

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

AVI YARON, Individually and On Behalf of
All Others Similarly Situated,

Plaintiff,

v.

INTERSECT ENT, INC., LISA D.
EARNHARDT, JERYL L. HILLEMANN, and
ROBERT H. BINNEY, JR.,

Defendants.

Case No.: 4:19-cv-02647-JSW

**NOTICE OF (I) PENDENCY OF CLASS ACTION, CERTIFICATION OF SETTLEMENT CLASS, AND
PROPOSED SETTLEMENT; (II) SETTLEMENT FAIRNESS HEARING;
AND (III) MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

NOTICE OF PENDENCY OF CLASS ACTION: Please be advised that your rights may be affected by the above-captioned securities class action (the “Action”) pending in the United States District Court for the Northern District of California (the “Court”), if you purchased or otherwise acquired publicly traded Intersect ENT, Inc. (“Intersect”) common stock between February 27, 2018 and August 1, 2019, inclusive (the “Settlement Class Period”), and were damaged thereby.¹

NOTICE OF SETTLEMENT: Please also be advised that the Court-appointed Lead Plaintiff Avi Yaron (“Lead Plaintiff”), on behalf of himself and the Settlement Class (as defined in ¶ 25 below), has reached a proposed settlement of the Action for \$1,900,000 in cash that, if approved, will resolve all claims in the Action (the “Settlement”).

PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have, including the possible receipt of cash from the Settlement. If you are a member of the Settlement Class, your legal rights will be affected whether or not you act. This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Stipulation, which is available at www.IntersectSecuritiesLitigation.com, by contacting Lead Counsel at the addresses provided herein, by accessing the Court docket in this case, for a fee through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of Court for the United States District Court for the Northern District of California, Oakland Courthouse, 1301 Clay Street, Oakland, CA 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. Please refer to the Court’s Safety Protocols for the Northern District of California Courthouses, available on the Court’s website, cand.uscourts.gov, which may limit your ability to enter the Courthouse.

If you have any questions about this Notice, the proposed Settlement, or your eligibility to participate in the Settlement, please **DO NOT** contact the Court or the Court Clerk’s Office, Intersect, any other Defendants in the Action, or their counsel. All questions should be directed to Lead Counsel or the Claims Administrator (*see* ¶ 88 below).

1. **Description of the Action and the Settlement Class:** This Notice relates to a proposed Settlement of claims in a pending securities class action brought by an investor alleging, among other things, that defendants Intersect, Lisa D.

¹ All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated May 13, 2021 (the “Stipulation”), which is available at www.IntersectSecuritiesLitigation.com.

Earnhardt, Jeryl L. Hilleman, and Robert H. Binney, Jr. (collectively, the “Defendants”)² violated the federal securities laws by making false and misleading statements regarding Intersect. A more detailed description of the Action is set forth in paragraphs 11-24 below. The proposed Settlement, if approved by the Court, will settle claims of the Settlement Class, as defined in paragraph 25 below.

2. **Statement of the Settlement Class’s Recovery:** Subject to Court approval, Lead Plaintiff, on behalf of himself and the Settlement Class, has agreed to settle the Action in exchange for a settlement payment of \$1,900,000 in cash (the “Settlement Amount”) to be deposited into an escrow account. The Net Settlement Fund (*i.e.*, the Settlement Amount plus any and all interest earned thereon (the “Settlement Fund”) less (a) any Taxes, (b) any Notice and Administration Costs, (c) any Litigation Expenses awarded by the Court, and (d) any attorneys’ fees awarded by the Court) will be distributed in accordance with a plan of allocation that is approved by the Court, which will determine how the Net Settlement Fund shall be allocated among members of the Settlement Class. The proposed plan of allocation (the “Plan of Allocation”) is set forth on pages 9-13 below.

3. **Estimate of Average Amount of Recovery Per Share:** Based on Lead Plaintiff’s damages expert’s estimates of the number of shares of Intersect common stock purchased during the Settlement Class Period that may have been affected by the conduct at issue in the Action and assuming that all Settlement Class Members elect to participate in the Settlement, the estimated average recovery (before the deduction of any Court-approved fees, expenses and costs as described herein) per eligible share is \$0.098. Settlement Class Members should note, however, that the foregoing average recovery per share is only an estimate. Some Settlement Class Members may recover more or less than this estimated amount depending on, among other factors, when and at what prices they purchased or otherwise acquired or sold Intersect common stock, and the total number of valid Claim Forms submitted. Distributions to Settlement Class Members will be made based on the Plan of Allocation set forth herein (*see* pages 9-13 below) or such other plan of allocation as may be ordered by the Court.

4. **Average Amount of Damages Per Share:** The Parties do not agree on the average amount of damages per share that would be recoverable if Lead Plaintiff were to prevail in the Action. Among other things, Defendants do not agree with the assertion that they violated the federal securities laws or that any damages were suffered by any members of the Settlement Class as a result of their conduct.

5. **Attorneys’ Fees and Expenses Sought:** Plaintiff’s Counsel, which have been prosecuting the Action on a wholly contingent basis since its inception in May 2019, have not received any payment of attorneys’ fees for their representation of the Settlement Class and have advanced the funds to pay expenses necessarily incurred to prosecute this Action. Court-appointed Lead Counsel, Glancy Prongay & Murray LLP and Holzer & Holzer LLC, will apply to the Court for an award of attorneys’ fees for all Plaintiff’s Counsel in an amount not to exceed 33⅓% of the Settlement Fund. In addition, Lead Counsel will apply for reimbursement of Litigation Expenses paid or incurred in connection with the institution, prosecution, and resolution of the claims against the Defendants in an amount not to exceed \$130,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiff directly related to his representation of the Settlement Class in an amount not to exceed \$5,000. Any fees and expenses awarded by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses. Estimates of the average cost per affected share of Intersect common stock, if the Court approves Lead Counsel’s fee and expense application, is \$0.039 per eligible share.

