

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE MINDBODY, INC., STOCKHOLDER LITIGATION

CONSOLIDATED
C.A. No. 2019-0442-KSJM

**STIPULATION AND AGREEMENT OF SETTLEMENT,
COMPROMISE, AND RELEASE WITH DEFENDANTS
LIAW AND IVP ENTITIES**

This Stipulation and Agreement of Settlement, Compromise, and Release With Defendants Liaw and IVP Entities, dated February 26, 2022 (the “**Stipulation**”), is entered into by and among: (i) Lead Plaintiffs Luxor Capital Partners, LP, Luxor Capital Partners Offshore Master Fund, LP, Luxor Wavefront, LP, and Lugard Road Capital Master Fund, LP (collectively, “**Lead Plaintiffs**” or “**Luxor**”), on behalf of themselves and the plaintiff class certified by the Court (the “Class, as defined in ¶ 1(b) below); and (ii) defendants Eric Liaw (“Liaw”), Institutional Venture Partners XIII, L.P. and Institutional Venture Management XIII LLC (the “IVP Entities” and, together with Liaw, the “**Settling Defendants**”) (Lead Plaintiffs and the Settling Defendants, together, the “**Settling Parties**”).¹ Subject to the terms and conditions set forth herein and the approval of the Court of Chancery of the State of Delaware (the “**Court**”) under Delaware Court of Chancery Rule 23,

¹ All terms herein with initial capitalization shall, unless defined elsewhere in this Stipulation, have the meanings given to them in Paragraph 1 below.

the Settlement embodied in this Stipulation is intended to be a full and final disposition of the claims asserted against the Settling Defendants in the above-captioned stockholder class action (the “**Action**”).

This Stipulation does not release, resolve, compromise, settle, or discharge any claims or dissenter rights (including appraisal under Section 262 of the Delaware General Corporation Law (DGCL) brought by Lead Plaintiffs against non-settling defendants Richard Stollmeyer, MINDBODY, Inc. (“**Mindbody**”), Vista Equity Partners Management, LLC (“**Vista**”), Torreys Parent, LLC, and Torreys Merger Sub, Inc. (together with their parents, affiliates, subsidiaries, officers, directors (except for Settling Defendant Liaw), predecessors, successors, and assigns, the “**Non-Settling Defendants**”).

WHEREAS:

A. On June 12, 2019, Luxor filed a class action complaint alleging claims for breach of fiduciary duty against Rick Stollmeyer, Brett White, and Eric Liaw. Luxor also moved to consolidate its class action with a separate class action that had been pending since January 2019. Ultimately the Court consolidated the cases and granted Luxor status as lead plaintiff.

B. On October 17, 2019, Lead Plaintiffs filed the first Verified Consolidated Class Action Complaint in this Action. On December 16, 2019, defendants moved to dismiss.

C. On January 24, 2020, Lead Plaintiffs moved for leave to file a First Amended Consolidated Class Action Complaint, which Lead Plaintiffs filed on February 20, 2020. On March 12, 2020, defendants moved to dismiss the First Amended Consolidated Class Action Complaint. On October 2, 2020, the Court granted the motion to dismiss as to Mr. Liaw and denied the motion as to Messrs. Stollmeyer and White.

D. Between April 2019 and June 2021, Lead Plaintiffs and Defendants engaged in fact discovery, including preparing, serving, and responding to requests for production of documents and interrogatories, serving subpoenas on various third parties, engaging in various written and oral communications concerning the scope of document production, and noticing and taking depositions. Lead Plaintiffs obtained and reviewed over 125,000 documents totaling more than 500,000 pages from defendants and third parties.

E. On June 4, 2021, after the close of fact discovery, Lead Plaintiffs moved for leave to file a Second Amended Consolidated Class Action Complaint (the “**Complaint**”). Mr. Liaw and the IVP Entities opposed that motion on July 6, 2021. The Court granted the motion on July 23, 2021, and Lead Plaintiffs filed the Complaint on July 27, 2021.

F. The Complaint alleges, among other things, that Stollmeyer and Liaw breached their fiduciary duties in connection with their approval of the Merger and

by causing Mindbody to issue a false and misleading Proxy statement in connection with the Merger. The Complaint further alleges that Mindbody, Vista, Torreys Parent, Torreys Merger Sub, and the IVP Entities aided and abetted those breaches of fiduciary duty.

G. Mr. Liaw and the IVP Entities moved to dismiss the Complaint on August 13, 2021. On December 9, 2021, the Court denied the motion to dismiss filed by Mr. Liaw and the IVP Entities.

H. On December 17, 2021, the Court issued an Order granting Lead Plaintiffs' unopposed motion for class certification (the "Class Certification Order"). Pursuant to the Class Certification Order, the Court certified the Class (as defined in Paragraph 1(b) below), appointed Lead Plaintiffs as representatives of the Class, and designated Co-Lead Counsel and class counsel for the Class.

I. In January 2022, following arm's-length negotiations, the Settling Parties reached an agreement-in-principle to settle the claims asserted in the Action against the Settling Defendants for \$27,000,000 in cash, subject to Court approval. The Settling Parties' agreement-in-principle was memorialized in a settlement term sheet ("Term Sheet") executed on January 18, 2022.

J. On January 18, 2022, Lead Plaintiffs filed a motion to sever and stay their claims against Settling Defendants ("Motion to Sever and Stay"). The Motion to Sever and Stay informed the Court of Lead Plaintiffs' agreement-in-principle with

Settling Defendants to settle the claims against them for \$27,000,000 in cash, subject to Court approval. The Motion to Sever and Stay also requested that the Court enter an order severing Lead Plaintiffs' claims against Settling Defendants from their claims against the Non-Settling Defendants and staying Lead Plaintiffs' claims against the Settling Defendants pending the Court's consideration of the proposed Settlement.

K. On February 8, 2022, the Court entered an Order granting Lead Plaintiffs' Motion to Sever and Stay. Pursuant to the Court's February 8, 2022 Order, Lead Plaintiffs' claims against the Settling Defendants were severed from the claims asserted by Lead Plaintiffs against the Non-Settling Defendants, and Lead Plaintiffs' claims against the Settling Defendants were stayed pending final disposition of an application to approve the proposed Settlement.

L. This Stipulation (together with the Exhibits hereto), which has been duly executed by the undersigned signatories on behalf of their respective clients, reflects the final and binding agreement among the Settling Parties and supersedes the Term Sheet.

