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Class*

[Additional Counsel Appear on Signature Page]

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

IN RE SPLUNK INC. SECURITIES
LITIGATION

Case No. 4:20-cv-08600-JST

**STIPULATION AND AGREEMENT
OF SETTLEMENT**

Judge: Hon. Jon S. Tigar

Courtroom: 6

1 This Stipulation and Agreement of Settlement, dated as of January 30, 2023 (the
 2 “Stipulation”), is entered into between (a) Lead Plaintiff Louisiana Sheriffs’ Pension & Relief
 3 Fund (“Lead Plaintiff” or the “Fund”), on behalf of itself and the Settlement Class (defined in
 4 ¶ 1(pp) below); and (b) defendant Splunk Inc. (“Splunk”) and defendants Douglas Merritt and
 5 Jason Child (collectively, the “Individual Defendants” and, with Splunk, “Defendants”), and
 6 embodies the terms and conditions of the settlement of the Action.¹ Subject to the approval of the
 7 Court and the terms and conditions expressly provided herein, this Stipulation is intended to fully,
 8 finally and forever settle, resolve, and dismiss with prejudice the Action and settle and release all
 9 Released Claims (defined below).

10 WHEREAS:

11 A. In December 2020 and January 2021, certain related class actions (*Pavlova-*
 12 *Coleman v. Splunk Inc.*, Case No. 20-cv-08600-JST and *Guirguis v. Splunk Inc.*, Case No. 4:21-
 13 cv-00164-JST) were filed in the United States District Court for the Northern District of California
 14 (the “Court”), alleging violations of the federal securities laws.

15 B. On February 2, 2021, the Fund moved for appointment as Lead Plaintiff, approval
 16 of its selection of counsel, and consolidation of actions. ECF No. 28. On February 19, 2021, the
 17 plaintiff in the related action captioned *Guirguis v. Splunk Inc.*, Case No. 4:21-cv-00164-JST,
 18 entered a notice of voluntary dismissal, thereby rendering moot the Fund’s motion to consolidate
 19 cases. On March 16, 2021, the Honorable Jon S. Tigar appointed the Fund as Lead Plaintiff,
 20 approved Bernstein Litowitz Berger & Grossmann LLP as Lead Counsel, and ordered that all
 21 future filings in the action be made in Case No. 4:20-cv-08600-JST, under the caption *In re Splunk*
 22 *Inc. Securities Litigation*. ECF No. 59.

23 C. On June 7, 2021, Lead Plaintiff filed and served its Consolidated Class Action
 24 Complaint for Violations of Federal Securities Laws (the “Complaint”) asserting claims against
 25 defendants Splunk, Merritt, and Child under Section 10(b) of the Securities Exchange Act of 1934
 26

27 _____
 28 ¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed
 to them in ¶ 1 herein.

1 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder, and against defendants Merritt and
2 Child under Section 20(a) of the Exchange Act. ECF No. 65.

3 D. On July 27, 2021, Defendants filed a motion to dismiss the Complaint. ECF No. 67.
4 On September 15, 2021, Lead Plaintiff filed its opposition to Defendants’ motion to dismiss (ECF
5 No. 70), and on October 20, 2021, Defendants filed their reply (ECF No. 74).

6 E. On March 21, 2022, the Court entered its Order denying, in part, and granting, in
7 part, Defendants’ motion to dismiss the Complaint. ECF No. 77.

8 F. On May 13, 2022, Defendants Splunk, Merritt, and Child filed their answer to the
9 Complaint. ECF No. 86. Among other things, Defendants’ answer denied Lead Plaintiff’s
10 allegations of wrongdoing and asserted various defenses to the claims pled against Defendants.

11 G. Discovery in the Action commenced in April 2022. In the course of discovery,
12 Defendants produced more than 39,000 pages of documents to Lead Plaintiff and substantially
13 completed their production of the documents from the files of the Individual Defendants, including
14 over 4,000 documents from Defendant Child’s files, and nearly 2,000 documents from Defendant
15 Merritt’s files. The Parties met and conferred and exchanged numerous letters concerning disputed
16 discovery issues over several months.

