia*:

1. Certification of the Class for settlement purposes only;
2. Preliminary approval of the settlement embodied in the Settlement Agreement as set forth herein;
3. Approval of the Notice Program, as set forth in Exhibit E hereto, to provide notice of the Settlement Agreement to the Class;

4. Approval of the commencement of notice to the Class including issuing the Class Notice and including the agreed-to notice in media as shall be agreed upon by Defendant and Class Counsel, which together shall include a fair summary of the Settling Parties' respective litigation positions, the general terms of the Settlement Agreement, instructions for how to object to or opt-out of the settlement, the process and instructions for making claims as contemplated herein, and the date, time, and place of the Final Fairness Hearing; and

5. Approval of a Claim Form in a form substantially similar to the one attached hereto as Exhibit A.

B. The forms of Class Notice, Short Form Notice, and Claim Form attached hereto as Exhibits B, C, and A may be revised as agreed upon by Settling Parties prior to such submission to the Court for approval.

C. No later than twenty-one (21) days prior to the Final Fairness Hearing scheduled by the Court, the Representative Plaintiffs shall move the Court for entry of an order granting final approval of this Settlement and its terms as being fair, reasonable, and adequate within the meaning of Rule 23(e) of the Federal Rules of Civil Procedure or other applicable law and directing its consummation according to its terms; granting Plaintiffs' request for an award of attorneys' fees, costs, and service awards; and certifying the proposed class for settlement purposes.

D. The Settlement Agreement shall be deemed executed as of the last date of signature by Defendant and Class Counsel. Neither the provisions of Rule 60 of the Federal Rules of Civil Procedure nor the All Writs Act, 28 U.S.C. §1651, shall be taken into account in determining the above-stated times. As of the date of execution of the Settlement Agreement, the Settling Parties shall be bound by the terms of the Settlement Agreement

and the Settlement Agreement shall not be rescinded or terminated except as set forth in Sections IX A-D of this Settlement Agreement. After the Effective Date, the Settlement Agreement will become final in all aspects.

E. Neither the Settlement Agreement (whether or not it becomes final), nor the final judgment, nor any and all negotiations, documents, and discussions associated with such negotiations, shall be deemed or construed to be an admission by Defendant or other Released Persons, or form the basis of an estoppel by a third party against Defendant or other Released Persons, or evidence of any violation of any statute or law or of any liability or wrongdoing whatsoever by Defendant or other Released Persons, or of the truth of any of the claims or allegations contained in any complaint or any other pleading filed by Representative Plaintiffs or any other Settlement Class Member, and evidence thereof shall not be discoverable, or used directly or indirectly, in any way, by Representative Plaintiffs or Class Counsel whether in the Litigation or in any other action or proceeding. Neither the Settlement Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any action taken to carry out this Settlement Agreement by the Settling Parties shall be referred to, offered into evidence, or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to enforce the Settlement Agreement, or to defend against the assertion of any Released Claims, or as otherwise required by law. Notwithstanding the above, nothing herein shall be construed to require a lawyer to do anything in violation of the canons of ethics and any state's rules of professional conduct.

**V. NOTICE, CLAIMS ADMINISTRATION, ATTORNEYS' FEES, COSTS, EXPENSES, AND REPRESENTATIVE PLAINTIFF SERVICE AWARDS.**

A. The Settling Parties agree that, subject to Court approval, notice of the settlement shall be directed to the members of the Class substantially in the forms attached as Exhibits

B and C. Notice shall be commenced on the Notice Deadline and in accordance with the Notice Program. All costs of Class Notice and claims administration shall be paid by Defendant. Defendant shall be liable for any Class Notice, claims, or administration costs only as provided herein. The motion for approval of the form(s) of Class Notice and method(s) of disseminating Class Notice shall recite and ask the Court to find that the Notice Program developed by the Specialist constitutes valid, due and sufficient notice, constitutes the best notice practicable under the circumstances, and complies fully with the requirements of Federal Rule of Civil Procedure 23, the Constitution, and any other applicable law.

B. It is contemplated that Representative Plaintiffs and Class Counsel will seek an award of attorneys' fees and reimbursement of costs and expenses (including expert witness fees and expenses), subject to approval by the Court. Defendant agrees not to contest a request by Representative Plaintiffs and Class Counsel for, nor oppose an award by the Court for, a maximum award of \$10,000,000 as a payment of all Service Awards, and/or Rule 23(h) attorneys' fees, costs and expenses incurred at any time, whether before or after the date hereof, for the common benefit of members of the Class. If the Court awards less than the amount set out in this subparagraph B, the Defendant shall be liable only for the lesser amount awarded by the Court. In no event shall Defendant be liable for any amount of common benefit, Service Awards, and/or Rule 23(h) attorneys' fees, costs and/or expenses in excess of the amount agreed upon in this subparagraph B.

C. Tim Dollar is hereby appointed to receive any Class Counsel fee award and to distribute the funds among Plaintiffs' counsel of record in this Litigation. Once the funds are paid to Tim Dollar in constructive trust for all Class Counsel, Defendant is hereby

discharged and will be held harmless from all claims, liability and losses arising out of the distribution of any Class Counsel fee award.

D. Should the Court enter an order on the petition for award of attorneys' fees, reimbursement of costs and expenses, and Representative Plaintiff Service Awards, the Parties agree that proceedings relating to the fee application(s) or any appeal from any such order shall not operate to terminate or cancel the Settlement, or affect or delay the finality of the judgment approving the Settlement. Except as expressly provided herein, neither Defendant nor any other Released Person shall have any responsibility for, or interest in, or liability whatsoever with respect to any payment to Plaintiffs' counsel of record in the Litigation of any fee award in the Litigation.

E. Attorneys' fees, costs, and expenses awarded by the Court shall be payable to Class Counsel no later than thirty (30) days after the later of the Effective Date or final judgment on the order awarding attorneys' fees, costs and expenses.

F. Any Settlement Class members to whom checks have been issued that remain uncashed after ninety (90) days shall receive a reminder postcard or email from the Settlement Administrator. Any checks that remain uncashed after one hundred and eighty (180) days shall be void.

## **VI. OPT-OUT PROCEDURES**

A. Each Person wishing to opt out of the Settlement Class shall sign (individually, or, if the Person opting out is less than 18 years of age, through the signature of a parent, legal guardian or other legal representative) and timely mail written notice of such intent to the designated address established by the Claims Administrator. Opt-Out requests must: (1) be personally signed by the individual Class Member who is requesting exclusion; (2) include the full name, address, and phone number(s) of the Class Member requesting exclusion;

and (3) include the following statement or equivalent language: “I request to be excluded from the settlement in the EOTech L-3 Class Action Settlement.” No request for exclusion will be valid unless all of the information described above is included. No Class Member, or any person acting on behalf of or in concert or participation with that Class Member, may exclude any other Class Member from the Settlement Class.

B. The last date for Class Members to opt-out of the settlement will be, subject to the Court’s approval, the date set forth in the Class Notice. Class Members who timely Opt-Out of the settlement will not be bound by the terms of this Settlement Agreement, including any releases contained herein, nor will they be entitled to receive any benefits from the settlement.

C. In the event that 7,500 or more of the Class Members Opt Out, Defendant shall have the option in its sole discretion to elect to terminate this Settlement Agreement, in which circumstance the Settlement Agreement will become null and void, and the Parties will return to the status quo ante as described in Section IX A-D, *infra*.

D. The Class Representatives affirmatively support this settlement and agree not to opt-out of this settlement. None of the Representative Plaintiffs, Class Counsel, Defendant, or its counsel shall in any way encourage any Class Member to opt-out or discourage any Class Member from participating in this settlement.

## **VII. OBJECTION PROCEDURES**

A. Each Settlement Class Member desiring to object to the settlement shall submit a timely written notice of his or her objection. To object, the Settlement Class Member must send a letter to the Court explaining his or her objection to the proposed Settlement. The objection letter must include: (1) the objector’s full name, address, telephone number, and e-mail address; (2) documents or information required on the Claim Form and identifying

the objector as a Settlement Class Member; (3) a written statement of all grounds for the objection, accompanied by any legal support for the objection; and (4) a list of all persons who will be called to testify at the Final Fairness Hearing in support of the objection; (5) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation).