M. Lead Plaintiffs, through Co-Lead Counsel, have conducted an investigation and pursued extensive discovery relating to the claims and the underlying events and transactions alleged in the Action. Co-Lead Counsel have analyzed the evidence adduced during their investigation and fact discovery as

described above, and have also researched the applicable law with respect to the claims asserted in the Action and the potential defenses thereto. This investigation and the settlement negotiations between the parties have provided Lead Plaintiffs with a detailed basis upon which to assess the relative strengths and weaknesses of Lead Plaintiffs' position and Settling Defendants' position in this litigation.

N. Based upon their investigation and prosecution of the Action, Lead Plaintiffs and Co-Lead Counsel have concluded that the terms and conditions of the Settlement and this Stipulation are fair, reasonable, and adequate to Lead Plaintiffs and the other members of the Class and in their best interests. Based on their direct oversight of the prosecution of this matter, along with the input of Co-Lead Counsel, Plaintiffs have agreed to settle the claims asserted in the Action against Settling Defendants pursuant to the terms and provisions of this Stipulation, after considering: (i) the substantial benefits that Lead Plaintiffs and the other members of the Class will receive from the Settlement; (ii) the attendant risks of litigation of the claims asserted against Settling Defendants; and (iii) the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation. The Settlement and this Stipulation shall in no event be construed as, or deemed to be, evidence of a concession by Lead Plaintiffs of any infirmity in the claims asserted in the Action.

O. Settling Defendants deny all allegations of wrongdoing, fault, liability, or damage to Lead Plaintiffs and as well as each and every other member of the Class, and further deny that Lead Plaintiffs have asserted a valid claim as to any of them. Settling Defendants further deny that they engaged in any wrongdoing or committed any violation of law or breach of duty and believe that they acted properly, in good faith, and in a manner consistent with their legal duties. Settling Defendants are entering into the Settlement and this Stipulation solely to avoid the substantial burden, expense, inconvenience, and distraction of continued litigation and to resolve each of the Released Plaintiffs' Claims (defined below) as against the Released Settling Defendants' Persons (defined below). The Settlement and this Stipulation shall in no event be construed as, or deemed to be, evidence of or an admission or concession on the part of any of the Settling Defendants with respect to any claim or factual allegation or of any fault or liability or wrongdoing or damage whatsoever or any infirmity in the defenses that any of the Settling Defendants has or could have asserted.

P. The Settling Parties recognize that the Action has been filed and prosecuted by Lead Plaintiffs in good faith and defended by Settling Defendants in good faith and further that the Settlement Amount to be paid, and the other terms of the Settlement as set forth herein, were negotiated at arm's-length, in good faith, and

reflect an agreement that was reached voluntarily after consultation with experienced legal counsel.

NOW THEREFORE, it is **STIPULATED AND AGREED**, by and among Lead Plaintiffs (individually and on behalf of the Class) and Settling Defendants that, subject to the approval of the Court under Court of Chancery Rule 23, for good and valuable consideration set forth herein and conferred on Lead Plaintiffs and the Class, the sufficiency of which is acknowledged, the claims asserted in the Action against the Settling Defendants shall be finally and fully settled, compromised, and dismissed with prejudice, and that the Released Plaintiffs' Claims shall be finally and fully compromised, resolved, discharged, settled, and dismissed with prejudice against the Released Settling Defendants' Persons, and that the Released Settling Defendants' Claims shall be finally and fully compromised, resolved, discharged, settled, and dismissed with prejudice against the Released Plaintiffs' Persons, in the manner set forth herein.

I. DEFINITIONS

1. In addition to the terms defined elsewhere in this Stipulation, the following capitalized terms, used in this Stipulation and any Exhibits attached hereto and made a part hereof, shall have the meanings given to them below:

- (a) **“Cede”** means Cede & Co., Inc.

(b) “**Class**” means the class certified by the Court’s Order dated December 17, 2021 (Transaction ID 67173853). Specifically, the Class consists of all holders of Mindbody common stock as of the closing of the merger with affiliates of Vista on February 15, 2019 (“**Closing**”), whether beneficial or of record, including their legal representatives, heirs, successors in interest, transferees and assignees of all such foregoing holders, but excluding (i) defendants in this Action, (ii) any person who is, or was at the time of Closing, an officer, director, or partner of Mindbody, Vista, or the IVP Entities, (iii) the immediate family members, meaning the parents, spouse, siblings, or children, of any of the foregoing, (iv) any trusts, estates, entities, or accounts that held Mindbody shares for the benefit of any of the foregoing, and (v) the legal representatives, heirs, successors in interest, successors, transferees, and assigns of the foregoing.

(c) “**Class Member**” means a member of the Class.

(d) “**Co-Lead Counsel**” means the law firms Bernstein Litowitz Berger & Grossmann LLP and Friedlander & Gorris, P.A.

(e) “**Complaint**” or “**Second Amended Complaint**” means Lead Plaintiffs’ Second Amended Verified Consolidated Class Action Complaint dated July 27, 2021 (Transaction ID 66800249).

(f) “**Defendants**” means, collectively, Settling Defendants and non-Settling Defendants.

(g) “**DTCC**” means the Depository Trust & Clearing Corporation, including its subsidiary the Depository Trust Company.

(h) “**DTCC Participants**” means the DTCC participants to which DTCC distributed the Merger Consideration.

(i) “**Effective Date**” means the first date by which all of the events and conditions specified in Paragraph 29 of this Stipulation have been met and have occurred or have been waived.

(j) “**Escrow Account**” means the account maintained by Bernstein Litowitz Berger & Grossmann LLP and into which the Settlement Amount shall be deposited.

(k) “**Excluded Stockholders**” means all person and entities excluded from the definition of the Class.

(l) “**Excluded Shares**” means shares of Mindbody common stock beneficially owned by an Excluded Stockholder at the Closing and for which such Excluded Stockholder received or was entitled to receive the Merger Consideration.