6. **Identification of Attorneys’ Representatives:** Lead Plaintiff and the Settlement Class are represented by Robert V. Prongay, Esq. of Glancy Prongay & Murray LLP, 1925 Century Park East, Suite 2100, Los Angeles, CA 90067, (310) 201-9150, settlements@glancylaw.com and Corey D. Holzer, Esq. of Holzer & Holzer, LLC, 211 Perimeter Center Parkway, Suite 1010, Atlanta, GA 30338, (770) 392-0090, cholzer@holzerlaw.com.

7. **Reasons for the Settlement:** Lead Plaintiff’s principal reason for entering into the Settlement is the substantial immediate cash benefit for the Settlement Class without the risk, uncertainties, and/or delays inherent in further litigation. Moreover, the substantial cash benefit provided under the Settlement must be considered against the significant risk that a smaller recovery – or indeed no recovery at all – might be achieved after contested motions, a trial of the Action, and the likely appeals that would follow a trial. This process could be expected to last several years. Defendants, who deny all allegations of wrongdoing, liability, and damages whatsoever, are entering into the Settlement solely to eliminate the uncertainty, burden, and expense of further protracted litigation.

² Defendants Lisa D. Earnhardt, Jeryl L. Hilleman, and Robert H. Binney, Jr. are collectively referred to herein as the “Individual Defendants.”

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
SUBMIT A CLAIM FORM ONLINE OR POSTMARKED NO LATER THAN NOVEMBER 18, 2021.	This is the only way to be eligible to receive a payment from the Settlement Fund. If you are a Settlement Class Member and you remain in the Settlement Class, you will be bound by the Settlement as approved by the Court and you will give up any Released Plaintiff's Claims (defined in ¶ 34 below) that you have against Defendants and the other Defendants' Releasees (defined in ¶ 36 below), so it is in your interest to submit a Claim Form.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS RECEIVED NO LATER THAN OCTOBER 1, 2021.	If you exclude yourself from the Settlement Class, you will not be eligible to receive any payment from the Settlement Fund and will not be bound by the terms of the Settlement or any judgments or orders entered by the Court in the Action. This is the only option that allows you ever to be part of any other lawsuit against any of the Defendants or the other Defendants' Releasees concerning the Released Plaintiff's Claims.
OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN OCTOBER 1, 2021.	If you do not like the proposed Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and reimbursement of Litigation Expenses, you may write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation, or the fee and expense request unless you are a Settlement Class Member and do not exclude yourself from the Settlement Class.
GO TO A HEARING ON OCTOBER 22, 2021, AT 9:00 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN OCTOBER 1, 2021.	Filing a written objection and notice of intention to appear by October 1, 2021, allows you to speak in Court, at the discretion of the Court, about the fairness of the proposed Settlement, the Plan of Allocation, and/or the request for attorneys' fees and reimbursement of Litigation Expenses. If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection.
DO NOTHING.	If you are a member of the Settlement Class and you do not submit a valid Claim Form, you will not be eligible to receive any payment from the Settlement Fund. You will, however, remain a member of the Settlement Class, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any judgments or orders entered by the Court in the Action.

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WHY DID I GET THE POSTCARD NOTICE?

8. The Court directed that the Postcard Notice be mailed to you because you or someone in your family or an investment account for which you serve as a custodian may have purchased or otherwise acquired Intersect common stock during the Settlement Class Period. The Court also directed that this Notice be posted online at www.IntersectSecuritiesLitigation.com and mailed to you, upon request to the Claims Administrator. The Court has directed us to disseminate these notices because, as a potential Settlement Class Member, you have a right to know about your options before the Court rules on the proposed Settlement. Additionally, you have the right to understand how this class action lawsuit may generally affect your legal rights. If the Court approves the Settlement and the Plan of Allocation (or some other plan of allocation), the Claims Administrator selected by Lead Plaintiff and approved by the Court will make payments pursuant to the Settlement after any objections and appeals are resolved.

9. The purpose of this Notice is to inform you of the existence of this case, that it is a class action, how you might be affected, and how to exclude yourself from the Settlement Class if you wish to do so. It is also being sent to inform you of the terms of the proposed Settlement and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation, and the motion by Lead Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses (the "Settlement Hearing"). See paragraph 78 below for details about the Settlement Hearing, including the date and location of the hearing.

10. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement and a plan of allocation, then payments to Authorized Claimants will be made after any appeals are resolved and after the completion of all claims processing. Please be patient, as this process can take some time to complete.

WHAT IS THIS CASE ABOUT?

11. Intersect is a commercial drug delivery company that purports to develop products for patients with ear, nose, and throat ("ENT") conditions.

12. A class action complaint was filed in the United States District Court for the Northern District of California against the Defendants, Intersect, and certain of its executive officers on May 15, 2019.

13. On September 24, 2019, the Court appointed the Lead Plaintiff and Lead Counsel in the case.

14. On December 2, 2019, Lead Plaintiff filed and served his Consolidated Amended Class Action Complaint for Violations of the Federal Securities Laws (the "FAC") against Defendants. The FAC asserted claims against the Defendants based, *inter alia*, on allegations that Intersect engaged in channel stuffing practices that materially inflated the growth rate of PROPEL revenue during the putative class period. Lead Plaintiff alleged that the Defendants' material misstatements violated Sections 10(b) and 20(a) of the Exchange Act, and Securities and Exchange Commission ("SEC") Rule 10b-5 promulgated thereunder. The FAC further alleged that the prices of Intersect's publicly traded common stock were artificially inflated as a result of the Defendants' allegedly false and misleading statements, and declined when the truth was revealed. Lead Plaintiff asserted these allegations on behalf of himself and a class of Intersect shareholders who purchased or otherwise acquired publicly traded Intersect common stock between February 27, 2018 and August 1, 2019, inclusive.

15. Defendants moved to dismiss the FAC on January 31, 2020. Lead Plaintiff filed his opposition to the motion to dismiss on March 16, 2020. Defendants filed a brief in reply in further support of their motions to dismiss on April 24, 2020.

16. The District Court granted the Defendants' motion to dismiss without prejudice on June 19, 2020.

17. On July 29, 2020, Lead Plaintiff filed a Consolidated Second Amended Class Action Complaint for Violations of the Federal Securities Laws (the “SAC”) asserting claims under the Exchange Act against Defendants based upon a similar set of allegations as the FAC.