B. In the event that a Settlement Class Member objects through an attorney hired at his, her, or its own expense, the attorney will have to file a notice of appearance with the Court by the Objection Deadline and serve a copy of the notice and the objection containing the information detailed above on Class Counsel and Defendant's Counsel by the Objection Deadline.

C. Any Settlement Class Member who fails to file and serve timely a written objection containing all of the information listed in the items listed above in the previous paragraph, including notice of his/her intent to appear at the final approval hearing, shall not be permitted to object to the Settlement and shall be foreclosed from seeking any review of the settlement or the terms of the Settlement Agreement by any means, including but not limited to an appeal. Written notice of an objection in appropriate form must be filed with the Clerk of the United States District Court for the Western District of Missouri, at the Charles Evans Whittaker Courthouse, 400 East 9th Street, Kansas City, MO 64106, by the Objection Deadline, and served concurrently therewith upon each of the following: (1) Tim E. Dollar ATTN: EOTech HWS Settlement, Dollar Burns & Becker L.C., 1100 Main Street, Suite 2600, Kansas City, MO 64105; and (2) Richard C. Godfrey, P.C. and J. Andrew Langan, P.C. ATTN: EOTech HWS Settlement, Kirkland & Ellis LLP, 300 N. LaSalle, Chicago, IL 60654.

## **VIII. RELEASES**

A. Upon the Settlement becoming final as set forth above in Section II, ¶ 11, the Settlement Class, as well as each Settlement Class Member shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims, and likewise covenanted not to sue for all Released Claims, and additionally, to the fullest extent permitted by law, the Settlement Class, as well as each Settlement Class Member shall, either directly, indirectly, representatively, as a member of or on behalf of the general public, or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in, any action in this or any other forum (other than participation in the Settlement as provided herein) in which any of the Released Claims is asserted.

B. This Settlement Agreement and the settlement embodied herein are subject to final approval by the Court substantially in the form of the proposed Order attached hereto as Exhibit F. If the settlement is approved, the Court will enter a judgment dismissing the claims against Defendant with prejudice. Representative Plaintiffs waive any right to appeal or collaterally attack a Final Approval Order entered by the Court subject to the provisions of Section IX of this Settlement Agreement.

## **IX. RESCISSION IF THE SETTLEMENT AGREEMENT IS NOT APPROVED**

A. If this Settlement Agreement or any part of it is not approved in its entirety or materially modified by the Court or is materially modified upon appeal or remand, then any of the Settling Parties may terminate this Settlement Agreement.

B. If no Settling Party timely elects to terminate, then the Settling Parties shall remain bound to the Settlement Agreement as so modified. For purposes of this paragraph, a “material modification” is one that significantly affects the rights or obligations of one or

more of the Settling Parties. Without limiting the foregoing and by way of illustration only, material modifications include but are not limited to: (1) any change to the scope of the Released Claims set forth in this Settlement Agreement; (2) any change to the relief provided to class members; (3) any material change to the Final Approval Order which limits or reduces any of the protections afforded to Defendant, (4) any increase in the cost of the settlement to be borne by Defendant to be determined at the sole discretion of Defendant; (5) any change to the long or short form notice, claim form and claim process. No order or action of the Court pertaining to attorneys' fees or expenses shall be considered to constitute a material modification so long as such order, action, or modification does not increase the cost of settlement to be borne by Defendant, and does not require that Defendant do anything not specifically set forth herein. Similarly, no order or action of the Court pertaining to the Service Awards shall be considered to constitute a material modification so long as such order, action, or modification does not increase the cost of settlement to be borne by Defendant and does not require that Defendant do anything not specifically set forth herein.

C. If the Court does not approve the Settlement, or if such approval is materially modified or set aside on appeal, or if the Court enters the final approval of this Settlement and appellate review is sought, and on such review, such final approval is not affirmed in its entirety, then within thirty (30) calendar days thereafter, Defendant, and Representative Plaintiffs shall each, in their sole discretion, have the option to rescind this Settlement Agreement in its entirety. Written notice of the exercise of any such right to rescind shall be made by the rescinding Party to Class Counsel or Defendant's counsel, as the case may be, within ten (10) business days of the event triggering the right to rescind.

D. Defendant, in the exercise of its sole discretion, shall have the right to terminate this Settlement Agreement if, at all, no later than ten (10) days after being advised by the Claims Administrator in writing of the number of valid opt-outs if that number exceeds 7,500. In the event Defendant exercises its right of termination, it shall promptly notify Class Counsel.

**X. MISCELLANEOUS**

A. The Settlement Agreement shall be construed and interpreted to effectuate the intent of the Settling Parties, which is to provide, through this Settlement Agreement, for a complete resolution, as provided in this Settlement Agreement, and release of the Released Claims with respect to each Released Person and the Settlement Class as provided for in this Settlement Agreement.

B. The Settling Parties: (a) acknowledge that it is their intent to consummate this Settlement Agreement, and (b) agree to cooperate to the extent reasonably necessary, and to exercise their best efforts, to effectuate and implement all terms and conditions of this Settlement Agreement and any applicable requirements under the Class Action Fairness Act of 2005 (“CAFA”) and/or Rule 23, Federal Rules of Civil Procedure. The Claims Administrator shall comply with the obligation to give notice under CAFA, 28 U.S.C. § 1715, in connection with the Settlement Agreement.

C. This Settlement Agreement does not settle or compromise any claim by Representative Plaintiffs and the Settlement Class Members against any Person other than Released Persons.

D. Class Counsel and Defendant’s counsel agree to stay all proceedings, other than those proceedings necessary to carry out or enforce the terms and conditions of the settlement, until the Effective Date of the settlement has occurred. If, despite the Settling

Parties' best efforts, this settlement should fail to become effective, the Settling Parties will return to their prior positions in the Litigation. The Settling Parties also agree to stay and seek the dismissal of, all other pending litigation against Defendant regarding matters covered by this Settlement Agreement. A stay of all proceedings in this matter is a material term and condition precedent to the Settlement Agreement from the date of the Parties' execution of the Settlement Agreement through the Court's final determination of the fairness of the settlement.

E. The United States District Court for the Western District of Missouri shall retain jurisdiction over the implementation, enforcement, and performance of this Settlement Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement that cannot be resolved by negotiation and agreement by the Settling Parties. The terms of the Settlement Agreement shall be incorporated into the Final Order and Judgment of the Court dismissing with prejudice all Released Claims against all Released Persons, which shall allow that Final Order and Judgment to serve as an enforceable injunction by the Court for purposes of the Court's continuing jurisdiction related to the Settlement Agreement.

F. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties. The Released Persons are third-party beneficiaries of this Settlement Agreement and are authorized to enforce its terms applicable to them.

G. This Settlement Agreement may be executed in counterparts by the Settling Parties and a facsimile or .pdf email signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

H. Neither Representative Plaintiffs nor Defendant shall be considered to be the drafters of this Settlement Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of this Settlement Agreement.

I. The descriptive headings of any paragraphs or sections of this Settlement Agreement are inserted for convenience only and do not constitute a part of this Settlement Agreement.

J. Where this Settlement Agreement requires either Party to provide notice or any other communication or document to the other, such notice shall be in writing, and such notice, communication, or document shall be provided by facsimile, email, or letter by overnight delivery to the undersigned counsel of record for the Party to whom notice is being provided.

K. The Settling Parties agree that this Settlement Agreement shall be construed and interpreted pursuant to the laws of the State of Missouri.

L. The Settling Parties agree and acknowledge that no consideration, amount or sum paid, credited, offered, or extended, or to be paid, credited, offered, or extended, by the Defendant in the performance of this Settlement Agreement constitutes a penalty, fine, or any other form of assessment for any alleged claim or offense.

M. The Settling Parties agree that this Settlement Agreement and its exhibits, attachments and appendices shall constitute the entire agreement and understanding among the Settling Parties and supersedes all prior proposals, negotiations, agreements, and understandings relating to the subject matter of this Settlement Agreement. This Settlement Agreement shall be binding upon and shall inure to the benefit of the Settling Parties hereto and their representatives, heirs, successors and assigns.

N. The Settling Parties agree that they have had full opportunity to consult with legal counsel of their choice in connection with signing this Settlement Agreement.