(m) “**Final**,” when referring to the Judgment or any other court order, means (i) if no appeal is filed, the expiration date of the time provided for filing or noticing any motion for reconsideration, reargument, appeal, or other review of the order; or (ii) if there is an appeal from the Judgment or order, (a) the date of final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari,

reconsideration, or otherwise, or (b) if the judgment or order is finally affirmed on an appeal, the date on which the time to file a petition for a writ of certiorari, reconsideration, reargument, or other form of review expires, or (c) if a petition for a writ of certiorari, reconsideration, reargument, or other form of review is filed, then the date of the denial of a writ of certiorari, reconsideration, reargument, or other form of review; or (d) if certiorari, reconsideration, or other form of review is granted, the date of final affirmance following review pursuant to that grant; provided, however, that any disputes or appeals relating solely to (i) the amount, payment, or allocation of attorneys' fees and expenses or (ii) the plan of allocation of the Settlement proceeds (as submitted or subsequently modified), shall have no effect on finality for purposes of determining the date on which the Judgment becomes Final and shall not otherwise prevent, limit or otherwise affect the Judgment, or prevent, limit, delay or hinder entry of the Judgment.

(n) “**Judgment**” means the Order and Final Judgment, substantially in the form attached hereto as **Exhibit D**, to be entered by the Court approving the Settlement.

(o) “**Litigation Expenses**” means costs and expenses incurred in connection with the Action, for which Co-Lead Counsel intend to apply to the Court for payment from the Settlement Fund.

(p) “**Merger**” means the merger of Mindbody with affiliates of Vista on February 15, 2019.

(q) “**Merger Consideration**” means the cash consideration of \$36.50 per share of Mindbody common stock paid in connection with the Merger.

(r) “**Net Settlement Fund**” means the Settlement Fund less: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any attorneys’ fees and/or Litigation Expenses awarded by the Court from the Settlement Fund; and (iv) any other costs or fees approved by the Court.

(s) “**Notice**” means the Notice of Pendency of Stockholder Class Action and Proposed Settlement With Defendants Liaw and IVP Entities, Settlement Hearing, and Right to Appear, substantially in the form attached hereto as **Exhibit B**, which is to be mailed (or emailed) to Class Members.

(t) “**Notice and Administration Costs**” means the costs, fees, and expenses that are incurred by the Settlement Administrator and/or Plaintiffs’ Counsel in connection with: (i) providing notice to the Class; and (ii) administering the Settlement, including but not limited to the costs, fees, and expenses incurred in connection with the Escrow Account.

(u) “**Plan of Allocation**” means the proposed plan of allocation of the Net Settlement Fund set forth in the Notice.

(v) “**Plaintiffs’ Counsel**” means Co-Lead Counsel and all other legal counsel who, at the direction and under the supervision of Co-Lead Counsel, performed services on behalf of the Class in the Action.

(w) “**Released Claims**” means, collectively, the Released Plaintiffs’ Claims and the Released Settling Defendants’ Claims.

(x) “**Released Plaintiffs’ Claims**” means all claims, including known claims and Unknown Claims, that are, have been, could have been, could now be, or in the future could, can, or might be asserted in the Action or in any other court, tribunal, or proceeding by Lead Plaintiffs or any other member of the Class, individually, or as a member of the Class directly (in their capacities as former Mindbody stockholders) that *both*: (1) relate to the ownership of Mindbody common stock as of the Closing of the Merger *and* (2) arise out of or relate to the allegations, transactions, facts, matters, representations, or omissions involved, set forth, or referred to in the Second Amended Complaint, including all such allegations in the Complaint relating to the acquisition of Mindbody by Vista or any alternative transaction (including any disclosures related thereto). Released Plaintiffs’ Claims do not cover, include, or release: (i) claims against Non-Settling Defendants, their affiliates and/or agents, or their insurance carriers, including, without limitation, any dissenter rights (including appraisal under Section 262 of the DGCL) asserted in the Action; (ii) claims that are the subject of the pending settlement in the related federal

action, *In re Mindbody Inc. Securities Litigation*, 1:2019-cv-08331 (S.D.N.Y.); (iii) claims by any governmental entity that arise out of any governmental investigation of Defendants relating to the conduct alleged in the Action; (iv) claims relating to the enforcement of the Settlement; or (v) claims based on conduct after the Effective Date (“**Excluded Plaintiffs’ Claims**”).

(y) “**Released Plaintiffs’ Persons**” means Lead Plaintiffs, all other Class Members, and Plaintiffs’ Counsel, and their respective current and former parents, affiliates, subsidiaries, officers, directors, agents, successors, predecessors, assigns, assignees, partnerships, partners, trustees, trusts, employees, immediate family members, insurers, and attorneys.

(z) “**Released Persons**” means, collectively, the Released Plaintiffs’ Persons and the Released Settling Defendants’ Persons.

(aa) “**Released Settling Defendants’ Claims**” means all claims, including known claims and Unknown Claims, that arise out of or relate to the institution, prosecution, or settlement of the claims against Settling Defendants. Released Settling Defendants’ Claims do not cover, include, or release: (i) claims against Non-Settling Defendants, their affiliates and/or agents, or their insurance carriers; (ii) claims relating to the enforcement of the Settlement; or (iii) claims based on conduct after the Effective Date (“**Excluded Settling Defendants’ Claims**”).

(bb) “**Released Settling Defendants’ Persons**” means Settling Defendants and their current and former parents, affiliates, subsidiaries, officers, directors, agents, successors, predecessors, assigns, assignees, partnerships, partners, trustees, trusts, employees, immediate family members, insurers, and attorneys. Notwithstanding the foregoing, the Settling Defendants’ Released Persons do not include any of the Non-Settling Defendants.

(cc) “**Releases**” means the releases set forth in Paragraphs 3-4 of this Stipulation.

(dd) “**Scheduling Order**” means the Order, substantially in the form attached hereto as **Exhibit A**, directing notice of the Settlement and scheduling Settlement-related events.

(ee) “**Settlement**” means the resolution of Action as against Settling Defendants on the terms and conditions set forth in this Stipulation.

(ff) “**Settlement Administrator**” means the settlement administrator selected by Lead Plaintiffs to provide notice to the Class and administer the settlement.

(gg) “**Settlement Amount**” means \$27,000,000 (United States Dollars) in cash.

(hh) “**Settlement Fund**” means the Settlement Amount plus any and all interest earned thereon.

(ii) “**Settlement Hearing**” means the hearing to be set by the Court under Delaware Court of Chancery Rule 23 to consider, among other things, final approval of the Settlement.

(jj) “**Settling Defendants’ Counsel**” means the law firms Cooley LLP, Morris Nichols Arsht & Tunnell LLP, and Heyman Enerio Gattuso & Hirzel LLP.