18. On September 18, 2020, Defendants filed a motion to dismiss the SAC. On October 23, 2020, Lead Plaintiff filed his opposition to Defendants’ motion to dismiss. On November 20, 2020, Defendants filed a reply in further support of their motion to dismiss.

19. On October 29, 2020, the Parties engaged in private mediation with Jed D. Melnick, Esq. of JAMS. After a full day of negotiation, the Parties were unable to reach a settlement.

20. On January 22, 2021, the District Court granted Defendants’ motion to dismiss the SAC without prejudice.

21. Thereafter, the Parties re-engaged Mr. Melnick regarding the possibility of resolving the Action through settlement. Ultimately, the Parties accepted a double-blind mediator’s proposal to resolve the litigation for \$1.9 million on a class-wide basis.

22. Based upon their investigation, prosecution, and mediation of the case, Lead Plaintiff and Lead Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable, and adequate to Lead Plaintiff and the other members of the Settlement Class, and in their best interests. Based on Lead Plaintiff’s direct oversight of the prosecution of this matter and with the advice of their counsel, Lead Plaintiff has agreed to settle and release the claims raised in the Action pursuant to the terms and provisions of this Stipulation, after considering, among other things: (i) the substantial financial benefit that Lead Plaintiff and the other members of the Settlement Class will receive under the proposed Settlement; and (ii) the significant risks and costs of continued litigation and trial.

23. Defendants are entering into the Stipulation solely to eliminate the uncertainty, burden, and expense of further protracted litigation. Each of the Defendants has denied and continues to deny each and all of the claims and contentions alleged by Lead Plaintiff in the Action, as well as any wrongdoing or liability alleged against them. The Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Defendants, or any other of the Defendants’ Releasees (defined in ¶ 36 below), with respect to any claim or allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Defendants have, or could have, asserted in the Action. Similarly, the Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any Lead Plaintiff of any infirmity in any of the claims asserted in the Action, or an admission or concession that any of the Defendants’ defenses to liability had any merit.

24. On June 22, 2021, the Court preliminarily approved the Settlement, authorized the Postcard Notice to be mailed to potential Settlement Class Members and this Notice to be posted online and mailed to potential Settlement Class Members upon request, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

**HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?
WHO IS INCLUDED IN THE SETTLEMENT CLASS?**

25. If you are a member of the Settlement Class, you are subject to the Settlement, unless you timely request to be excluded. The Settlement Class consists of:

all Persons and entities who or which purchased or otherwise acquired publicly traded Intersect common stock between February 27, 2018 and August 1, 2019, inclusive, and were damaged thereby.

Excluded from the Settlement Class are: (1) Persons who suffered no compensable losses; and (2) (a) Defendants; (b) the legal representatives, heirs, successors, assigns, and members of the Immediate Families of the Individual Defendants; (c) the parents, subsidiaries, assigns, successors, predecessors, and affiliates of Intersect; (d) any Persons who served as Officers and/or directors of Intersect during the Settlement Class Period; (e) any entity in which any of the foregoing (a)-(d) excluded Persons have or had a majority ownership interest during the Settlement Class Period; (f) any trust of which any Individual Defendant is the settlor or which is for the benefit of any Individual Defendant and/or member(s) of his or her Immediate Family; and (g) Defendants’ liability insurance carriers. Also excluded from the Settlement Class are any Persons or entities who or which timely and validly exclude themselves by submitting a request for exclusion in accordance with the

requirements set forth in this Notice. See “What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself?” on page 13 below.

PLEASE NOTE: RECEIPT OF THE POSTCARD NOTICE DOES NOT MEAN THAT YOU ARE A SETTLEMENT CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT.

If you are a Settlement Class Member and you wish to be eligible to participate in the distribution of proceeds from the Settlement, you are required to submit the Claim Form that is available online at www.IntersectSecuritiesLitigation.com or which can be mailed to you upon request to the Claims Administrator, and the required supporting documentation as set forth therein, online or postmarked no later than November 18, 2021.

WHAT ARE LEAD PLAINTIFF’S REASONS FOR THE SETTLEMENT?

26. Lead Plaintiff and Lead Counsel believe that the claims asserted against Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against the remaining Defendants through trial and appeals, as well as the very substantial risks they would face in establishing liability and damages. Lead Plaintiff and Lead Counsel recognized that Defendants had numerous avenues of attack that could preclude a recovery as to the allegations in the Complaint. For example, Defendants have asserted that the alleged statements were not materially false and misleading, and that even if they were, they were not made with the requisite state of mind to support the securities fraud claim alleged. Even if the hurdles to establishing liability were overcome, the amount of damages that could be attributed to the allegedly false and misleading statements/omissions would be hotly contested. Lead Plaintiff would have to prevail at several stages – motion to dismiss, class certification, summary judgment, trial, and if they prevailed on those, on the appeals that were likely to follow. Thus, there were very significant risks attendant to the continued prosecution of the Action.

27. In light of these risks, the amount of the Settlement, and the immediacy of recovery to the Settlement Class, Lead Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class. Lead Plaintiff and Lead Counsel believe that the Settlement provides a substantial benefit to the Settlement Class, namely \$1,900,000 in cash (less the various deductions described in this Notice), as compared to the risk that the claims in the Action would produce a smaller or no recovery after summary judgment, trial, and appeals, possibly years in the future.

28. Defendants have denied the claims asserted against them in the Action and deny having engaged in any wrongdoing or violation of law of any kind whatsoever, or that Lead Plaintiff or any member of the Settlement Class suffered any damages whatsoever. Defendants have agreed to the Settlement solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlement may not be construed as an admission of any wrongdoing by Defendants.

WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?

29. If there were no Settlement and Lead Plaintiff failed to establish any essential legal or factual element of his claims against Defendants, neither Lead Plaintiff nor the other members of the Settlement Class would recover anything from Defendants. Also, if Defendants were successful in proving any of their defenses either at summary judgment, at trial, or on appeal, the Settlement Class could recover substantially less than the amount provided in the Settlement, or nothing at all.

HOW ARE SETTLEMENT CLASS MEMBERS AFFECTED BY THE ACTION AND THE SETTLEMENT?