O. The Settling Parties may agree, subject to approval of the Court where required, to reasonable extensions of time to carry out and/or implement the terms and provisions of this Settlement Agreement and to make necessary ministerial changes to this Settlement Agreement.

P. No opinion regarding the tax consequences of this Settlement Agreement to any individual Settling Plaintiff is being given or will be given by Defendant or its counsel, nor is any representation or warranty in this regard made by virtue of this Settlement Agreement. Plaintiffs must consult their own tax advisors regarding the tax consequences of the Settlement, including any payments provided hereunder and any tax reporting obligations they may have with respect thereto. Each Settlement Class Member's tax obligations, and the determination thereof, are his, her, or its sole responsibility, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member. Released Persons shall have no liability or responsibility whatsoever for any such tax consequences resulting from payments under this Settlement Agreement. To the extent required by law, the Released Persons will report payments made under the Settlement Agreement to the appropriate authorities.

Q. Nothing expressed or implied in this Settlement Agreement is intended to or shall be construed to confer upon or give any Person other than Settlement Class Members, Plaintiffs, Defendant, and the Released Persons any right, benefit, entitlement, claim, cause of action or remedy under or by reason of this Settlement Agreement.

R. Written Notice to the Plaintiffs or Class Counsel must be given to Tim Dollar and Dollar Burns & Becker, L.C., 1100 Main Street, Suite 2600, Kansas City, MO 64105, [timd@dollar-law.com](mailto:timd@dollar-law.com); Craig Heidemann, Douglas Haun & Heidemann PC, 111 W Broadway St , Bolivar, MO 65613, [craig@dhhlawfirm.com](mailto:craig@dhhlawfirm.com); Bonner Walsh, Walsh LLC, Walsh LLC, PO Box 7, Bly OR 97622, [bonner@walshpllc.com](mailto:bonner@walshpllc.com); Nadeem Faruqi, Faruqi & Faruqi, LLP, 685 Third Avenue, 26th Floor, New York, NY 10017, [nfaruqi@faruqilaw.com](mailto:nfaruqi@faruqilaw.com); Sharon S. Almonrode, The Miller Law Firm, P.C., 950 W University Drive, Suite 300, Rochester, MI 48307, [ssa@miller.law](mailto:ssa@miller.law); and Adam Gonnelli, The Sultzer Law Group, 280 Rt. 35, Suite 304, Red Bank, NJ, 07701, [gonnellia@thesultzerlawgroup.com](mailto:gonnellia@thesultzerlawgroup.com) Written notice to EOTech must be given to Richard C. Godfrey, Kirkland & Ellis LLP, 300 North LaSalle Blvd, Chicago, IL 60654, [rgodfrey@kirkland.com](mailto:rgodfrey@kirkland.com), and Joseph Rebein, Shook Hardy & Bacon, L.L.P., 2555 Grand Boulevard, Kansas City, Missouri, 64108, [jreibein@shb.com](mailto:jreibein@shb.com). All notices required by the Settlement Agreement shall be sent by overnight delivery and electronic mail.

S. The waiver by any Settling Party of any provision of or breach of this Settlement Agreement, in whole or in part, by another Settling Party shall not be deemed or construed as a waiver of any other provision of or breach of this Settlement Agreement, whether prior, subsequent, or contemporaneous, to this Settlement Agreement. In the event that one Party to this Settlement Agreement is notified in writing by the other Party of any alleged breach of this Settlement Agreement, the allegedly-breaching Party shall have fourteen days from the date of receipt of such notice to cure any such alleged breach and to notify the other Party, in writing, of the cure implemented to address the alleged breach. If the Party asserting the breach is not satisfied with the cure, that Party shall

have the right to petition the Court for relief within thirty days of receipt of notice of the cure.

T. The Settling Parties and their counsel agree to do anything reasonably necessary to uphold the validity and enforceability of, this Settlement Agreement.

U. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Settling Parties he or she represents, subject to Court approval.

V. Except as otherwise provided in this Settlement Agreement, each Settling Party shall bear its own costs and expenses.

W. This Settlement Agreement may be modified or amended only by (1) an order of the Court, or (2) a writing signed by (i) Class Counsel and (ii) counsel for Defendant.

X. The Settling Parties may jointly request that the Court allow reasonable extensions of time to carry out any of the provisions of the Settlement Agreement without formally amending this Settlement Agreement.

Y. Class Counsel represent and warrant that they are authorized to take all appropriate actions required or permitted to be taken by or on behalf of the Representative Plaintiffs and, subsequent to an appropriate Court Order, the Class in order to effectuate the terms of this Settlement Agreement, and are also authorized to enter into appropriate modifications or amendments to this Agreement on behalf of the Representative Plaintiffs and, subsequent to an appropriate Court Order, the Class Members.

Z. This Settlement Agreement may be executed in one or more counterparts, all of which together shall be deemed to be one and the same instrument. The Settling Parties agree that a copy of the executed counterparts may be filed with the Court in connection with the motion to preliminarily approve the settlement, either in portable document format

or some other suitable electronic form, as an exhibit to Plaintiffs' Motion for Preliminary Approval without the need to collate and file a copy with original signatures.

AA. The Settling Parties shall cooperate with the Claims Administrator and one another to the extent reasonably necessary to assist and facilitate the Claims Administrator in carrying out its duties and responsibilities.

BB. The Settling Parties agree that, to the fullest extent permitted by law, neither this Settlement Agreement nor the settlement, nor any act performed or document executed pursuant to or in furtherance of this the settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any claim or of any wrongdoing or liability of the Released Persons; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any Released Party or the appropriateness of class certification in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. In addition, any failure of the Court to approve the settlement and/or any objections or interventions may not be used as evidence in the Litigation or any other proceeding for any purpose whatsoever. However, the Released Persons may file this Settlement Agreement and/or the Final Approval Order in any action or proceeding that may be brought against them 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.

CC. The Parties agree that they will act in good faith and will not engage in any conduct that will or may frustrate the purpose of this Settlement Agreement. To that end, the Parties further agree to implement the terms of this Settlement Agreement in good faith and to use

good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement.

DD. All orders, settlement agreements, and designations regarding the confidentiality of documents and information (“Protective Orders”) shall remain in effect, and all Parties and counsel shall remain bound to comply with the Protective Orders, including the provisions to certify the destruction of “Confidential” documents. Additionally, within ten (10) days after the Effective Date, Plaintiffs shall return to the Defendant all copies of all documents provided by Defendant to Plaintiffs as confirmatory discovery in this Litigation.

EE. In the event of any variance between the terms of this Settlement Agreement and any of the Exhibits hereto, the terms of this Settlement Agreement shall control and supersede the Exhibits.

FF. All Exhibits to this Settlement Agreement are material and integral parts hereof, and are incorporated by reference as if fully rewritten herein.

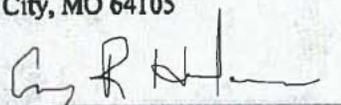
GG. After a full investigation, discovery and arm’s length negotiations, the Settling Parties and their counsel agree that they: (1) have independently determined that this settlement is in the best interest of the Class; (2) shall not oppose Plaintiffs' motions for entry of the Preliminary Approval Order and Final Judgment; and (3) will not encourage any Persons to opt out or object to the settlement or this Settlement Agreement. Once approved, a settlement notice will be provided to the Class. The Parties and their counsel agree that the Class Notice is reasonable and appropriate. To avoid contradictory, incomplete or confusing information about the settlement during the Claims Period, the Settling Parties agree that, if they make any written press releases and statements to the media about the settlement before the conclusion of the Claims Period, such will be approved by the Settling Parties in advance and made jointly.

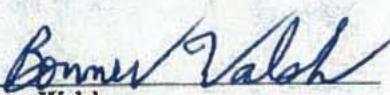
HH. All time periods set forth herein shall be computed in calendar days and end at 11:59 p.m. Eastern Standard Time. In computing any period of time prescribed or allowed by this Settlement Agreement or by order of the Court, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in Court, a day in which weather or other conditions have made the Office of the Clerk or the Court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days.