(kk) “**Summary Notice**” means the Summary Notice of Pendency of Stockholder Class Action and Proposed Settlement With Defendants Liaw and IVP Entities, Settlement Hearing, and Right to Appear, substantially in the form attached hereto as **Exhibit C**, to be published as set forth in the Scheduling Order.

(ll) “**Taxes**” means: (i) all federal, state, and/or local taxes of any kind on any income earned by the Settlement Fund; and (ii) the reasonable expenses and costs incurred by Plaintiffs’ Counsel in connection with determining the amount of, and paying, any taxes owed by the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants).

(mm) “**Unknown Claims**” means any Released Plaintiffs’ Claims which any Lead Plaintiff or any other 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 Settling Defendants’ Claims which any Settling Defendant does not know or suspect to exist in his 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 Settling Parties stipulate and agree that, upon the Effective Date of the Settlement, Lead Plaintiffs and Settling Defendants shall expressly waive, and each of the other Class Members shall be deemed to have waived, and by operation of the Judgment 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 Plaintiffs and Settling Defendants acknowledge, and each of the other Class Members 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.

II. RELEASE OF CLAIMS

2. The obligations incurred pursuant to this Stipulation are in consideration of: (a) the full and final disposition of the Action as against Settling Defendants only; and (b) the Releases provided for herein.

3. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, Lead Plaintiffs and each of the other Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged any and all Released Plaintiffs' Claims against Settling Defendants and the other Released Settling Defendants' Persons, and shall forever be barred and enjoined from prosecuting any and all Released Plaintiffs' Claims against any of the Released Settling Defendants' Persons. This Release shall not apply to any of the Excluded Plaintiffs' Claims.

4. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, Settling Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged any and all Released Settling Defendants' Claims against Lead Plaintiffs and the other Released Plaintiffs' Persons, and shall forever be barred and enjoined from prosecuting any and all Released Settling Defendants' Claims against any of the Released Plaintiffs'

Persons. This Release shall not apply to any of the Excluded Settling Defendants' Claims.

5. Notwithstanding Paragraphs 3-4 above, nothing in the Judgment shall bar any action by any of the Settling Parties to enforce or effectuate the terms of this Stipulation or the Judgment.

III. SETTLEMENT CONSIDERATION

6. In consideration of the settlement of the Released Plaintiffs' Claims against the Released Settling Defendants' Persons, Settling Defendants shall pay and/or shall cause to be paid the full amount of the \$27,000,000 Settlement Amount into the Escrow Account as follows: (a) \$5,000,000 shall be paid into the Escrow Account no later than thirty (30) calendar days after entry of the Scheduling Order; and (b) \$22,000,000 shall be paid into the Escrow Account no later than five (5) calendar days prior to the date of the Settlement Hearing. If Settling Defendants fail to cause the full payment of the Settlement Amount in a timely manner, Lead Plaintiffs may seek an executable judgment compelling payment of the Settlement Amount or exercise their right under Paragraph 31 below to terminate the Settlement.

IV. USE OF SETTLEMENT FUND

7. The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Notice and Administration Costs; (c) any attorneys' fees and/or Litigation Expenses

awarded by the Court from the Settlement Fund; and (d) any other costs and fees approved by the Court. The balance remaining in the Settlement Fund, that is, the Net Settlement Fund, shall be distributed to Class Members pursuant to the proposed Plan of Allocation or such other plan of allocation approved by the Court.

8. Except as provided herein or pursuant to orders of the Court, the Net Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the escrow agent (“**Escrow Agent**”) shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Stipulation and/or further order of the Court. The Escrow Agent shall invest any funds in the Escrow Account exclusively in United States Treasury Bills (or a mutual fund invested solely in such instruments) and shall collect and reinvest all interest accrued thereon, except that any residual cash balances up to the amount that is insured by the FDIC may be deposited in any account that is fully insured by the FDIC. In the event that the yield on United States Treasury Bills is negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. Additionally, if short-term placement of the funds is necessary, all or any portion of the funds held by the Escrow Agent

may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States.

9. The Settling Parties agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and that Bernstein Litowitz Berger & Grossmann LLP (“**BLB&G**”), as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Settlement Fund. BLB&G shall also be responsible for causing payment to be made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund. The Released Settling Defendants’ Persons shall not have any liability or responsibility for any such Taxes. Upon written request, Settling Defendants will provide to BLB&G the statement described in Treasury Regulation § 1.468B-3(e). BLB&G, as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this Paragraph, including, as necessary, making a “relation back election,” as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date, and

shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

10. All Taxes shall be paid out of the Settlement Fund, and shall be timely paid, or caused to be paid, by BLB&G and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous Paragraph and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein.

11. The Settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, Settling Defendants, their insurance carriers, the other Released Settling Defendants' Persons, and any other person or entity who or which paid any portion of the Settlement Amount shall not have any right to the return of the Settlement Fund or any portion thereof for any reason whatsoever.

12. Notwithstanding the fact that the Effective Date of the Settlement has not yet occurred, Co-Lead Counsel may pay from the Settlement Fund, without further approval from Settling Defendants or further order of the Court, all Notice and Administration Costs actually incurred and paid or payable. Such costs and expenses shall include, without limitation, the actual costs of printing and mailing the Notice, publishing the Summary Notice, reimbursements to nominee owners for forwarding the Notice to their beneficial owners, the administrative expenses

incurred and fees charged by the Settlement Administrator in connection with providing notice and administering the Settlement, and the fees, if any, of the Escrow Agent. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all Notice and Administration Costs paid or incurred, including any related fees, shall not be returned or repaid to Settling Defendants, their insurance carriers, or any of the other Released Settling Defendants' Persons, or any other person or entity who or which paid any portion of the Settlement Amount.

V. ATTORNEYS' FEES AND LITIGATION EXPENSES

13. In connection with the Settlement, Co-Lead Counsel will apply to the Court for a collective award of attorneys' fees and payment of Litigation Expenses to Plaintiffs' Counsel (the "Fee and Expense Award") to be paid solely from (and out of) the Settlement Fund. Plaintiffs' Counsel's application for a Fee and Expense Award is not the subject of any agreement among Lead Plaintiffs and Settling Defendants other than what is set forth in this Stipulation.