17 H. On July 22, 2022, Lead Plaintiff filed its motion for class certification and
18 appointment of class representative and class counsel, which was accompanied by a report from
19 Lead Plaintiff’s expert, Dr. Steven Feinstein, on market efficiency and common damages
20 methodologies. ECF Nos. 97, 98-2.

21 I. The Parties began exploring the possibility of a settlement in the fall of 2022. The
22 Parties agreed to engage in private mediation and retained Jed D. Melnick, Esq., of JAMS to act
23 as mediator in the Action (the “Mediator”). On December 15, 2022, counsel for the Parties
24 participated in a full-day mediation session before the Mediator. In advance of that session, the
25 Parties exchanged and submitted detailed mediation statements and supporting exhibits to the
26 Mediator.

27 J. After a full day of intense negotiations, the Mediator proposed a recommendation
28 that the Parties settle the Action for \$30 million, which both sides accepted on a double-blind basis.

1 K. This Stipulation (together with the exhibits hereto) reflects the final and binding
2 agreement between the Parties.

3 L. Based upon their investigation, prosecution, and mediation of the case, Lead
4 Plaintiff and Lead Counsel have concluded that the terms and conditions of this Stipulation are
5 fair, reasonable, and adequate to Lead Plaintiff and the other Settlement Class Members, and in
6 their best interests. Based on Lead Plaintiff's direct oversight of the prosecution of this matter and
7 with the advice of its counsel, Lead Plaintiff has agreed to settle and release the Released Plaintiff's
8 Claims pursuant to the terms and provisions of this Stipulation, after considering, among other
9 things: (a) the substantial financial benefit that Lead Plaintiff and the other Settlement Class
10 Members will receive under the proposed Settlement; and (b) the significant risks and costs of
11 continued litigation and trial.

12 M. This Stipulation constitutes a compromise of all matters that are in dispute between
13 the Parties. Defendants are entering into this Stipulation solely to eliminate the uncertainty,
14 burden, and expense of further protracted litigation. Each of the Defendants denies any
15 wrongdoing, and this Stipulation shall in no event be construed or deemed to be evidence of, or an
16 admission or concession on the part of Defendants with respect to any claim or allegation of, any
17 fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that
18 Defendants have, or could have, asserted. Defendants expressly deny that Lead Plaintiff has
19 asserted any valid claims as to any of them, and expressly deny any and all allegations of fault,
20 liability, wrongdoing, or damages whatsoever. Defendants deny each and all of the claims,
21 contentions, and allegations made by Lead Plaintiff in the Action. Defendants expressly deny that
22 they have violated the federal securities laws or any other laws, or have otherwise misled investors.
23 In addition, Defendants maintain that they have meritorious defenses to the claims alleged in the
24 Action. Similarly, this Stipulation shall in no event be construed or deemed to be evidence of or
25 an admission or concession on the part of Lead Plaintiff of any infirmity in any of the claims
26 asserted in the Action, or an admission or concession that any of the Defendants' defenses to
27 liability had any merit.
28

1 NOW THEREFORE, it is hereby STIPULATED AND AGREED, by and among Lead
2 Plaintiff (individually and on behalf of all other Settlement Class Members) and Defendants, by
3 and through their respective undersigned attorneys and subject to the approval of the Court
4 pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, that, in consideration of the benefits
5 flowing to the Parties from the Settlement, all Released Plaintiff's Claims as against the
6 Defendants' Releasees and all Released Defendants' Claims as against the Plaintiff's Releasees
7 shall be settled and released, upon and subject to the terms and conditions set forth below.

8 **DEFINITIONS**

9 1. As used in this Stipulation and any exhibits attached hereto and made a part hereof,
10 the following capitalized terms shall have the following meanings:

11 (a) "Action" means the securities class action in the matter styled *In re Splunk*
12 *Inc. Securities Litigation*, No. 4:20-cv-08600-JST, and includes all actions consolidated therein.

13 (b) "Authorized Claimant" means a Settlement Class Member who submits a
14 Claim to the court-approved Claims Administrator and who is approved for payment from the Net
15 Settlement Fund.

16 (c) "Claim" means a paper claim submitted on a Claim Form or an electronic
17 claim that is submitted to the Claims Administrator.