*(Counsel Signature block to follow)*

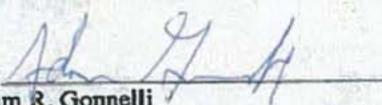
IN WITNESS THEREOF, the Settling Parties have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

By:   
Tim E. Dollar  
**DOLLAR BURNS & BECKER, L.C.**  
1100 Main Street, Suite 2600  
Kansas City, MO 64105

By:   
Craig Heidemann  
**DOUGLAS HAUN & HEIDEMANN PC**  
111 W Broadway St  
Bolivar, MO 65613

By:   
Bonner Walsh  
**WALSH LLC**  
PO Box 7  
Bly, OR 97622

By:   
Nadeem Faruqi  
**FARUQI & FARUQI, LLP**  
685 Third Avenue, 26th Floor  
New York, New York 10017

By:   
Adam R. Gonnelli  
**THE SULTZER LAW GROUP**  
280 Route 35  
Red Bank, N.J. 07701

By:   
Sharon S. Almonrode  
**THE MILLER LAW FIRM, P.C.**  
950 W. University Drive, Suite 300  
Rochester, MI 48307

*Attorneys for Representative Plaintiffs and Class Counsel*

*Attorneys for Representative Plaintiffs and Class Counsel*

By: Richard C. Godfrey, P.C.  
Richard C. Godfrey, P.C.  
**KIRKLAND & ELLIS LLP**  
300 N. LaSalle, Chicago, IL 60654

By: \_\_\_\_\_  
David McDowell  
**Morrison & Foerster LLP**  
707 Wilshire Boulevard, Los Angeles, CA 90017-3543

*Attorneys for Defendant L3 Technologies, Inc.*

By: \_\_\_\_\_

Richard C. Godfrey, P.C.

**KIRKLAND & ELLIS LLP**

300 N. LaSalle, Chicago, IL 60654



By: \_\_\_\_\_

David McDowell

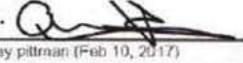
**Morrison & Foerster LLP**

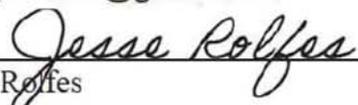
707 Wilshire Boulevard, Los Angeles, CA 90017-3543

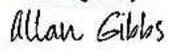
*Attorneys for Defendant L3 Technologies, Inc.*

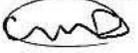
**Representative Plaintiff Signatures**

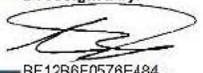
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Andrew Tyler Foster  
Dated: 2/10/2017

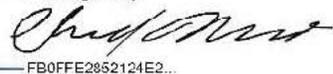
  
Clay Pittman (Feb 10, 2017)  
Clay Pittman  
Dated: Feb 10, 2017  
claytpittman@gmail.com

  
Jesse Rolfes  
Dated: 02/10/2017

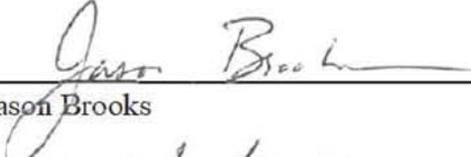
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Alan Gibbs  
Dated: 2/10/2017

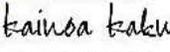
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Chris Drummond  
Dated: 2/13/2017

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Travis Young  
Dated: 2/12/2017

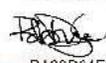
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Chad Mingo  
Dated: 2/10/2017

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Bruce Gibson  
Dated: 2/13/2017

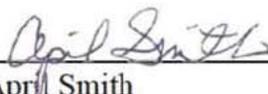
  
Jason Brooks  
Dated: 2/11/2017

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Kainoa Kaku  
Dated: 2/11/2017

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Richard Morgan  
Dated: 2/10/2017

DocuSigned by:  
  
BA63D24F33AE45F...  
Rob Dunkley  
Dated: 2/13/2017

  
Jerry Chen  
Dated: 2/10/2017

  
April Smith  
Dated: 2/12/2017

  
\_\_\_\_\_  
Michael Ma

Dated: 2/10/2017

  
\_\_\_\_\_  
Jim Richard

Dated: 2/12/2017

  
\_\_\_\_\_  
Timothy Braginton

Dated: Feb 12, 2017  
\_\_\_\_\_  
tbraginton@yahoo.com

# Exhibit A

## CLAIM FORM

If you own a Holographic Weapons Sight (“HWS”) manufactured by L3 EOTech Inc. between January 1, 2005 and November 1, 2016 and purchased before [insert PAO date] and want to file a claim, please fill out the following form completely and submit to:

L3 EOTech Settlement Administrator  
c/o Heffler Claims  
P.O. Box XXXX  
Philadelphia, PA 19102- XXXX

To determine if you are eligible for a benefit under this settlement, please check the product information contained on your HWS.

- **Note:** The product Serial Number and Manufacture Date are located on the bottom of the optic on two separate stickers. The Serial Number is also located on the product packaging.



(The above stickers are for illustration only, and your stickers may vary.)

If you choose to receive a refund, you will need to ship your HWS back to L3 EOTech. Before shipping, remove the HWS from any weapon and **REMOVE** and discard the batteries. **DO NOT ship any weapons, batteries, or products other than the HWS covered by the settlement.** You will be reimbursed for up to \$15.00 for the cost of shipping.

To make a timely and valid claim, please complete the appropriate sections of the attached form and submit the requested information on or before \_\_\_\_\_, 2017. Untimely, incomplete, or inaccurate Claim Forms are not valid and may be rejected by the Administrator. Carefully fill out the form below.

In general, valid claims will be paid after the Court approves the Settlement and any appeals have been resolved. It is always uncertain whether these appeals can be resolved, and resolving them can take up to a year or more. The settlement website, [www.\\_\\_\\_\\_.com](http://www.____.com) will keep you informed of the progress of the Settlement. **Please be patient. Do not call the Court to find out when the benefit will be paid.**

If you have previously received a refund from L3 EOTech, you do not need to submit a claim form. Your benefit will be mailed automatically to you.

If you have not already returned your HWS for a refund, please select one of the following settlement benefits:

\$299 to \$1,179 cash payment (full refund or MSRP, whichever is greater) PLUS \$15 shipping reimbursement PLUS \$22.50 Product Voucher. Fill out Section A below (Skip Section B). (Selecting this option will require you to return your sight to L3 EOTech.)

\$25 to \$50 cash payment (or \$100 product voucher). Fill out Section B below (skip Section A). (Selecting this option will **not** require you to return your sight to L3 EOTech.)

### **SECTION A**

Complete this Section if you want to receive a full refund of \$299-\$1,179 PLUS a \$15 shipping reimbursement PLUS a \$22.50 L3 EOTech product voucher. If you want to keep your HWS and receive a cash benefit of \$25.00-\$50.00 or a \$100.00 Product Voucher, then skip Section A and complete Section B instead.

(Please Print Clearly or Type)

<b>Name:</b> _____
<i>First</i> <i>M.I.</i> <i>Last</i>
<b>Address:</b> _____, _____, _____, _____
<i>Street</i> <i>City</i> <i>State</i> <i>ZIP</i>
<b>Email Address:</b>

<b>L3 EOTech Model:</b>
<b>Serial Number:</b> _____
<b>Purchase Date:</b> ____ / ____ / ____
<b>Purchase Price:</b> \$ _____

Do you have a receipt for purchase of your HWS?

\_\_\_\_ YES – you must submit a copy of your receipt along with this claim form.

\_\_\_\_ NO, but you know the original purchase price, which was \$\_\_\_\_\_.

\_\_\_\_ NO, you have no receipt and cannot state the original purchase price – you will receive a cash benefit between \$299 and \$1,179 depending on the MSRP of your specific HWS.

To determine the MSRP for your specific HWS, click here or go to [www.l3hws.com](http://www.l3hws.com).

To return your HWS, please follow the following steps:

- Remove the HWS from wherever it is mounted.

- Remove and discard the batteries; the HWS cannot be shipped with batteries.
- Box the HWS and send it postage paid to: [Address]

## SECTION B

Complete this Section if you want to keep your HWS and receive a \$25.00-\$50.00 cash payment or \$100 Product Voucher. If you want to receive a full refund of \$299 to \$1,179 PLUS a \$15 shipping reimbursement PLUS a \$22.50 L3 EOTech product voucher, please skip Section B and fill out Section A instead.