30. As a Settlement Class Member, you are represented by Lead Plaintiff and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys listed in the section entitled, “When And Where Will The Court Decide Whether To Approve The Settlement?” on page 13 below.

31. If you are a Settlement Class Member and do not wish to remain a Settlement Class Member, you may exclude Questions? Call 1-877-777-9611 or visit www.IntersectSecuritiesLitigation.com.

yourself from the Settlement Class by following the instructions in the section entitled, “What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself?” on page 13 below.

32. If you are a Settlement Class Member and you wish to object to the Settlement, the Plan of Allocation, or Lead Counsel’s application for attorneys’ fees and reimbursement of Litigation Expenses, and if you do not exclude yourself from the Settlement Class, you may present your objections by following the instructions in the section entitled, “When And Where Will The Court Decide Whether To Approve The Settlement?” below.

33. If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you will be bound by any orders issued by the Court. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). The Judgment will dismiss with prejudice the claims against Defendants and will provide that, upon the Effective Date of the Settlement, Lead Plaintiff and each of the other Settlement Class Members, on behalf of themselves, and their Related Parties, will have fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiff’s Claim (as defined in ¶ 34 below) against the Defendants and the other Defendants’ Releasees (as defined in ¶ 36 below), and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiff’s Claims against any of the Defendants’ Releasees.

34. “Released Plaintiff’s Claims” means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that Lead Plaintiff or any other Settlement Class Member, and their Related Parties: (i) asserted in the Complaint; or (ii) could have asserted in any forum that arise out of, relate to, or are based upon the allegations, facts, matters, transactions, acts, occurrences, statements, representations, misrepresentations and/or omissions alleged or referred to in the Action and that arise out of or relate to the purchase, acquisition, and/or holding of Intersect common stock during the Settlement Class Period. Released Plaintiff’s Claims do not include Excluded Claims. The definition of Released Plaintiff’s Claims does not limit, modify, or otherwise affect any insurance coverage or policies that may be available to any of the Defendants or Defendants’ Releasees.

35. “Excluded Claims” means (i) any claims relating to the enforcement of the Settlement; and (ii) the claims of any Person or entity who or which submits a request for exclusion that is accepted by the Court.

36. “Defendants’ Releasee(s)” means Defendants and their Related Parties.

37. “Related Parties” when used in reference to a Person, means and includes (i) the Person; (ii) for natural Persons, each of that Person’s respective Immediate Family, any trust of which the Person is settlor or which is for the benefit of any such Person and/or member of his family, and that Person’s agents, attorneys, accountants, insurers, reinsurers, advisors (including financial or investment advisors), and heirs, all in their capacities as such; and (iii) for non-natural Persons, each of their past and present parents, subsidiaries, wholly-owned affiliates, employees, members, partners, principals, Officers, directors, agents, attorneys, advisors (including financial or investment advisors), accountants, auditors, consultants, underwriters, investment bankers, commercial bankers, general or limited partners or partnerships, limited liability companies, insurers, and reinsurers, all in their capacities as such.

38. “Unknown Claims” means any Released Plaintiff’s Claims which any Lead Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of such claims, and any Released Defendants’ Claims which any Defendant or any other Defendants’ Releasee does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her or it, might have affected his, her or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Lead Plaintiff and Defendants shall expressly waive, and each of the other Settlement Class Members and each of the other Defendants’ Releasees shall be deemed to have waived, and by operation of the Judgment or the Alternate Judgment, if applicable, shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Lead Plaintiff and Defendants acknowledge, and each of the other Settlement Class Members and each of the other Defendants’ Releasees shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

39. The Judgment will also provide that, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, Questions? Call 1-877-777-9611 or visit www.IntersectSecuritiesLitigation.com.

and their Related Parties, will have fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants' Claim (as defined in ¶ 40 below) against Lead Plaintiff and the other Plaintiff's Releasees (as defined in ¶ 41 below), and shall forever be barred and enjoined from prosecuting any or all of the Released Defendants' Claims against any of the Plaintiff's Releasees. Nothing in this release shall be construed as limiting, modifying, or otherwise affecting any insurance coverage or policies that may be available to any of the Defendants or Defendants' Releasees.

40. "Released Defendants' Claims" means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common, or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against the Defendants. Released Defendants' Claims do not include: (a) Excluded Claims; or (b) any claims Defendants or Defendants' Releasees may have with respect to coverage or payment under any insurance policies that may be available to them.

41. "Plaintiff's Releasees" means Lead Plaintiff, each and every Settlement Class Member, and their Related Parties.

HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?

42. To be eligible for a payment from the proceeds of the Settlement, you must be a member of the Settlement Class and you must timely complete and return the Claim Form with adequate supporting documentation **postmarked no later than November 18, 2021**. A Claim Form is available on the website maintained by the Claims Administrator for the Settlement, www.IntersectSecuritiesLitigation.com, or you may request that a Claim Form be mailed to you by calling the Claims Administrator toll-free at 1-877-777-9611. Please retain all records of your ownership of and transactions in shares of Intersect common stock, as they may be needed to document your Claim. If you request exclusion from the Settlement Class or do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund.

HOW MUCH WILL MY PAYMENT BE?

43. At this time, it is not possible to make any determination as to how much any individual Settlement Class Member may receive from the Settlement.

44. Pursuant to the Settlement, Defendants have agreed to pay or cause to be paid one million nine hundred thousand dollars (\$1,900,000) in cash. The Settlement Amount will be deposited into an escrow account. The Settlement Amount plus any interest earned thereon is referred to as the "Settlement Fund." If the Settlement is approved by the Court and the Effective Date occurs, the "Net Settlement Fund" (that is, the Settlement Fund less (a) all federal, state, and/or local taxes on any income earned by the Settlement Fund and the reasonable costs incurred in connection with determining the amount of and paying taxes owed by the Settlement Fund (including reasonable expenses of tax attorneys and accountants); (b) the costs and expenses incurred in connection with providing notice to Settlement Class Members and administering the Settlement on behalf of Settlement Class Members; and (c) any attorneys' fees and Litigation Expenses awarded by the Court) will be distributed to Settlement Class Members who timely submit valid Claim Forms, in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve.