18 (d) "Claim Form" or "Proof of Claim Form" means the form, substantially in
19 the form attached hereto as Exhibit 2 to Exhibit A, that a Claimant must complete and submit
20 should that Claimant seek to share in a distribution of the Net Settlement Fund.

21 (e) "Claimant" means a person or entity who or which submits a Claim to the
22 Claims Administrator seeking to be eligible to share in the proceeds of the Net Settlement Fund.

23 (f) "Claims Administrator" means the firm retained by Lead Counsel, subject
24 to approval of the Court, to provide all notices approved by the Court to potential Settlement Class
25 Members and to administer the Settlement.

26 (g) "Class Distribution Order" means an order entered by the Court authorizing
27 and directing that the Net Settlement Fund be distributed, in whole or in part, to Authorized
28 Claimants.

1 (h) “Class Period” means the period from May 21, 2020 to December 2, 2020,
2 inclusive.

3 (i) “Complaint” means the Consolidated Complaint for Violations of Federal
4 Securities Laws filed by Lead Plaintiff in the Action on June 7, 2021.

5 (j) “Court” means the United States District Court for the Northern District of
6 California.

7 (k) “Defendants” means Splunk and the Individual Defendants.

8 (l) “Defendants’ Counsel” means Sidley Austin LLP.

9 (m) “Defendants’ Releasees” means Defendants and their current and former
10 parents, affiliates, subsidiaries, officers, directors, employees, agents, representatives, advisors,
11 successors, predecessors, assigns, assignees, partnerships, partners, trustees, trusts, heirs,
12 executors, administrators, Immediate Family Members, insurers, reinsurers, attorneys, any trust of
13 which any Defendant is the settlor or which is for the benefit of any Defendant, and any entity in
14 which any Defendant has a controlling interest.

15 (n) “Effective Date” with respect to the Settlement means the first date by
16 which all of the events and conditions specified in ¶ 34 of this Stipulation have been met and have
17 occurred or have been waived.

18 (o) “Escrow Account” means an account maintained at Huntington National
19 Bank wherein the Settlement Amount shall be deposited and held in escrow.

20 (p) “Escrow Agent” means Huntington National Bank.

21 (q) “Escrow Agreement” means the agreement between Lead Counsel and the
22 Escrow Agent setting forth the terms under which the Escrow Agent shall maintain the Escrow
23 Account.

24 (r) “Final,” with respect to the Judgment or any other court order, means: (i) if
25 no appeal is filed, the expiration date of the time provided for filing or noticing any appeal under
26 the Federal Rules of Appellate Procedure, i.e., thirty (30) days after entry of the judgment or order;
27 or (ii) if there is an appeal from the judgment or order, (a) the date of final dismissal of all such
28 appeals, or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the

1 judgment or order is finally affirmed on an appeal, the expiration of the time to file a petition for
2 a writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of
3 review, and, if certiorari or other form of review is granted, the date of final affirmance following
4 review pursuant to that grant. However, any appeal or proceeding seeking subsequent judicial
5 review pertaining solely to an order issued with respect to (i) attorneys' fees, costs, or expenses,
6 or (ii) the plan of allocation of Settlement proceeds (as submitted or subsequently modified), shall
7 not in any way delay or preclude a judgment from becoming Final.

8 (s) "Immediate Family Members" means children, stepchildren, parents,
9 stepparents, spouses, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law,
10 brothers-in-law, and sisters-in-law. As used in this paragraph, "spouse" shall mean a husband, a
11 wife, or a partner in a state-recognized domestic relationship or civil union.

12 (t) "Individual Defendants" means Douglas Merritt and Jason Child.

13 (u) "Judgment" means the final judgment, substantially in the form attached
14 hereto as Exhibit B, to be entered by the Court approving the Settlement.

15 (v) "Lead Counsel" means the law firm of Bernstein Litowitz Berger &
16 Grossmann LLP.

17 (w) "Lead Plaintiff" means Louisiana Sheriffs' Pension & Relief Fund.

18 (x) "Litigation Expenses" means costs and expenses incurred in connection
19 with commencing, prosecuting, and settling the Action, for which Lead Counsel intends to apply
20 to the Court for payment from the Settlement Fund.