(Please Print Clearly or Type)

<b>Name:</b> _____			
<i>First</i>	<i>M.I.</i>	<i>Last</i>	
<b>Address:</b> _____ , _____ , _____ , _____			
<i>Street</i>	<i>City</i>	<i>State</i>	<i>ZIP</i>
<b>Email Address:</b>			

<b>L3 EOTech Model:</b>
<b>Serial Number:</b> _____
<b>Purchase Date:</b> __ __ / __ __ / __ __ __ __

**Choose either:**

\_\_\_\_\_ I want to receive a \$100 L3 EOTech product voucher OR

\_\_\_\_\_ I want to receive a cash benefit of \$25 - \$50 (this will depend on the number of valid claims filed)

**SECTION C All Claimants must complete Section C**

**Please confirm and acknowledge that:**

\_\_\_\_\_ I purchased the above listed L3 EOTech HWS makes and models prior to (Preliminary Approval Date).

\_\_\_\_\_ The above and foregoing are true and correct to the best of my knowledge, information and belief.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

**Claim Forms must be submitted electronically by 11:59 p.m. Eastern Time on <<Date>> or mailed so it is postmarked by \_\_\_\_\_, 2017.**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI**

*THIS IS A COURT AUTHORIZED NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER*

**If you purchased or own certain EOTech holographic weapons sights, you could receive a refund or other benefits under a class action settlement.**

*Your rights are affected by the proposed Class Action Settlement.  
Please read this notice carefully.*

A proposed settlement has been reached in a class action lawsuit claiming that certain Holographic Weapon Sights (“HWS”) made by the EOTech division of L-3 Communications Corporation do not perform as advertised, resulting in, among other things, inaccurate shot placement. EOTech stands by its products and denies it did anything wrong. However, EOTech has settled to avoid the cost and distraction of litigation.

You are a Class Member if you own certain EOTech HWS manufactured between January 1, 2005 and November 1, 2016 and purchased for personal use before [PAO date] or if you previously received a refund from EO Tech for a Holographic Weapon Sight. The date of manufacture can be found on the underside of the sight. A complete list of eligible sights is found in Section No. 5. Their Manufacturer’s Suggested Retail Price (“MSRP”) is available on the Settlement website at [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

The settlement will provide a cash payment and/or vouchers. The amount of the payment or voucher will vary; see the chart on page \_\_\_\_\_ for amounts. To be eligible for a benefit under this settlement:

- You must be a resident of the United States who is the current owner (by purchase or gift) for personal use of an EOTech Holographic Weapons Sight with one of the model numbers listed in Section No. 5.
- You must have purchased or otherwise acquired (for example by gift) a Holographic Weapons Sight for personal use **on or before** the [PAO date] and manufactured by EOTech between **January 1, 2005, and November 1, 2016**.
- If you previously received a refund from EOTech, you will automatically receive benefits under the terms of the proposed Settlement. See Section No. 7.
- If you have not previously received a refund from EOTech, you may choose to receive a settlement benefit.
- Your legal rights are affected whether you act or don’t act. You are encouraged to check the Settlement Website periodically, [www.\\_\\_\\_\\_\\_.com](http://www._____.com), because it will be updated with additional information.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
SUBMIT A CLAIM FORM	Unless you previously received a refund from EOTech, filing a claim is the only way to get a payment or receive vouchers. To submit a claim, go to <a href="http://www.website.com">www.website.com</a> or call xxxxxxx. See Section No. 10 for more information.
EXCLUDE YOURSELF	Get no payment or vouchers. This is the only option that allows you to ever be part of any other lawsuit against L-3 Communications about the legal claims in this case. The opt-out form must be postmarked by or received by the Court before _____.
OBJECT	Write to the Court about why you don't like the proposed settlement. Objections must be postmarked by or received by the Court and counsel before _____.
GO TO A HEARING	Ask to speak in Court about your objections to, or support of, the settlement. Requests to speak must be postmarked by or received by the Court and counsel before _____.
DO NOTHING	Get no payment or vouchers (unless you previously received a refund from EOTech, in which case you automatically will be sent a voucher for \$22.50). Give up rights to sue L-3 Communications. This means you will still be bound by the terms of the Settlement, and give up your right to ever be a part of any other lawsuit against the Defendant about the legal claims that are being resolved by this Settlement.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice. However, the actual terms of the proposed Settlement Agreement govern. To obtain a copy of the Settlement Agreement, see Section No. 28.

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## BASIC INFORMATION

### 1. Why has the Court ordered this notice?

You may be a United States resident who is the current owner of certain HWS or you previously received a refund from EOTech for a Holographic Weapon Sight.

A Court authorized this Notice because you may have a right to know about a proposed Settlement of a class-action lawsuit and about your rights, options and associated deadlines before the Court decides whether to give final approval to the Settlement. This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

### 2. What is this lawsuit about?

The Court in charge of the case is the United States District Court for the Western District of Missouri, and the case is known as *Foster, et al. v. L-3 Communications EOTech, Inc.*, Case No. 6:15-CV-03519-BCW (along with other consolidated cases). The people who sued are called Plaintiffs, and the company they sued, L-3 Communications Corporation, is called the Defendant.

The lawsuit claims that certain of Defendant's HWS were defective and resulted in four different issues, which affected the performance of HWS under certain conditions. These four issues are "reticle dimming" from moisture incursion, movement of the reticle as the temperature changes known as "thermal drift," parallax, and distortion of the reticle in cold weather. The class action lawsuit further contends that the value and utility of these HWS have been diminished as a result of these alleged issues. Defendant denies Plaintiffs' claims asserted in the lawsuit. The parties agreed to resolve these matters before these issues were decided by the Court. The Settlement is not an admission of any wrongdoing. The complaint and other filings can be found on the website located at [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

### 3. What is a class action?

In a class action, one or more plaintiffs called "class representatives" sue one or more defendants on behalf of other people who have similar claims. A court decides whether any lawsuit may proceed as a class action, and this Court has not finally decided that the lawsuit may be certified as a class action. All of these people with claims, together, are the "Class" or "Class Members" if the Court approves this procedure. Then, that Court resolves the issues for all Class Members, except for those who exclude themselves from the settlement.

### 4. Why is there a settlement?

The Court has not decided the case in favor of Plaintiffs or Defendant. Both sides in the lawsuit agreed to a settlement so that the Class Members can receive benefits and avoid the cost and risk of further litigation, including a potential trial, and in exchange for releasing Defendant from liability. The Settlement does not mean that Defendant broke any laws or did anything wrong,

and the Court did not decide which side was right. The Settlement here has been preliminarily approved by the Court, which authorized the issuance of this Notice. The class representatives and the lawyers representing them (called “Class Counsel”) believe that the Settlement is in the best interests of all Class Members. The essential terms of the Settlement are summarized in this Notice. The Settlement Agreement along with all exhibits and attachments sets forth in greater detail the rights and obligations of the parties. All of these documents can be found on the settlement website located at [www.websitename.com](http://www.websitename.com). If there is any conflict between this Notice and the Settlement Agreement, the Settlement Agreement governs.

## WHO IS IN THE SETTLEMENT

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

The Court has decided that everyone who fits the following description is a Class Member:

All United States residents who are the current owner of EOTech HWS Models 400, 502, 511, 512, 512 CAMO, 512.XBOW, 512.LBC1, 516, 517, 518, 551, 552, 552.XR, 552.LBC1, 552.LBC2, 553, 555, 555.USMC, 556, 557, 557.4XFST, 557.4XFSD, 557.3X.FTS, 557.G23.FTS, 558, EXPS2, EXPS3, HHS I, HHS II, MPO II, MPO III, XPS2, XPS2-RF, XPS2-Z, XPS2-Z2, XPS2-300, and XPS3 that were manufactured between January 1, 2005, and November 1, 2016, and purchased on or before the [PAO date] or who previously received a refund from EOTech for one of these HWS models.

You are not a Class Member even if you are included in the Class if:

- You exclude yourself from this Settlement;
- You are a governmental entity;
- You are a subsidiary, affiliate, officer, employee or director of the Defendant;
- You are a resident of one of the U.S. territories;
- You are the Judge in the lawsuit, a member of the Judge’s immediate family, or any member of the Court’s staff; or
- You are one of the Plaintiffs’ lawyers in this lawsuit.