14. The Fee and Expense Award shall be paid to Co-Lead Counsel from the Settlement Fund immediately upon award, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Plaintiffs' Counsel's obligation to make appropriate refunds or repayments to the Settlement Fund, plus accrued interest at the same net rate as is earned by the Settlement Fund, if the Settlement is

terminated pursuant to the terms of this Stipulation or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the Fee and Expense Award is reduced or reversed and such order reducing or reversing the award has become Final. Plaintiffs' Counsel shall make the appropriate refund or repayment in full no later than thirty (30) calendar days after: (a) receiving from Settling Defendants' Counsel notice of the termination of the Settlement; or (b) any order disapproving, reducing, reversing, or otherwise modifying the Fee and Expense Award has become Final. Any Fee and Expense Award is not a necessary term of this Stipulation and is not a condition of the Settlement embodied herein. Neither Lead Plaintiffs nor Plaintiffs' Counsel may cancel or terminate the Settlement based on this Court's or any appellate court's ruling with respect to any Fee and Expense Award.

15. Co-Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution and settlement of the Action. The Released Settling Defendants' Persons shall have no responsibility for or liability whatsoever with respect to the allocation or award of any Fee and Expense Award to Plaintiffs' Counsel. The Fee and Expense Award shall be payable solely from the Settlement Fund.

VI. SUBMISSION OF THE SETTLEMENT TO THE COURT FOR APPROVAL

16. As soon as practicable after execution of this Stipulation, Lead Plaintiffs shall apply to the Court for entry of the Scheduling Order, substantially in the form attached hereto as **Exhibit A**, providing for, among other things: (a) the dissemination by mail (or email) of the Notice; (b) the publication of the Summary Notice; and (c) the scheduling of the Settlement Hearing to consider: (1) final approval of the proposed Settlement, (2) the request that the Judgment, substantially in the form attached hereto as **Exhibit D**, be entered by the Court, (3) Co-Lead Counsel's application for an award of attorneys' fees and Litigation Expenses and approval of the proposed Plan of Allocation, and (4) any objections to any of the foregoing. The Settling Parties shall take all reasonable and appropriate steps to seek and obtain entry of the Scheduling Order.

17. The Settling Parties shall request at the Settlement Hearing that the Court approve the Settlement and enter the Judgment, substantially in the form attached hereto as **Exhibit D**. The Settling Parties shall take all reasonable and appropriate steps to obtain entry of the Judgment.

18. The Judgment shall contain a bar order ("Bar Order") that will, upon the Effective Date of the Settlement, bar any claims for contribution under 10 *Del. C. § 6304(b)* based upon or arising out of the Released Plaintiffs' Claims against the

Settling Defendants. The Bar Order will also provide that, pursuant to 10 *Del. C.* § 6304(b), any joint damages recoverable against all other alleged tortfeasors, including Non-Settling Defendants, will be reduced by the greater of (a) the Settlement Amount, and (b) the pro rata share of the responsibility for such damages, if any, of Settling Defendants, should it be determined that any of the Settling Defendants are joint tortfeasors. This language is intended to comply with 10 *Del. C.* § 6304(b) so as to preclude any liability of Settling Defendants to any joint tortfeasors arising out of or relating to the claims asserted in the Action.

VII. SETTLEMENT ADMINISTRATION

19. Lead Plaintiffs shall retain a Settlement Administrator to provide notice of the Settlement and for the disbursement of the Net Settlement Fund to eligible Class Members. Settling Defendants and the other Released Settling Defendants' Persons shall not have any involvement in or any responsibility, authority, or liability whatsoever for the selection of the Settlement Administrator.

20. Settling Defendants shall cooperate with Lead Plaintiffs in providing notice of the Settlement and administering the Settlement, which cooperation shall include, but not be limited to, (i) assisting Lead Plaintiffs in obtaining the Record Holder List in accordance with Paragraph 21 below and the Merger Records in accordance with Paragraph 22 below, and (ii) providing the information regarding Excluded Stockholders in accordance with Paragraph 23 below.

21. For purposes of providing notice of the Settlement to potential Class Members, Co-Lead Counsel will make reasonable efforts to obtain from Mindbody, in an electronically-searchable form, such as Excel, the stockholder register from Mindbody's transfer agent containing the names, mailing addresses, and, if available, email addresses for all registered holders of Mindbody common stock as of the closing of the Merger on February 15, 2019 ("**Record Holder List**").

22. For purposes of distributing the Net Settlement Fund to eligible Class Members, Co-Lead Counsel will use reasonable best efforts to obtain from Mindbody, in an electronically-searchable form, such as Excel, the following information (the "**Merger Records**"):

(a) the names, mailing addresses and, if available, email addresses of all registered owners of Mindbody common stock who held shares of Mindbody common stock at the Closing and therefore received or were entitled to receive the Merger Consideration, other than the Excluded Stockholders (defined below) ("**Merger Record Holders**"), and the number of shares of Mindbody common stock held by the Merger Record Holders at the Closing and for which the Merger Record Holders received or were entitled to receive the Merger Consideration; and

(b) The allocation or "chill" report generated by the Depository Trust & Clearing Corporation, including its subsidiary the Depository Trust Company ("**DTCC**"), in anticipation of the Merger to facilitate the allocation of the

Merger Consideration to Mindbody stockholders (the “**DTCC Allocation Report**”), which shall include, for each DTTC participant to which DTTC distributed the Merger Consideration (a “**DTTC Participant**”), the DTTC Participant’s “DTCC Number” and the number of shares of Mindbody common stock reflected on the DTTC Allocation Report used by DTTC to distribute the Merger Consideration.

23. Within five (5) business days after the Court’s entry the Judgment, the Settling Defendants, at no cost to the Settlement Fund, Plaintiffs’ Counsel, or the Settlement Administrator, shall provide a list, in an electronically-searchable form, such as Excel, of the names and addresses of all Excluded Stockholders related to the Settling Defendants (“**Settling Defendants’ Excluded Stockholders**”), which list shall include the number of Excluded Shares held by each Settling Defendants’ Excluded Stockholder and each Settling Defendants’ Excluded Stockholder’s account information, including the identity of his, her, or its financial institution (including the financial institution’s DTCC number) and account number(s) where his, her, or its Excluded Shares were held. With respect to all Excluded Stockholders related to the Non-Settling Defendants (“**Non-Settling Defendants’ Excluded Stockholders**”), Co-Lead Counsel will use reasonable efforts to obtain from Mindbody and/or the other Non-Settling Defendants the identity of all such Non-Settling Defendants’ Excluded Stockholders, as well as the number of Excluded Shares held by each Non-Settling Defendants’ Excluded Stockholder and each Non-

Settling Defendants' Excluded Stockholder's account information, including the identity of his, her, or its financial institution (including the financial institution's DTCC number) and account number(s) where his, her, or its Excluded Shares were held. To facilitate the distribution of the Net Settlement Fund to eligible Class Members, the information to be provided to DTCC may include, without limitation, "suppression letters" from DTCC Participants concerning the Excluded Shares, instructing DTCC to withhold payment on those Excluded Shares and containing other terms as DTCC may reasonably require.