45. The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and a plan of allocation, and the time for any petition for rehearing, appeal or review, whether by certiorari or otherwise, has expired.

46. Neither Defendants nor any other Person or entity that paid any portion of the Settlement Amount on their behalf are entitled to get back any portion of the Settlement Fund once the Court's order or judgment approving the Settlement becomes Final. Defendants shall not have any liability, obligation, or responsibility for the administration of the Settlement, the disbursement of the Net Settlement Fund or the Plan of Allocation.

47. Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

48. Unless the Court otherwise orders, any Settlement Class Member who fails to submit a Claim Form online or postmarked on or before November 18, 2021, shall be fully and forever barred from receiving payments pursuant to the Settlement but will in all other respects remain a Settlement Class Member and be subject to the provisions of the Stipulation, including the terms of any Judgment entered and the releases given. This means that each Settlement Class Member releases the Released Plaintiff's Claims (as defined in ¶ 34 above) against the Defendants' Releasees (as defined in ¶ 36 above) and will be enjoined and prohibited from filing, prosecuting, or pursuing any of the Released Plaintiff's Claims against any of

the Defendants' Releasees whether or not such Settlement Class Member submits a Claim Form.

49. Participants in and beneficiaries of a plan covered by ERISA ("ERISA Plan") should NOT include any information relating to their transactions in shares of Intersect common stock held through the ERISA Plan in any Claim Form that they may submit in this Action. They should include ONLY those shares that they purchased or acquired outside of the ERISA Plan. Claims based on any ERISA Plan's purchases or acquisitions of Intersect common stock during the Settlement Class Period may be made by the plan's trustees. To the extent any of the Defendants or any of the other Persons or entities excluded from the Settlement Class are participants in the ERISA Plan, such Persons or entities shall not receive, either directly or indirectly, any portion of the recovery that may be obtained from the Settlement by the ERISA Plan.

50. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Settlement Class Member.

51. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim Form.

52. Only Settlement Class Members, *i.e.*, Persons and entities who purchased or otherwise acquired shares of Intersect common stock during the Settlement Class Period and were damaged as a result of such purchases or acquisitions will be eligible to share in the distribution of the Net Settlement Fund. Persons and entities that are excluded from the Settlement Class by definition or that exclude themselves from the Settlement Class pursuant to request will not be eligible to receive a distribution from the Net Settlement Fund and should not submit Claim Forms. The only securities that are eligible for payment under the terms of the Settlement are shares of Intersect common stock.

PROPOSED PLAN OF ALLOCATION

53. The objective of the Plan of Allocation is to equitably distribute the Settlement proceeds to those Settlement Class Members who suffered economic losses as a proximate result of the alleged wrongdoing, as opposed to losses caused by market- or industry-wide factors, or company-specific factors unrelated to the alleged fraud. The Claims Administrator shall determine each Authorized Claimant's share of the Net Settlement Fund based upon the recognized loss formula (the "Recognized Loss") described below.

54. A Recognized Loss will be calculated for each share of Intersect common stock purchased or otherwise acquired during the Settlement Class Period. The calculation of Recognized Loss will depend upon several factors, including when shares of Intersect common stock were purchased or otherwise acquired during the Settlement Class Period and in what amounts, and whether those shares were sold, and if sold, when they were sold and for what amounts. The Recognized Loss is not intended to estimate the amount a Settlement Class Member might have been able to recover after a trial, nor to estimate the amount that will be paid to Authorized Claimants pursuant to the Settlement. The computations under the Plan of Allocation are only a method to weigh the claims of Authorized Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund.

55. The Plan of Allocation was created with the assistance of a consulting damages expert and reflects the assumption that the price of Intersect common stock was artificially inflated throughout the Settlement Class Period. The estimated alleged artificial inflation in the price of Intersect common stock during the Settlement Class Period is reflected in Table A below. The computation of the estimated alleged artificial inflation in the price of Intersect common stock during the Settlement Class Period is based on certain misrepresentations and/or omissions alleged by Lead Plaintiff and the price change in the stock, net of market- and industry-wide factors, in reaction to the public announcements that allegedly corrected the misrepresentations and/or omissions alleged by Lead Plaintiff.

56. The U.S. federal securities laws allow investors to recover for losses caused by disclosures which corrected the defendants' previous misleading statements or omissions. Thus, in order to have been damaged by the alleged violations of the federal securities laws, Intersect common stock purchased or otherwise acquired during the Settlement Class Period must have been held during a period of time in which its price declined due to the disclosure of information which corrected an allegedly misleading statement or omission. Lead Plaintiff and Lead Counsel have determined that such price declines occurred on August 1, 2018, on May 7, 2019, and on August 2, 2019 (the "Corrective Disclosure Price Decline Dates"). Accordingly, if a share of Intersect common stock was sold before August 1, 2018 (the earliest Corrective Disclosure Price Decline Date), the Recognized Loss for that share is \$0.00, and any loss suffered is not compensable under the federal securities laws. Likewise, if a share of Intersect common stock was: (a) purchased on or after August 1, 2018, and subsequently sold on or before May 6, 2019; or (b) purchased on May 7, 2019, and subsequently sold on or before August 1, 2019, the Recognized Loss for that share is \$0.00.

Table A

<u>Purchase or Sale Date Range</u>	<u>Artificial Inflation Per Share</u>
02/27/2018 – 07/31/2018	\$17.21
08/01/2018 – 05/06/2019	\$10.96
05/07/2019 – 08/01/2019	\$ 3.50

57. The “90-day look-back” provision of the Private Securities Litigation Reform Act of 1995 (“PSLRA”) is incorporated into the calculation of the Recognized Loss for Intersect common stock. The limitations on the calculation of the Recognized Loss imposed by the PSLRA are applied such that losses on Intersect common stock purchased during the Settlement Class Period and held as of the close of the 90-day period subsequent to the Settlement Class Period (the “90-Day Look-back Period”) cannot exceed the difference between the purchase price paid for such stock and its average closing price during the 90-Day Look-back Period, which is \$17.00. The Recognized Loss on Intersect common stock purchased during the Settlement Class Period and sold during the 90-Day Look-back Period cannot exceed the difference between the purchase price paid for such stock and its rolling average closing price during the portion of the 90-Day Look-back Period elapsed as of the date of sale, as set forth in Table B.