21 (y) "Net Settlement Fund" means the Settlement Fund less: (i) any Taxes;
22 (ii) any Notice and Administration Costs; (iii) any Litigation Expenses awarded by the Court;
23 (iv) any attorneys' fees awarded by the Court; and (v) any other costs or fees approved by the
24 Court.

25 (z) "Notice" means the Notice of (I) Pendency of Class Action and Proposed
26 Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses,
27 substantially in the form attached hereto as Exhibit 1 to Exhibit A, which is to be mailed or emailed
28 to Settlement Class Members.

1 (aa) “Notice and Administration Costs” means the costs, fees, and expenses that
2 are incurred by the Claims Administrator and/or Lead Counsel in connection with: (i) providing
3 notices to the Settlement Class; and (ii) administering the Settlement, including but not limited to
4 the Claims process, as well as the costs, fees, and expenses incurred in connection with the Escrow
5 Account.

6 (bb) “Officer” means any officer as that term is defined in Securities and
7 Exchange Act Rule 16a-1(f).

8 (cc) “Parties” means Defendants and Lead Plaintiff, on behalf of itself and the
9 Settlement Class.

10 (dd) “Plaintiff’s Counsel” means Lead Counsel and Klausner, Kauffman, Jensen
11 & Levinson, additional counsel for Lead Plaintiff.

12 (ee) “Plaintiff’s Releasees” means Lead Plaintiff, all other plaintiffs in the
13 Action, and all other Settlement Class Members, and their respective current and former parents,
14 affiliates, subsidiaries, officers, directors, agents, successors, predecessors, assigns, assignees,
15 partnerships, partners, trustees, trusts, employees, Immediate Family Members, insurers,
16 reinsurers, and attorneys.

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

19 (gg) “Preliminary Approval Order” means the order, substantially in the form
20 attached hereto as Exhibit A, to be entered by the Court preliminarily approving the Settlement
21 and directing that notice of the Settlement be provided to the Settlement Class.

22 (hh) “PSLRA” means the Private Securities Litigation Reform Act of 1995, 15
23 U.S.C. § 78u-4, as amended.

24 (ii) “Released Claims” means all Released Defendants’ Claims and all Released
25 Plaintiff’s Claims.

26 (jj) “Released Defendants’ Claims” means all claims, demands, losses, rights,
27 and causes of action of every nature and description whatsoever, whether known claims or
28 Unknown Claims, whether arising under federal, state, common, or foreign law, that arise out of,

1 are based upon, or relate in any way to Lead Plaintiff's institution, prosecution, or settlement of
 2 the claims asserted against Defendants in the Action. Released Defendants' Claims do not cover,
 3 include, or release: (i) any claims relating to the enforcement of the Settlement; or (ii) any claims
 4 against any person or entity who or which submits a request for exclusion from the Settlement
 5 Class that is accepted by the Court.

6 (kk) "Released Plaintiff's Claims" means all claims, demands, losses, rights, and
 7 causes of action of every nature and description whatsoever, whether known claims or Unknown
 8 Claims, whether arising under federal, state, common, or foreign law, or any other law, rule
 9 regulation, or equitable principle, whether class or individual in nature, whether contingent or
 10 absolute, asserted or unasserted, mature or unmature, discoverable or undiscoverable, liquidated
 11 or unliquidated, accrued or unaccrued, including those that are concealed or hidden, that Lead
 12 Plaintiff or any other member of the Settlement Class: (i) asserted in the Action, or (ii) could have
 13 asserted in the Action or any other forum that arise out of, are based upon, or relate to any of the
 14 allegations, transactions, facts, matters or occurrences, representations, or omissions involved, set
 15 forth, alleged, or referred to in the Action, or which could have been alleged in the Action, and
 16 that relate to the purchase or acquisition of Splunk common stock during the Class Period. For the
 17 avoidance of doubt, Released Plaintiff's Claims do not cover, include, or release: (i) any claims
 18 relating to the enforcement of the Settlement; (ii) any claims asserted in any derivative action,
 19 including without limitation, the claims asserted in *Wolk v. Merritt*, No. 4:21-cv-01116 (N.D. Cal.
 20 Feb. 15, 2021); *In re Splunk Inc. S'holder Derivative Litig.*, No. CGC-21-589794 (Cal. Super. Ct.
 21 Mar. 1, 2021); *Mowery v. Merritt*, No. CGC-21-590673 (Cal. Super. Ct. Apr. 7, 2021); *Sudol v.*
 22 *Merritt*, No. CGC-21-590671 (Cal. Super. Ct. Apr. 7, 2021); *Blackburn v. Merritt*, No. 2022-0986
 23 (Del. Ch. Oct. 31, 2022); and *Williams v. Merritt*, 2022-1117 (Del. Ch. Dec. 2, 2022), or any cases
 24 consolidated into those actions; or (iii) any claims of any persons or entities who or which submit
 25 a request for exclusion from the Settlement Class that is accepted by the Court.