24. Defendants and other Excluded Stockholders shall not have any right to receive any part of the Settlement Fund for his, her, or its own account(s) (i.e., accounts in which he, she, or it holds a proprietary interest, but not including accounts managed on behalf of others), or any additional amount based on any claim relating to the fact that Settlement proceeds are being received by any other stockholder, in each case under any theory, including but not limited to contract, application of statutory or judicial law, or equity.

25. The Net Settlement Fund shall be distributed to eligible Class Members in accordance with the proposed Plan of Allocation set forth in the Notice or such other plan of allocation as may be approved by the Court. The Plan of Allocation proposed in the Notice is not a necessary term of the Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation that any particular

plan of allocation be approved by the Court. Lead Plaintiffs and Co-Lead Counsel may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation in this Action. Settling Defendants and the other Released Settling Defendants' Persons shall not object in any way to the Plan of Allocation or any other plan of allocation in this Action and shall not have any involvement with the application of the Court-approved plan of allocation.

26. The Net Settlement Fund shall be distributed to eligible Class Members only after the Effective Date of the Settlement and after: (a) all Notice and Administration Costs, all Taxes, and any Fee and Expense Award have been paid from the Settlement Fund or reserved; and (b) the Court has entered an order authorizing the specific distribution of the Net Settlement Fund (the "**Class Distribution Order**"). At such time that Co-Lead Counsel, in their sole discretion, deems it appropriate to move forward with the distribution of the Net Settlement Fund to the Class, Co-Lead Counsel will apply to the Court, on notice to Settling Defendants' Counsel, for the Class Distribution Order.

27. Payment pursuant to the Class Distribution Order shall be final and conclusive against all Class Members. Lead Plaintiffs, Settling Defendants, and the other Released Settling Defendants' Persons and their respective counsel, shall have no liability whatsoever for the investment or distribution of the Settlement Fund or

the Net Settlement Fund, the determination, administration, or calculation of any payment from the Net Settlement Fund, the nonperformance of the Settlement Administrator or a nominee holding shares on behalf of a Class Member, the payment or withholding of Taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

28. All proceedings with respect to the administration of the Settlement and distribution pursuant to the Class Distribution Order shall be subject to the exclusive jurisdiction of the Court.

VIII. CONDITIONS OF SETTLEMENT

29. The Effective Date of the Settlement shall be deemed to occur on the occurrence or waiver of all of the following events, which the Settling Parties shall use their best efforts to achieve:

(a) the full amount of the \$27,000,000 Settlement Amount has been paid into the Escrow Account in accordance with Paragraph 6 above;

(b) the Court has entered the Scheduling Order, substantially in the form attached hereto as **Exhibit A**;

(c) the Court has entered the Judgment, substantially in the form attached hereto as **Exhibit D**; and

(d) the Judgment has become Final.

30. Upon the occurrence of the Effective Date, any and all remaining interest or right of Settling Defendants or their insurance carriers in or to the Settlement Fund, if any, shall be absolutely and forever extinguished and the Releases herein shall be effective.

IX. TERMINATION OF SETTLEMENT; EFFECT OF TERMINATION

31. Lead Plaintiffs and Settling Defendants (provided Settling Defendants unanimously agree amongst themselves) shall each have the right to terminate the Settlement and this Stipulation, by providing written notice of their election to do so (“Termination Notice”) to the other Settling Parties within thirty (30) calendar days of: (a) the Court’s final refusal to enter the Scheduling Order in any material respect; (b) the Court’s final refusal to approve the Settlement or any material part thereof; (c) the Court’s final refusal to enter the Judgment in any material respect as to the Settlement; or (d) the date upon which an order vacating, modifying, revising, or reversing the Judgment in any material respect becomes Final. In addition to the foregoing, Lead Plaintiffs shall have the unilateral right to terminate the Settlement and this Stipulation, by providing written notice of their election to do so to Settling Defendants within thirty (30) calendar days of any failure of Settling Defendants to cause the full payment of the Settlement Amount into the Escrow Account in a timely manner in accordance with Paragraph 6 above. However, any decision or proceeding, whether in this Court or any appellate court, with respect to an

application by Co-Lead Counsel for attorneys' fees and Litigation Expenses, or with respect to any plan of allocation, shall not be considered material to the Settlement, shall not affect the finality of the Judgment, and shall not be grounds for termination of the Settlement.

32. If (i) Lead Plaintiffs exercise their right to terminate the Settlement as provided in this Stipulation; or (ii) Settling Defendants exercise their right to terminate the Settlement as provided in this Stipulation, then:

(a) The Settlement and the relevant portions of this Stipulation shall be canceled and terminated;

(b) Lead Plaintiffs and Settling Defendants shall revert to their respective positions in the Action as of immediately prior to the execution of the Term Sheet on January 18, 2022;

(c) The terms and provisions of this Stipulation, with the exception of this Paragraph 32 and Paragraphs 12, 14, 33, and 58 of this Stipulation, shall have no further force and effect with respect to the Settling Parties and shall not be used in the Action or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*; and

(d) Within thirty (30) calendar days after joint written notification of termination is sent by Settling Defendants' Counsel and Plaintiffs' Counsel to the