### 6. What if I’m still not sure if I am included in the Settlement?

If you are not sure whether you are included in the Class, you may call 1-8XX-XXX-XXXX. You can also go to the Settlement Website for instructions and photos that can help you determine what model HWS you own and whether it is included in this class action lawsuit.

### 7. What if I have previously received a refund from EOTech?

If you received a refund from EOTech, you will automatically be sent a voucher toward the purchase of a new EOTech product. If you previously returned an EOTech Holographic Weapon

Sight and received a refund and your information has changed, you should visit the settlement website and submit a claim with your new information.

**8. How do I know if I have a Holographic Weapon Sight described in Question 5 that is subject to this lawsuit?**

All HWS manufactured by EOTech between January 1, 2005, and November 1, 2016, and purchased or otherwise acquired (such as by gift) on or before the [PAO date], are included. The date of manufacture is found on the underside of the HWS.

**THE SETTLEMENT BENEFITS—WHAT YOU GET**

**9. What does the Settlement provide?**

If you are a Class Member, you may elect one (and only one) of the following benefits:

If you:	You may be entitled to:
Previously received a refund from EOTech	A \$22.50 voucher toward the purchase of a new EOTech product will automatically be sent to you.
Have <b>not</b> previously received a refund from EOTech and would like to keep your EOTech Holographic Weapon Sight	Elect a cash benefit, which may be as much as \$50 and as low as \$25 depending on how many people submit Valid Claims, or a \$100 voucher toward the purchase of a new EOTech product.
Have <b>not</b> previously received a refund from EOTech and want to return your Holographic Weapon Sight to EOTech	A refund of the purchase price of your Holographic Weapon Sight up to the Manufacturer’s Suggested Retail Price ranging from \$299 to \$1,179, \$15.00 for shipping. and a \$22.50 EOTech product voucher.

**HOW YOU GET SETTLEMENT BENEFITS—SUBMITTING A CLAIM FORM**

If you are a Class Member who has not previously received a refund from EOTech, what you are eligible to receive depends on what benefits you choose. Class Members who previously received a refund are automatically sent a \$22.50 voucher towards a new EOTech product. The Settlement benefits are outlined generally below, but more information can be found at the Settlement Website, [www.settlement.com](http://www.settlement.com), or by calling 1-8XX-XXX-XXXX.

## 10. How do I submit a Claim Form?

*Please note that, unless you participated in the EOTech refund program, you must submit a Claim Form to receive benefits.* If you do nothing and did not participate in the previous refund program, you will not receive benefits from the Settlement. If you do nothing, you will still be considered a Class Member, but you will not be able to sue Defendant about the issues in the lawsuit. You cannot submit claim forms on behalf of other Class Members.

Claim Forms are available online at [www.\\_\\_\\_\\_\\_.com](http://www._____.com), or by calling 1-8XX-XXX-XXXX. You may submit your Claim Form online, or you may complete your form and then submit it by U.S. mail or e-mail at the addresses listed below:

**Online:** [www.\\_\\_\\_\\_\\_.com](http://www._____.com)

**By E-Mail:** XXXXXXXX@XXXXXX.com

**By U.S. Mail:** [XXXXXXXX]  
Attn: EOTech HWS Claims  
XXXXXXXXXXXX  
XXXXXXXXXXXX

## 11. Do I need to submit supporting documentation?

Yes. Depending on the benefit you elect, you will need to do different things. If you elect to return your Holographic Weapon Sight, you will need to complete a short form, as well as return your sight to obtain a refund, shipping cost, and voucher. If you elect to keep your Holographic Weapon Sight, you will need to submit other documentation including the serial number to validate the cash or voucher benefit. The Claim Form explains what supporting documentation you need to provide. Please read the Claim Form instructions carefully. If you have any questions about preparing the Claim Form, call **1-8XX-XXX-XXXX** or visit [www.website.com](http://www.website.com).

## 12. When should I submit my claim?

To qualify for a payment under the settlement, you must timely submit a fully and accurately completed Claim Form. You can download a Claim Form at [www.\\_\\_\\_\\_\\_.com](http://www._____.com). Read the instructions carefully and submit the Claim Form during the Claim Period. **Claim Forms must be electronically submitted by 11:59 p.m. Eastern Time on <<Date>> or mailed and postmarked no later than[DATE].**

**If you do not submit a properly completed Claim Form by the deadline, you are waiving your rights to get any money or vouchers from the settlement.**

## 13. When will I receive my benefit?

In general, valid claims will be paid or vouchers forwarded after the Court approves the Settlement and any appeals have been resolved. It is always uncertain whether these appeals can be resolved, and resolving them can take up to a year or more. The settlement website, [www.\\_\\_\\_\\_\\_.com](http://www._____.com) will keep you informed of the progress of the Settlement and when the other

benefits may become **available**. **Please be patient. Do not call the Court to find out when the benefit will be paid or vouchers forwarded.**

**14. What happens to any settlement checks that are not cashed?**

Any Class Members to whom checks have been issued that remain uncashed after ninety (90) days shall receive a reminder postcard or email from the Settlement Administrator. Any checks that remain uncashed after one hundred and eighty (180) days shall be void.

**15. Will my identity as a Class Member be kept confidential?**

Certain matters involving class action settlements are public record. Objections and opt-outs will be public record, and the Parties, the Court and others may review them. Additionally, the Court and others may review claim submissions. These records from Class Members are also subject to subpoena by law enforcement, government agencies and/or other entities.

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

**16. How do I get out of the Settlement?**

If you do not want to participate in the Settlement and you want to keep all of your rights to sue Defendant about the claims being resolved in the Settlement, then you must take steps to get out of the Class Action Settlement. This is called asking to be excluded from, or sometimes called “Opting Out” of the class. By excluding yourself, you keep any right to file or proceed with a lawsuit against the Defendant over the legal issues in this lawsuit.

To exclude yourself or your Entity from (or Opt Out of) the Settlement, you **must** mail in a written request stating “I wish to be excluded from the Settlement in *Foster, et al. v. L-3 Communications EOTech, Inc.*, Case No. 6:15-CV-03519-BCW.” Your written request **must** also include your printed name, address and phone number, and must be signed by you.

You must **mail** your written request postmarked by the Exclusion Deadline to:

EOTech Holographic Weapons Sight Claims Administrator  
c/o XXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

You cannot ask to be excluded from the Settlement on the phone, by email, or on the website. If you choose to Opt Out of the Settlement, you must Opt Out for all claims you have that are included in the Settlement. If you ask to be excluded, you will not receive any settlement benefits or payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Defendant in the future about the legal issues in this case.

**17. If I exclude myself, can I get anything from this Settlement?**

No. If you exclude yourself from the Settlement, you will not be able to make a claim to receive any benefits under the Settlement, and you cannot object to the proposed Settlement. But, you will not lose any right you may have to sue, continue to sue, or be part of a different lawsuit against Defendant about the legal issues in this case.

**18. If I do not exclude myself, can I sue later?**

No. Unless you exclude yourself, you give up the right to sue Defendant for the issues resolved by this Settlement. If the Settlement is finally approved, you will be permanently enjoined and barred from initiating or continuing any lawsuit or other proceeding against Defendant about the issues in the lawsuit. You also will have agreed not to sue Defendant over the claims you have released in the Settlement.

**19. What is the release?**

If you remain in the Class, you release Defendant and certain related entities from liability and will not be able to sue Defendant about the Released Claims. “Released Claims” means, without limitation, any and all claims (including Unknown Claims, as defined in the Settlement Agreement), actions, demands, rights, liabilities, suits, complaints, causes of action (including, but not limited to, violation of the Magnuson-Moss Warranty Act, breach of express warranty, breach of implied warranty, unjust enrichment, and unfair and deceptive acts and practices under state laws), requests for damages, requests for injunctive relief, requests for disgorgement of monies, requests for statutory damages, requests for statutory penalties, requests for punitive or exemplary damages, requests for equitable relief of every nature and description whatsoever, and requests for attorneys’ fees, costs or other expenses, or any other matters and issues, whether known or unknown, whether suspected or unsuspected, whether contingent or non-contingent, whether asserted or that could or might have been asserted in any pleading or amended pleading by or on behalf of any Class Member against Defendant and any related entities through the date of preliminary approval. To understand the scope of the released parties, please review the Settlement Agreement’s definition of the term “Related Entities.” This release does not include claims for personal injuries.