26 (ll) "Releasee(s)" means each and any of the Defendants' Releasees and each
 27 and any of the Plaintiff's Releasees.

28 (mm) "Releases" means the releases set forth in ¶¶ 5-6 of this Stipulation.

1 (nn) “Settlement” means the settlement between Lead Plaintiff and Defendants
2 on the terms and conditions set forth in this Stipulation.

3 (oo) “Settlement Amount” means \$30,000,000 in cash.

4 (pp) “Settlement Class” means all persons or entities who purchased or
5 otherwise acquired the common stock of Splunk during the Class Period, and continued to hold
6 any Splunk common stock after December 2, 2020. Excluded from the Settlement Class are:
7 (i) Defendants, (ii) any current or former Officers and directors of Splunk; (iii) the Immediate
8 Family Members of the foregoing excluded persons; (iv) any entity that any Defendant or any of
9 Defendants’ Immediate Family Members owns or controls, or owned or controlled during the
10 Class Period; and (v) the legal representatives, heirs, agents, affiliates, successors or assigns of any
11 excluded persons. Also excluded from the Settlement Class are any persons or entities that exclude
12 themselves by submitting a request for exclusion that is accepted by the Court.

13 (qq) “Settlement Class Member” means each person or entity who or which is a
14 member of the Settlement Class.

15 (rr) “Settlement Fund” means the Settlement Amount plus any and all interest
16 earned thereon.

17 (ss) “Settlement Hearing” means the hearing set by the Court under Rule
18 23(e)(2) of the Federal Rules of Civil Procedure to consider final approval of the Settlement.

19 (tt) “Splunk” or the “Company” means Splunk Inc.

20 (uu) “Summary Notice” means the Summary Notice of (I) Pendency of Class
21 Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys’ Fees and
22 Litigation Expenses, substantially in the form attached hereto as Exhibit 3 to Exhibit A, to be
23 published as set forth in the Preliminary Approval Order.

24 (vv) “Taxes” means: (i) all federal, state, and/or local taxes of any kind
25 (including any interest or penalties thereon) on any income earned by the Settlement Fund; and
26 (ii) the expenses and costs incurred by Lead Counsel in connection with determining the amount
27 of, and paying, any taxes owed by the Settlement Fund (including, without limitation, expenses of
28 tax attorneys and accountants).

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

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

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

19 CLASS CERTIFICATION

20 2. Solely for purposes of the Settlement and for no other purpose, Defendants stipulate
 21 and agree to: (a) certification of the Action as a class action pursuant to Rules 23(a) and 23(b)(3)
 22 of the Federal Rules of Civil Procedure on behalf of the Settlement Class; (b) certification of Lead
 23 Plaintiff as Class Representative for the Settlement Class; and (c) appointment of Lead Counsel as
 24 Class Counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil
 25 Procedure.

26 PRELIMINARY APPROVAL OF SETTLEMENT

27 3. Promptly after execution of this Stipulation, Lead Plaintiff shall submit the
 28 Stipulation together with its exhibits to the Court and move for preliminary approval of the

1 Settlement, authorization to provide notice of the Settlement to the Settlement Class, and the
2 scheduling of a hearing for consideration of final approval of the Settlement. Concurrently with
3 the motion for preliminary approval, Lead Plaintiff shall apply to the Court for, and Defendants
4 shall agree to, entry of the Preliminary Approval Order, substantially in the form attached hereto
5 as Exhibit A.