Escrow Agent, the Settlement Fund (including accrued interest thereon, and change in value as a result of the investment of the Settlement Fund, and any funds received by Plaintiffs' Counsel consistent with Paragraph 14 above), less any Notice and Administration Costs actually incurred, paid, or payable and less any Taxes paid, due, or owing shall be refunded by the Escrow Agent to Settling Defendants and/or Settling Defendants' insurers (or such other persons or entities as Settling Defendants may direct and in such manner as Settling Defendants may direct). In the event that the funds received by Plaintiffs' Counsel consistent with Paragraph 14 above have not been refunded to the Settlement Fund within the thirty (30) calendar days specified in this Paragraph, those funds shall be refunded by the Escrow Agent to Settling Defendants and/or Settling Defendants' insurers (or such other persons or entities as Settling Defendants may direct and in such manner as Settling Defendants may direct) immediately upon their deposit into the Escrow Account consistent with Paragraph 14 above. In the event that the funds received by Plaintiffs' Counsel consistent with Paragraph 14 above have not been refunded to Settling Defendants and/or Settling Defendants' insurers (or such other persons or entities as Settling Defendants may direct and in such manner as Settling Defendants may direct) within forty-five (45) calendar days after joint written notification of termination is sent by Settling Defendants' Counsel and Plaintiffs' Counsel to the

Escrow Agent, Settling Defendants and/or Settling Defendants' insurers can pursue litigation or other legal means to secure the return of the funds.

X. NO ADMISSION OF WRONGDOING

33. Neither the Term Sheet, this Stipulation (whether or not consummated), including the Exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Term Sheet and this Stipulation, nor any proceedings taken pursuant to or in connection with the Term Sheet, this Stipulation, and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Released Settling Defendants' Persons as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Released Defendants' Persons with respect to the truth of any fact alleged by Lead Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Released Settling Defendants' Persons or in any way referred to for any other reason as against any of the Released Settling Defendants' Persons, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(b) shall be offered against any of the Released Plaintiffs' Persons, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Released Plaintiffs' Persons that any of their claims are without merit, that any of the Released Settling Defendants' Persons had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault, or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Released Plaintiffs' Persons, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; or

(c) shall be construed against any of the Released Persons as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; *provided, however,* that if this Stipulation is approved by the Court, the Settling Parties and the Released Persons and their respective counsel may refer to it to effectuate the protections from liability granted under this Stipulation or otherwise to enforce the terms of the Settlement.

XI. MISCELLANEOUS PROVISIONS

34. All of the Exhibits attached hereto are incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, if there exists a conflict

or inconsistency between the terms of this Stipulation and the terms of any Exhibit attached hereto, the terms of the Stipulation shall prevail.

35. Each of the Settling Defendants warrants that, as to the payments made or to be made on behalf of him or it, at the time of entering into this Stipulation and at the time of such payment he or it, or to the best of his or its knowledge any persons or entities contributing to the payment of the Settlement Amount, were not insolvent, nor will the payment required to be made by or on behalf of them render them insolvent, within the meaning of and/or for the purposes of the United States Bankruptcy Code, including §§ 101 and 547 thereof. This representation is made by each of the Settling Defendants and not by their counsel.

36. In the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of Settling Defendants to be a preference, voidable transfer, fraudulent transfer, or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited into the Settlement Fund by others, then, at the election of Lead Plaintiffs, Lead Plaintiffs and Settling Defendants shall jointly move the Court to vacate and set aside the Releases given and the Judgment entered in favor of Settling Defendants and the other Released Persons pursuant to this Stipulation, in which event the Releases and Judgment shall be null and void, and Lead Plaintiffs and Settling Defendants shall be restored to

their respective positions in the litigation as provided in Paragraph 32 above and any cash amounts in the Settlement Fund (less any Taxes paid, due, or owing with respect to the Settlement Fund and less any Notice and Administration Costs actually incurred, paid, or payable) shall be returned as provided in Paragraph 32 above.

37. Nothing in this Stipulation affects Settling Defendants' rights with respect to indemnification, contribution, and/or subrogation or any potential disputes with the Non-Settling Defendants regarding allocation of the Settlement Amount; *provided, however*, that any such potential disputes with the Non-Settling Defendants will in no way impact this Settlement, including the Settling Defendants' obligation to fund the Settlement Amount.

38. Lead Plaintiffs agree not to call Mr. Liaw or any representative of the IVP Entities as a live witness at trial in this Action.

39. The Settling Parties intend this Stipulation and the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Lead Plaintiffs and any other Class Members against Settling Defendants with respect to the Released Plaintiffs' Claims. Accordingly, Lead Plaintiffs and their counsel and Settling Defendants and their counsel agree not to assert in any forum that this Action was brought by Lead Plaintiffs or defended by Settling Defendants in bad faith or without a reasonable basis. The Settling Parties agree that the amounts paid and the other terms of the Settlement were negotiated at arm's length and in

good faith by the Settling Parties and reflect the Settlement that was reached voluntarily after extensive negotiations and consultation with experienced legal counsel, who were fully competent to assess the strengths and weaknesses of their respective clients' claims or defenses.

40. While retaining their right to deny that the claims asserted in the Action were meritorious, Settling Defendants and their counsel, in any statement made to any media representative (whether or not for attribution) will not assert that the Action was commenced or prosecuted in bad faith, nor will they deny that the Action was commenced and prosecuted in good faith and is being settled voluntarily after consultation with competent legal counsel. In all events, Lead Plaintiffs and their counsel and Settling Defendants and their counsel shall not make any accusations of wrongful or actionable conduct by any Settling Party concerning the prosecution, defense, and resolution of the Action, and shall not otherwise suggest that the Settlement constitutes an admission regarding any claim or defense alleged. Furthermore, no Settling Party shall be permitted to, directly or indirectly, make, publish, or issue any statement, written or otherwise, whether on or off the record, including orally, in print, or on television, radio, or the Internet, that does or could be deemed to criticize, denigrate, disparage, damage, or injure in any way the name, reputation, goodwill, practices or business of any other Settling Party, or encourage any other person to do any of the foregoing. Nothing in this section shall be

interpreted to limit Co-Lead Counsel's ability to make a complete and candid presentation to the Court in their papers and arguments in support of the Settlement.

41. Neither the Settling Parties nor their counsel, nor any person acting at their direction or on their behalf, shall issue any press release pertaining to the Action or the Settlement until agreed to by all Settling Parties. Lead Plaintiffs and Co-Lead Counsel further agree not to issue any press release, distribute any marketing material, distribute any investor communications, write or contribute to any articles or blog posts, provide any comment to any members of the press (whether on the record, off the record, or on background, or with or without attribution), or make public any other material or information that references Mr. Liaw, the IVP Entities, or this Settlement except as described in the next sentence. Co-Lead Counsel may list this Action on their respective firms' websites as a representative matter and may not provide any detail about this Settlement except as follows: "\$27 million partial settlement of fiduciary duty claims against Board member and fund." Notwithstanding the foregoing, nothing in this paragraph shall prevent Co-Lead Counsel from writing or speaking about any aspect of the case for academic or legal education purposes, provided that Co-Lead Counsel does not make specific reference to IVP or Mr. Liaw by name.