The Settlement Agreement at paragraphs XX-XX describes the released claims in necessary legal terminology, so read it carefully. The Settlement Agreement, including the full release section, is available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com). You can talk to one of the lawyers listed in Question XX for free or you can talk to your own lawyer at your own expense if you have questions about the released claims or what they mean.

## OBJECTING TO THE SETTLEMENT

### 20. How do I tell the Court if I do not like the Settlement?

Only a Class Member who does not opt out can object to the Settlement. If you are a Class Member, you can object to the Settlement if you do not like all or some part of it. To object, send a letter explaining your objection to the proposed Settlement in *Foster, et al. v. L-3 Communications EOTech, Inc.*, Case No. 6:15-CV-03519-BCW to the Court with a copy to Class and Defendant's Counsel at the addresses below. Your objection letter must include: (1) the objector's full name, address, telephone number, and e-mail address; (2) documents or information required on the Claim Form and identifying the objector as a Class Member; (3) a written statement of all grounds for the objection, accompanied by any legal support for the objection; and (4) a list of all persons who will be called to testify at the Final Fairness Hearing in support of the objection; (5) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation).

In the event that a Class Member objects through an attorney hired at his, her, or its own expense, the attorney will have to file a notice of appearance with the Court by the Objection Deadline [**Month Day, 2017**] and serve a copy of the notice and the objection containing the information detailed above on Class Counsel and Defendant's Counsel by the Objection Deadline.

CLASS COUNSEL	DEFENDANT'S COUNSEL	COURT
Tim E. Dollar <u>Attn:</u> EOTech HWS Settlement Dollar Burns & Becker L.C. 1100 Main Street, Suite 2600 Kansas City, MO 64105	Richard C. Godfrey, P.C. J. Andrew Langan, P.C. <u>Attn:</u> EOTech HWS Settlement Kirkland & Ellis LLP 300 North LaSalle Street Chicago, IL 60654	Clerk of Court Charles Evans Whittaker Courthouse 400 East 9th Street Kansas City, MO 64106

Do not call the Court or any Judge's office to object to the Settlement. If you have questions, please visit [www.ksccourts.com](http://www.ksccourts.com) or call 1-8XX-XXX-XXXX.

### 21. What is the difference between objecting to the settlement and excluding myself?

Objecting is telling the Court in a public filing that you don't like something about the Settlement. You can object only if you stay in the Class. Your objection will not be a secret from the Court, Parties, or the public. If you object, you may have to give a deposition and answer discovery. Excluding yourself is telling the Court that you don't want to be part of the

Class. If you exclude yourself, you have no basis to object, because the case no longer affects you. You can only object if you stay in a t Class.

If you are a Class Member and you do nothing, you will remain a Class Member and all of the Court's orders will apply to you, you will be eligible for the Settlement benefits described above as long as you satisfy the conditions for receiving each benefit, and you will not be able to sue Defendant over the issues in the lawsuit.

### **THE LAWYERS REPRESENTING YOU**

#### **22. Do I have a lawyer in this case?**

Yes. These lawyers are referred to as Class Counsel:

Tim E. Dollar  
DOLLAR BURNS & BECKER L.C.  
1100 Main Street, Suite 2600  
Kansas City, MO 64105

Craig Heidemann  
DOUGLAS HAUN & HEIDEMANN PC  
111 W Broadway St  
Bolivar, MO 65613

Bonner Walsh  
WALSH LLC  
PO Box 7  
Bly, OR 97622

Adam R. Gonnelli  
THE SULTZER LAW GROUP P.C.  
280 Route 35, Suite 304  
Red Bank, NJ 07701

Sharon S. Almonrode  
THE MILLER LAW FIRM, P.C.  
950 W University Dr., Suite 300  
Rochester, MI 48307

Nadeem Faruqi  
Faruqi & Faruqi LLP  
685 Third Ave. 26<sup>th</sup> Floor  
New York, NY 10016

You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one at your own expense.

#### **23. How will the lawyers be paid?**

The lawyers who represent the Class will ask the Court for an award of attorneys' fees and reimbursement of their out-of-pocket expenses in an amount not to exceed \$10 million. So long as the Plaintiffs do not seek more than this amount the Defendant will not oppose the request. The Court may award less than these amounts. Any service award to individual plaintiffs will be paid from the attorneys' fees. The amount of the service award will be determined solely by the Court and will not exceed \$2,000.00 per Class Representative. The motion for attorney fees and expenses will be posted on the website listed below after they are filed. The Court must approve any request for fees, expenses and costs.

Any legal fees awarded by the Court will be paid separately by the Defendant and these payments of legal fees and expenses will not reduce the value of the Settlement benefits made

available to Class Members and will be paid for by Defendant. Defendant will also separately pay the costs to provide notice of and to administer the Settlement.

### THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend, and you may ask to speak, but you don't have to.

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

The Court will hold a Fairness Hearing at [\_\_\_\_\_.m.] on [Month Day, 2017, which is 105 days from the issuance of this Court-approved notice] (the "Fairness Hearing Date"), at the United States District Court for the Western District of Missouri, Court Room No. 7D, 400 E 9th Street, Kansas City, MO 64106. At the Fairness Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court will also consider Class Counsel's request for fees, costs and expenses.

If there are objections to the Settlement, the Court will consider them. After the Fairness Hearing, the Court will decide whether to approve the Settlement and how much to award to Class Counsel as fees, costs, and expenses.

The Fairness Hearing may be moved to a different date, time, or location without additional notice, so it is recommended that you periodically check the website for updated information.

#### 25. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you don't have to come to court to talk about it. As long as you filed a written objection with all of the required information on time with the Court and delivered it on time to Class Counsel and Defendant's Counsel, the Court will consider it. You may also have a lawyer attend the hearing on your behalf at your own expense, but it is not required. Class members do not need to appear at the hearing or take any other action to indicate their approval.

#### 26. May I speak at the Fairness Hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that you intend to appear and speak at the Fairness Hearing in "*Foster, et al. v. L-3 Communications EOTech, Inc.*, Case No. 6:15-CV-03519-BCW." Be sure to include the case name and number, your name address, telephone number, and your signature. Your letter of intent to appear and speak must be received by the Clerk of the Court, Class Counsel and Defendant's Counsel, at the three addresses in Question 19, no later than [day, month 2016]. You cannot speak at the hearing if you exclude yourself.

**IF YOU DO NOTHING**

**27. What happens if I do nothing at all?**

If you previously received a refund from EOTech, you do not have to do anything to receive a \$22.50 product voucher as that will automatically be sent to you if you do not opt out and the settlement receives final approval. If you are a Class Member, but have not previously received a refund from EOTech and you do nothing, you will not get a payment from this Settlement. And, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant about the claims being released by the Settlement.

**GETTING MORE INFORMATION**

**28. How do I get more information?**

This Notice summarizes the proposed Settlement; the terms of the actual Settlement Agreement govern. You can get a copy of the detailed Settlement Agreement and other important information about the case at [www.\\_\\_\\_\\_\\_.com](http://www._____.com). You may also call 1-8XX-XXX-XXXX, or write to:

XXXXXXXXXX  
Attn: XXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

You can also look at and copy the legal documents filed in the lawsuit at any time during regular office hours (9:00 am–4:30 pm) at the Office of the Clerk of Court, United States District Court for the Western District of Missouri, Charles Evans Whittaker Courthouse, 400 E. 9th Street, 1st Floor, Room 1510, Kansas City, MO 64106.

**PLEASE DO NOT CALL THE COURT OR THE CLERK OF THE COURT FOR ADDITIONAL INFORMATION ABOUT THE SETTLEMENT.**

**GETTING MORE INFORMATION**

**28. How do I get more information?**

This Notice summarizes the proposed Settlement; the terms of the actual Settlement Agreement govern. You can get a copy of the detailed Settlement Agreement and other important information about the case at [www.\\_\\_\\_\\_\\_.com](http://www._____.com). You may also call 1-8XX-XXX-XXXX, or write to:

XXXXXXXXXX  
Attn: XXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

You can also look at and copy the legal documents filed in the lawsuit at any time during regular office hours (9:00 am–4:30 pm) at the Office of the Clerk of Court, United States District Court for the Western District of Missouri, Charles Evans Whittaker Courthouse, 400 E. 9th Street, 1st Floor, Room 1510, Kansas City, MO 64106.