58. In the calculations below, all purchase and sale prices shall exclude any fees, taxes and commissions. If a Recognized Loss amount is calculated to be a negative number, that Recognized Loss shall be set to zero.

CALCULATION OF RECOGNIZED LOSS AMOUNTS

59. For shares of common stock purchased or otherwise acquired between February 27, 2018 and August 1, 2019:
- A. For shares held at the end of trading on October 30, 2019, the Recognized Loss shall be that number of shares multiplied by the lesser of:
- (1) the applicable purchase date artificial inflation per share figure, as found in Table A; or
 - (2) the difference between the purchase price per share and \$17.00.³
- B. For shares sold between August 2, 2019 and October 30, 2019, the Recognized Loss shall be the lesser of:
- (1) the applicable purchase date artificial inflation per share figure, as found in Table A; or
 - (2) the difference between the purchase price per share and the sales price per share; or
 - (3) the difference between the purchase price per share and the average closing price between August 2, 2019 and the date of sale, as found in Table B.⁴
- C. For shares sold between February 27, 2018 and August 1, 2019, the Recognized Loss shall be that number of shares multiplied by the lesser of:
- (1) the applicable purchase date artificial inflation per share figure less the applicable sales date artificial inflation per share figure, as found in Table A; or
 - (2) the difference between the purchase price per share and the sales price per share.

³ Pursuant to Section 21(D)(e)(1) of the PSLRA, “in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated.” The mean (average) closing price of Intersect common stock during the period beginning on August 2, 2019 and ending on October 30, 2019 was \$17.00 per share.

⁴ Pursuant to Section 21(D)(e)(2) of the PSLRA, “in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90-day period described in paragraph (1), the plaintiff’s damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the mean trading price of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security.”

Table B

<u>Date of Sale</u>	<u>Average Closing Price Between 08/02/2019 and Date of Sale</u>	<u>Date of Sale</u>	<u>Average Closing Price Between 08/02/2019 and Date of Sale</u>
08/02/2019	\$16.50	09/18/2019	\$16.66
08/05/2019	\$16.73	09/19/2019	\$16.70
08/06/2019	\$16.82	09/20/2019	\$16.76
08/07/2019	\$16.70	09/23/2019	\$16.79
08/08/2019	\$16.68	09/24/2019	\$16.81
08/09/2019	\$16.65	09/25/2019	\$16.83
08/12/2019	\$16.55	09/26/2019	\$16.83
08/13/2019	\$16.57	09/27/2019	\$16.82
08/14/2019	\$16.51	09/30/2019	\$16.83
08/15/2019	\$16.46	10/01/2019	\$16.82
08/16/2019	\$16.45	10/02/2019	\$16.81
08/19/2019	\$16.43	10/03/2019	\$16.82
08/20/2019	\$16.39	10/04/2019	\$16.82
08/21/2019	\$16.36	10/07/2019	\$16.81
08/22/2019	\$16.32	10/08/2019	\$16.81
08/23/2019	\$16.26	10/09/2019	\$16.82
08/26/2019	\$16.23	10/10/2019	\$16.83
08/27/2019	\$16.18	10/11/2019	\$16.84
08/28/2019	\$16.14	10/14/2019	\$16.85
08/29/2019	\$16.12	10/15/2019	\$16.86
08/30/2019	\$16.13	10/16/2019	\$16.86
09/03/2019	\$16.15	10/17/2019	\$16.86
09/04/2019	\$16.19	10/18/2019	\$16.86
09/05/2019	\$16.27	10/21/2019	\$16.87
09/06/2019	\$16.30	10/22/2019	\$16.89
09/09/2019	\$16.30	10/23/2019	\$16.91
09/10/2019	\$16.34	10/24/2019	\$16.92
09/11/2019	\$16.39	10/25/2019	\$16.94
09/12/2019	\$16.44	10/28/2019	\$16.96
09/13/2019	\$16.50	10/29/2019	\$16.98
09/16/2019	\$16.56	10/30/2019	\$17.00
09/17/2019	\$16.61		

ADDITIONAL PROVISIONS

60. The Net Settlement Fund will be allocated among all Authorized Claimants whose Distribution Amount (defined in paragraph 63 below) is \$10.00 or greater.

61. If a Settlement Class Member has more than one purchase or other acquisition or sale of Intersect common stock, all purchases, acquisitions and/or sales of the like security shall be matched on a First In, First Out (“FIFO”) basis. Settlement Class Period sales will be matched first against any holdings at the beginning of the Settlement Class Period, and then against purchases or acquisitions in chronological order, beginning with the earliest purchase or acquisition made during the Settlement Class Period.

62. A Claimant’s “Recognized Claim” under the Plan of Allocation shall be the sum of his, her or its Recognized Loss Amounts for all Intersect common stock.

63. The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be calculated for each Authorized Claimant, which shall be the Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. If any Authorized Claimant’s Distribution Amount

calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to such Authorized Claimant.

64. Purchases or acquisitions and sales of shares of Intersect common stock shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, inheritance or operation of law of shares of Intersect common stock during the Settlement Class Period shall not be deemed a purchase, acquisition or sale of shares of Intersect common stock for the calculation of an Authorized Claimant’s Recognized Loss Amount, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase or acquisition of any shares of Intersect common stock unless (i) the donor or decedent purchased or otherwise acquired such Intersect common stock during the Settlement Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such shares of Intersect common stock; and (iii) it is specifically so provided in the instrument of gift or assignment.

65. The date of covering a “short sale” is deemed to be the date of purchase or acquisition of the shares of Intersect common stock. The date of a “short sale” is deemed to be the date of sale of the Intersect common stock. Under the Plan of Allocation, however, the Recognized Loss Amount on “short sales” is zero. In the event that a Claimant has an opening short position in shares of Intersect common stock, the earliest Settlement Class Period purchases or acquisitions of that common stock shall be matched against such opening short position, and not be entitled to a recovery, until that short position is fully covered.