42. The terms of the Settlement, as reflected in this Stipulation, may not be modified or amended, nor may any of its provisions be waived except by a writing signed on behalf of each of the Settling Parties (or their successors-in-interest).

43. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

44. If any deadline set forth in this Stipulation or the Exhibits thereto falls on a Saturday, Sunday, or legal holiday, that deadline will be continued to the next business day.

45. Without further Order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation.

46. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel, and enforcing the terms of this Stipulation, including the Plan of Allocation (or such other plan of allocation as may be approved by the Court) and the distribution of the Net Settlement Fund to eligible Class Members.

47. The waiver by one Settling Party of any breach of this Stipulation by any other Settling Party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

48. This Stipulation and its Exhibits constitute the entire agreement among the Settling Parties concerning the Settlement. Each Settling Party acknowledges that no other agreements, representations, warranties, or inducements have been made by any Settling Party concerning this Stipulation or its Exhibits other than those contained and memorialized in such documents.

49. This Stipulation may be executed in one or more counterparts, including by signature transmitted via facsimile, or by a .pdf/.tif image of the signature transmitted via email. All executed counterparts and each of them shall be deemed to be one and the same instrument.

50. This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the Settling Parties, and the Released Persons, and any corporation, partnership, or other entity into or with which any Settling Party may merge, consolidate, or reorganize. The Settling Parties acknowledge and agree, for the avoidance of doubt, that the Released Settling Defendants' Persons and the Released Plaintiffs' Persons are intended beneficiaries of this Stipulation and are entitled to enforce the releases contemplated by the Settlement.

51. The Stipulation, the Settlement, and any and all disputes arising out of or relating in any way to any of them, whether in contract, tort or otherwise, shall be

governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws principles.

52. Any action arising under or to enforce this Stipulation or any portion thereof shall be commenced and maintained only in the Court.

53. This Stipulation shall not be construed more strictly against one Settling Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties and that all Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

54. All counsel and all other persons executing this Stipulation and any of the Exhibits hereto, or any related Settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

55. Co-Lead Counsel and Defendants' Counsel agree to cooperate fully with one another to obtain (and, if necessary, defend on appeal) all necessary approvals of the Court required of this Stipulation (including, but not limited to, using their best efforts to resolve any objections raised to the Settlement), and to use

best efforts to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

56. If any Settling Party is required to give notice to another Settling Party under this Stipulation, such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery or email transmission, with confirmation of receipt. Notice shall be provided as follows:

If to Lead Plaintiffs or Co-
Lead Counsel: Bernstein Litowitz Berger & Grossmann LLP
Attn: Christopher J. Orrico, Esq.
1251 Avenue of the Americas
New York, NY 10020
(212) 554-1400
Christopher.Orrico@blbglaw.com

Friedlander & Gorris, P.A.
Attn: Christopher M. Foulds, Esq.
1201 N. Market St., Suite 2200
Wilmington, DE 19801
(302) 573-3509
cfoulds@friedlandergorris.com

If to Settling Defendants: Cooley LLP
Attn: Sarah Lightdale, Esq.
55 Hudson Yards
New York, NY 10001-2157
(212) 479-6374
slightdale@cooley.com

57. Except as otherwise provided herein, each Settling Party shall bear its own costs.

58. Whether or not the Stipulation is approved by the Court and whether or not the Stipulation is consummated, or the Effective Date occurs, the Settling Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents signed, and proceedings in connection with the Stipulation confidential.

59. All agreements made and orders entered during the course of this Action relating to the confidentiality of information shall survive this Settlement as set forth in those agreements and orders.

60. No opinion or advice concerning the tax consequences of the proposed Settlement to individual Class Members is being given or will be given by the Settling Parties or their counsel; nor is any representation or warranty in this regard made by virtue of this Stipulation. Each Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Class Member, and it is

understood that the tax consequences may vary depending on the particular circumstances of each individual Class Member.

IN WITNESS WHEREOF, the Settling Parties have caused this Stipulation to be executed, by their duly authorized attorneys, as of February 26, 2022.

[Signatures on Next Page]

OF COUNSEL:

Mark Lebovitch
Jeroen van Kwawegen
Christopher J. Orrico
**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**
1251 Avenue of the Americas
44th Floor
New York, NY 10020
(212) 554-1400

*Co-Lead Counsel for Plaintiffs and
the Class*

FRIEDLANDER & GORRIS, P.A.

/s/ Christopher M. Foulds
Joel Friedlander (Bar No. 3163)
Jeffrey M. Gorris (Bar No. 5012)
Christopher M. Foulds (Bar No. 5169)
1201 N. Market Street, Suite 220
Wilmington, DE 19801
(302) 573-3500

*Co-Lead Counsel for Plaintiffs and the
Class*

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

/s/ Andrew E. Blumberg
Greg Varallo (Bar No. 2242)
Andrew E. Blumberg (Bar No. 6744)
500 Delaware Avenue, Suite 901
Wilmington, DE 19801
(302) 364-3600

*Co-Lead Counsel for Plaintiffs and the
Class*

OF COUNSEL:

Sarah Lightdale
COOLEY LLP
55 Hudson Yards
New York, NY 10001-2157
(212) 479-6374

Patrick Gibbs
COOLEY LLP
3175 Hanover Street
Palo Alto, CA 94304
(650) 843-5535

**MORRIS, NICHOLS, ARSHT &
TUNNELL LLP**

/s/ Ryan D. Stottmann
Ryan D. Stottmann (#5237)
Alexandra Cumings (#6146)
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200

**HEYMAN ENERIO GATTUSO &
HIRZEL, LLP**

/s/ Samuel T. Hirzel
Samuel T. Hirzel
300 Delaware Avenue
Suite 200
Wilmington, DE 19801
(302) 472-7300

*Counsel for Eric Liaw, Institutional
Venture Partners XIII, L.P., and
Institutional Venture Management XIII
LLC*