**PLEASE DO NOT CALL THE COURT OR THE CLERK OF THE COURT FOR ADDITIONAL INFORMATION ABOUT THE SETTLEMENT.**

# Exhibit C

**If you purchased or own certain EOTech holographic weapons sights,  
you could receive a refund or other benefits  
under a class action settlement**

A proposed class action settlement has been reached involving certain Holographic Weapon Sights made by the EOTech division of L-3 Technologies, Inc. (“EOTech”). The lawsuit claims that the sights do not perform as advertised and may have inaccurate shot placement. EOTech stands by its products and denies it did anything wrong. The Court has not ruled on the merits of any claim or defense. Instead, the parties have entered into the proposed settlement.

**Who is a Class Member?**

You are a Class Member if you own certain EOTech Holographic Weapon Sights manufactured between January 1, 2005, and November 1, 2016 and purchased for personal use on or before the [PAO Date] or if you previously received a refund from EOTech for a Holographic Weapon Sight. The date of manufacture can be found on the underside of the sight. Visit [www.\\_\\_\\_\\_\\_](http://www._____.com) for a complete list of eligible sights and MSRP amounts. Excluded from the class are governmental entities.

**What does the settlement provide?**

- If you previously received a refund from EOTech for a Holographic Weapon Sight (“HWS”), you will automatically receive a \$22.50 voucher toward the purchase of a new EOTech product.
- If you have **not** previously received a refund from EOTech and would like to **keep your HWS**, you may be entitled to a \$25 to \$50 cash payment depending upon the number of Valid Claims, or a \$100 voucher toward the purchase of a new EOTech product. These options require proof of ownership of the HWS.
- If you have **not** previously received a refund from EOTech, you may return your HWS and receive either the purchased price (with proof) or the HWS’ MSRP, which range from \$299 to \$1,179, a \$15.00 shipping reimbursement and a \$22.50 EOTech product voucher. These benefits are available **only if you return** your HWS to EOTech.
- Upon final, non-appealable Court approval, EOTech will pay all legal fees and expenses of not more than \$10,000,000 which includes a payment to each class representative not to exceed \$2,000.00. EOTech will pay all costs and expenses of administering the settlement.

**What are my Options?**

**File a claim by [Month, Day, Year]:** You must file a Claim Form either online or by U.S. Mail to the address listed on the Claim Form to receive benefits.

Visit: [www.\\_\\_\\_\\_\\_](http://www._____.com).com, or call 1-8XX-XXX-XXXX.

**Do nothing:** If you previously received a refund for a Holographic Weapon Sight from EOTech, if you do nothing, you will receive a \$22.50 voucher toward the purchase of a new EOTech product. If you did not previously receive such a refund and do nothing you will not receive any additional benefits but **will** be bound by the decisions of the Court regarding these claims, including a release of liability for certain claims against EOTech.

**Exclude yourself by [Month, Day, Year]:** You will not receive any benefit from this settlement but will keep the right to sue EOTech about the legal claims in this case. To exclude yourself, you must do so in writing. Visit the website for full details on how to exclude yourself.

**Object by [Month, Day, Year]:** Write to the Court and say why you do not like the Settlement. Full details on how to object are on the website.

The postmarked deadline to submit a Valid Claim, file an objection, or opt out is [Month, Day, Year].

The Court will hold a Fairness Hearing at \_\_\_\_\_ a.m. on \_\_\_\_\_, in the U.S. District Ct for the WD of Missouri, Ct Rm No. 7D, 400 E 9th St., Kansas City, MO 64106. The Court will consider whether the proposed Settlement is fair, reasonable, and adequate and how much to award to Class Counsel and Class Representatives as fees, costs, and expenses, and consider objections, if any. The motion for attorneys' fees and costs will be posted on the website after they are filed. You may appear at the hearing, but you do not have to.

**This notice is only a summary.** For details, including a list of affected products, a Claim Form, how to exclude yourself, call toll-free 1(844) 245-3772, visit [www.\\_\\_\\_\\_\\_](http://www._____), or write to EOTech HWS Settlement c/o \_\_\_\_\_.

# Exhibit D

**Manufacturer's Suggested Retail Price**

MODEL	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
	MSRP	MSRP	MSRP	MSRP	MSRP	MSRP	MSRP	MSRP	MSRP	MSRP	MSRP	MSRP
400	approx. \$350											
502	\$299											
511	\$369	\$379	\$399	\$389	\$409							
512	\$389	\$399	\$419	\$429	\$439	\$439	\$439	\$445	\$459	\$459	\$459	\$459
512 CAMO					\$439	\$459	\$439	\$445	\$469	\$469	\$469	\$469
512.XBOW									\$489	\$489	\$489	\$489
516					\$479	\$519	\$519	\$525	\$539	\$539		
517					\$469	\$479	\$479	\$485	\$509	\$509		
518											\$539	\$539
XPS2					\$509	\$519	\$519	\$525	\$539	\$539	\$539	\$539
XPS2- RF							\$399	\$405	\$405	\$405	\$405	\$405
XPS2-Z								\$559	\$579	\$579		
XPS2-Z2									\$589	\$589		
XPS2-300									\$549	\$549	\$549	\$549
EXPS2							\$559	\$559	\$579	\$579	\$579	\$579
551	\$389	\$419	\$429	\$449	\$509							
552	\$459	\$479	\$499	\$519	\$539	\$549	\$549	\$555	\$569	\$569	\$569	\$569
552.XR			\$569	\$599	\$599	\$599	\$599	\$609	\$619	\$619	\$569	\$619
556					\$599	\$609	\$609	\$615	\$629	\$629		
557			\$569	\$569	\$589	\$609						
558											\$629	\$629
XPS3					\$589	\$609	\$609	\$615	\$629	\$629	\$629	\$629
EXPS3						\$639	\$639	\$659	\$679	\$679	\$679	\$679
553		\$639	\$659	\$679	\$699	\$709	\$709	\$729	\$749	\$749		
555					\$669	\$609						
555.USMC					\$729							
557.4XFXD			\$1,099	\$1,099								
557.4XFTS			\$1,149	\$1,149								
557.3X.FTS					\$969							
M40GL						\$969	\$969				\$1,179	\$1,499
557.G23.FTS						\$1,019						
MPO II							\$1,069					
MPO III							\$1,002					
HHS I								\$1,125	\$1,179	\$1,179	\$1,179	\$1,179
HHS II								\$1,059	\$1,079	\$1,079	\$1,079	\$1,079
552.LBC2										\$979	\$979	
512.LBC1										\$729	\$729	

# Exhibit E

**PROJECT DETAILS**

**DATE**

**Media Program Start Date:** 3/24/17  
**Media Program End Date:** 4/24/17  
**Media Program Lead time:** 46 days  
**Media Program Length:** 31 days

EVENT	DATE	NOTES
Settlement Website Live	3/17/17	Website needs to be live for Network review
Notice Program Begins	3/24/17	
Digital Media Begins	3/24/17	Conversant, Yahoo, Google Display, Xaxis, Facebook & Dedicated Website Placement
Guns & Ammo	4/4/17	May issue on sale 4/4/17
S.W.A.T. Magazine	4/11/17	May Issue on sale 4/11/17
Sports Illustrated	4/12/17	4/17/17 Issue on sale 4/12/17
American Rifleman	4/24/17	May Issue on sale 4/24/17
American Hunter	4/24/17	May Issue on sale 4/24/17
America's 1st Freedom	4/24/17	May Issue on sale 4/24/17
E-Newsletters advertising	4/1/17-4/21/17	Field & Stream 1st week of April Guns & Ammo 3rd week of April Outdoors 1st week of April NRA Publications 1st week of April Hunting 1st week of April Outdoor Life 2nd week of April RifleShooter 2nd week of April Shooting Times 1st week of April Shotgun News ( nka Firearms News) 2nd week of April
Notice Program Completed	4/24/17	All Media Ends - 31 Day media program
Claim/Opt-Out/Objection Deadline	5/24/17	30 days after media ends
Fairness Hearing	TBD	TBD