66. Option contracts are not securities eligible to participate in the Settlement. With respect to shares of Intersect common stock purchased or sold through the exercise of an option, the purchase/sale date of the shares of Intersect common stock is the exercise date of the option and the purchase/sale price of the shares of Intersect common stock is the exercise price of the option.

67. To the extent a Claimant had a market gain with respect to his, her, or its overall transactions in shares of Intersect common stock during the Settlement Class Period, the value of the Claimant’s Recognized Claim shall be zero. Such Claimants shall in any event be bound by all terms of the Settlement and any judgment or orders entered by the Court in the Action. To the extent that a Claimant suffered an overall market loss with respect to his, her, or its overall transactions in shares of Intersect common stock during the Settlement Class Period, but that market loss was less than the total Recognized Claim calculated above, then the Claimant’s Recognized Claim shall be limited to the amount of the actual market loss.

68. For purposes of determining whether a Claimant had a market gain with respect to his, her, or its overall transactions in shares of Intersect common stock during the Settlement Class Period or suffered a market loss, the Claims Administrator shall determine the difference between (i) the Total Purchase Amount⁵ and (ii) the sum of the Total Sales Proceeds⁶ and Total Holding Value.⁷ This difference shall be deemed a Claimant’s market gain or loss with respect to his, her, or its overall transactions in shares of Intersect common stock during the Settlement Class Period.

69. After the initial distribution of the Net Settlement Fund, the Claims Administrator shall make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks. To the extent any monies remain in the fund nine (9) months after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator, determines that it is cost-effective to do so, the Claims Administrator shall conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their prior checks and who would receive at least \$10.00 on such additional re-distributions may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determines that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance shall be contributed to non-sectarian, not-for-profit organization(s) to be recommended by Lead Counsel and approved by the Court.

⁵ The “Total Purchase Amount” is the total amount the Claimant paid (excluding commissions and other charges) for all Intersect common stock shares purchased or acquired during the Settlement Class Period.

⁶ The Claims Administrator shall match any sales of shares of Intersect common stock during the Settlement Class Period, first against the Claimant’s opening position of Intersect common stock (the proceeds of those sales will not be considered for purposes of calculating market gains or losses). The total amount received (excluding commissions and other charges) for the remaining sales of Intersect common stock shares sold during the Settlement Class Period shall be the “Total Sales Proceeds.”

⁷ The Claims Administrator shall ascribe a holding value to the shares of Intersect common stock purchased or acquired during the Settlement Class Period and still held as of the close of trading on August 1, 2019, which shall be the August 2, 2019 closing price as set forth in Table B. The total calculated holding values for all the shares of Intersect common stock shall be the Claimant’s “Total Holding Value.”

70. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, shall be conclusive against all Authorized Claimants. No Person shall have any claim against Lead Plaintiff, Plaintiff's Counsel, Lead Plaintiff's damages expert, Defendants, Defendants' Counsel, or any of the other Releasees, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or further Orders of the Court. Lead Plaintiff, Defendants and their respective counsel, and all other Defendants' Releasees shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any Claim Form or nonperformance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund, or any losses incurred in connection therewith.

71. The Plan of Allocation set forth herein is the plan that is being proposed to the Court for its approval by Lead Plaintiff after consultation with his damages expert. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Settlement Class. Any Orders regarding any modification of the Plan of Allocation will be posted on the settlement website, www.IntersectSecuritiesLitigation.com.

**WHAT PAYMENT ARE THE ATTORNEYS FOR THE SETTLEMENT CLASS SEEKING?
HOW WILL THE LAWYERS BE PAID?**

72. Plaintiff's Counsel have not received any payment for their services in pursuing claims against the Defendants on behalf of the Settlement Class, nor have Plaintiff's Counsel been reimbursed for their out-of-pocket expenses. Before final approval of the Settlement, Lead Counsel will apply to the Court for an award of attorneys' fees for all Plaintiff's Counsel in an amount not to exceed 33⅓% of the Settlement Fund. At the same time, Lead Counsel also intends to apply for reimbursement of Litigation Expenses in an amount not to exceed \$130,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiff directly related to his representation of the Settlement Class. The Court will determine the amount of any award of attorneys' fees or reimbursement of Litigation Expenses. Such sums as may be approved by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

**WHAT IF I DO NOT WANT TO BE A MEMBER OF THE SETTLEMENT CLASS?
HOW DO I EXCLUDE MYSELF?**

73. Each Settlement Class Member will be bound by all determinations and judgments in this lawsuit, whether favorable or unfavorable, unless such Person or entity mails or delivers a written Request for Exclusion from the Settlement Class, addressed to *Avi Yaron v. Intersect ENT, Inc., et al.*, EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 173001, Milwaukee, WI 53217. The exclusion request must be **received** no later than October 1, 2021. You will not be able to exclude yourself from the Settlement Class after that date. Each Request for Exclusion must: (a) state the name, address, and telephone number of the Person or entity requesting exclusion, and in the case of entities, the name and telephone number of the appropriate contact Person; (b) state that such Person or entity "requests exclusion from the Settlement Class in *Avi Yaron v. Intersect ENT, Inc., et al.*, Case No. 4:19-cv-02647-JSW"; (c) identify and state the number of shares of Intersect common stock that the Person or entity requesting exclusion purchased or otherwise acquired and/or sold during the Settlement Class Period (*i.e.*, between February 27, 2018 and August 1, 2019, inclusive), as well as the dates and prices of each such purchase, acquisition and/or sale; and (d) be signed by the Person or entity requesting exclusion or an authorized representative. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in this paragraph and is received within the time stated above or is otherwise accepted by the Court.

74. If you do not want to be part of the Settlement Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration, or other proceeding relating to any Released Plaintiff's Claim against any of the Defendants' Releasees.

75. If you ask to be excluded from the Settlement Class, you will not be eligible to receive any payment out of the Net Settlement Fund.

76. Defendants have the right to terminate the Settlement if valid requests for exclusion are received from Persons and entities entitled to be members of the Settlement Class in an amount that exceeds a threshold agreed to by Lead Plaintiff and Defendants.

WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? DO I HAVE TO COME TO THE HEARING? MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?

77. **Settlement Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Settlement Class Member does not attend the hearing. You can participate in the Settlement without attending the Settlement Hearing.**

78. The Settlement Hearing will be held on October 22, 2021 at 9:00 a.m., before the Hon. Jeffrey S. White, Senior District Judge, at the United States District Court for the Northern District of California, Oakland Courthouse, Courtroom 5, 1301 Clay Street, Oakland, CA 94612. The Court reserves the right to approve the Settlement, the Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the members of the Settlement Class.

79. Any Settlement Class Member who or which does not request exclusion may object to the Settlement, the proposed Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Objections must be in writing. In an objection, a Settlement Class Member can ask the Court to deny approval of the Settlement. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. You must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk's Office at the United States District Court for the Northern District of California at the address set forth below on or before October 1, 2021. You must also serve the papers on Lead Counsel and on Defendants' Counsel at the addresses set forth below so that the papers are *received on or before October 1, 2021*.

Clerk's Office

United States District Court
Northern District of California
Clerk of the Court
Susan S. Soong
United States Courthouse
1301 Clay Street
Oakland, CA 94612

Lead Counsel

Glancy Prongay & Murray LLP
Attn: Robert V. Prongay, Esq.
1925 Century Park East
Suite 2100
Los Angeles, CA 90067
Telephone: (310) 201-9150
Email: rprongay@glancylaw.com

Defendants' Counsel

Cooley LLP
Attn: Jeffrey Lombard, Esq.
3175 Hanover Street
Palo Alto, CA 94304
Telephone: (650) 843-5000
Email: jlombard@cooley.com

-OR-

Holzer & Holzer, LLC
Attn: Corey D. Holzer, Esq.
211 Perimeter Center Parkway
Suite 1010
Atlanta, GA 30338
Telephone: (770) 392-0090
Email: cholzer@holzerlaw.com

80. Any objection: (a) must state the name, address, and telephone number of the Person or entity objecting and must be signed by the objector; (b) must contain a statement of the Settlement Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Settlement Class Member wishes to bring to the Court's attention; and (c) must include documents sufficient to prove membership in the Settlement Class, including the number of Intersect common stock shares that the objecting Settlement Class Member purchased or otherwise acquired and/or sold during the Settlement Class Period (*i.e.*, between February 27, 2018 and August 1, 2019, inclusive), as well as the dates and prices of each such purchase, acquisition and/or sale. You may not object to the Settlement, the Plan of Allocation or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses if you exclude yourself from the Settlement Class or if you are not a member of the Settlement Class.

81. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file and serve a written objection in accordance with the

procedures described above, unless the Court orders otherwise.

82. If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, and if you timely file and serve a written objection as described above, you must also file a notice of appearance with the Clerk's Office and serve it on Lead Counsel and Defendants' Counsel at the addresses set forth above so that it is **received on or before October 1, 2021**. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Such Persons may be heard orally at the discretion of the Court.

83. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Lead Counsel and Defendants' Counsel at the addresses set forth in ¶ 79 above so that the notice is **received on or before October 1, 2021**.

84. The Settlement Hearing may be adjourned by the Court, or held telephonically or via videoconference, without further written notice to the Settlement Class. If you intend to attend the Settlement Hearing, you should confirm the date, time and location on the settlement website www.IntersectSecuritiesLitigation.com, or with Lead Counsel, given potential changes as a result of the COVID-19 pandemic.

85. Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

WHAT IF I BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?

86. If you purchased or otherwise acquired publicly traded Intersect common stock between February 27, 2018, and August 1, 2019, inclusive, for the beneficial interest of Persons or organizations other than yourself, you must either: (a) within seven (7) calendar days of receipt of the Postcard Notice, request from the Claims Administrator sufficient copies of the Postcard Notice to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Postcard Notices forward them to all such beneficial owners; or (b) within seven (7) calendar days of receipt of the Postcard Notice, provide a list of the names and addresses of all such beneficial owners to *Avi Yaron v. Intersect ENT, Inc., et al*, c/o A.B. Data, Ltd., P.O. Box 173131, Milwaukee, WI 53217. If you choose the second option, the Claims Administrator will send a copy of the Postcard Notice to the beneficial owners. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought, up to a maximum of \$0.05 per name and address provided to the Claims Administrator; mailing of Postcard Notice up to \$0.05 per unit, plus postage at the rate used by the Claims Administrator; or emailing of notice up to \$0.05 per email. Any dispute concerning the reasonableness of reimbursement costs shall be resolved by the Court. Copies of this Notice and the Claim Form may be obtained from the website maintained by the Claims Administrator, www.IntersectSecuritiesLitigation.com, or by calling the Claims Administrator toll-free at 1-877-777-9611.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

87. This Notice contains only a summary of the terms of the proposed Settlement. For more detailed information about the matters involved in this Action, you are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular office hours at the United States District Court for the Northern District of California, Office of the Clerk, United States Courthouse, 1301 Clay Street, Oakland, CA 94612.

88. Additionally, copies of the Stipulation and any related orders entered by the Court will be posted on the website maintained by the Claims Administrator, www.IntersectSecuritiesLitigation.com.

All inquiries concerning this Notice and the Claim Form should be directed to the Claims Administrator or Lead Counsel at:

Avi Yaron v. Intersect ENT, Inc., et al.
c/o A.B. Data, Ltd.
P.O. Box 173131
Milwaukee, WI 53217
877-777-9611
www.IntersectSecuritiesLitigation.com

and/or Glancy Prongay & Murray LLP
Attn: Robert V. Prongay, Esq.
1925 Century Park East
Suite 2100
Los Angeles, CA 90067
Telephone: (310) 201-9150
Email: settlements@glancylaw.com

-OR-

Holzer & Holzer, LLC
Attn: Corey D. Holzer, Esq.
211 Perimeter Center Parkway
Suite 1010
Atlanta, GA 30338
Telephone: (770) 392-0090
Email: cholzer@holzerlaw.com

**DO NOT CALL OR WRITE THE COURT, THE OFFICE OF THE CLERK OF THE COURT,
DEFENDANTS, OR THEIR COUNSEL REGARDING THIS NOTICE.**

Dated: July 21, 2021

By Order of the Court
United States District Court
Northern District of California