6 **RELEASE OF CLAIMS**

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

10 5. Pursuant to the Judgment, without further action by anyone, upon the Effective
11 Date of the Settlement, Lead Plaintiff and each of the other Settlement Class Members, on behalf
12 of themselves, and their respective current and former officers, directors, employees, agents,
13 affiliates, parents, subsidiaries, heirs, executors, administrators, predecessors, successors, and
14 assigns in their capacities as such, shall be deemed to have, and by operation of law and of the
15 Judgment shall have, fully, finally, and forever compromised, settled, released, resolved,
16 relinquished, waived, and discharged each and every Released Plaintiff's Claim against the
17 Defendants' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the
18 Released Plaintiff's Claims against any of the Defendants' Releasees.

19 6. Pursuant to the Judgment, without further action by anyone, upon the Effective
20 Date of the Settlement, Defendants, on behalf of themselves, and their respective current and
21 former officers, directors, employees, agents, affiliates, parents, subsidiaries, heirs, executors,
22 administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed
23 to have, and by operation of law and of the Judgment shall have, fully, finally, and forever
24 compromised, settled, released, resolved, relinquished, waived, and discharged each and every
25 Released Defendants' Claim against Lead Plaintiff and the other Plaintiff's Releasees, and shall
26 forever be barred and enjoined from prosecuting any or all of the Released Defendants' Claims
27 against any of the Plaintiff's Releasees.
28

1 7. Notwithstanding ¶¶ 5-6 above, nothing in the Judgment shall bar any action by any
2 of the Parties to enforce or effectuate the terms of this Stipulation or the Judgment.

3 **THE SETTLEMENT CONSIDERATION**

4 8. In consideration of the settlement of the Released Plaintiff's Claims against
5 Defendants and the other Defendants' Releasees, Splunk, on behalf of Defendants, shall cause to
6 be paid the Settlement Amount into the Escrow Account no later than twenty (20) business days
7 after the later of: (a) the date of entry by the Court of an order preliminarily approving this
8 Settlement; or (b) Defendants' Counsel's receipt from Lead Counsel of the information necessary
9 to effectuate a transfer of funds to the Escrow Account, including wiring instructions that include
10 the bank name and ABA routing number, account name and number, the receipt of a name and
11 verifiable contact information of someone who can verbally confirm the payment instructions, and
12 a signed W-9 reflecting a valid taxpayer identification number for the qualified settlement fund in
13 which the Settlement Amount is to be deposited.

14 **USE OF SETTLEMENT FUND**

15 9. The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Notice and
16 Administration Costs; (c) any Litigation Expenses awarded by the Court; (d) any attorneys' fees
17 awarded by the Court; and (e) any other costs and fees approved by the Court. The balance
18 remaining in the Settlement Fund, that is, the Net Settlement Fund, shall be distributed to
19 Authorized Claimants as provided in ¶¶ 20-32 below.

20 10. Except as provided herein or pursuant to orders of the Court, the Net Settlement
21 Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the Escrow
22 Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction
23 of the Court until such time as the funds shall be distributed or returned pursuant to the terms of
24 this Stipulation and/or further order of the Court. The Escrow Agent shall invest any funds in the
25 Escrow Account exclusively in United States Treasury Bills (or a mutual fund invested solely in
26 such instruments) and shall collect and reinvest all interest accrued thereon, except that any
27 residual cash balances up to the amount that is insured by the FDIC may be deposited in any
28 account that is fully insured by the FDIC. In the event that the yield on United States Treasury

1 Bills is negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by
2 the Escrow Agent may be deposited in any account that is fully insured by the FDIC or invested
3 in instruments backed by the full faith and credit of the United States. Additionally, if short-term
4 placement of the funds is necessary, all or any portion of the funds held by the Escrow Agent may
5 be deposited in any account that is fully insured by the FDIC or invested in instruments backed by
6 the full faith and credit of the United States.

7 11. The Parties agree that the Settlement Fund is intended to be a Qualified Settlement
8 Fund within the meaning of Treasury Regulation § 1.468B-1 and that Lead Counsel, as
9 administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3),
10 shall be solely responsible for filing or causing to be filed all informational and other tax returns
11 as may be necessary or appropriate (including, without limitation, the returns described in Treasury
12 Regulation § 1.468B-2(k)) for the Settlement Fund. Lead Counsel shall also be responsible for
13 causing payment to be made from the Settlement Fund of any Taxes owed with respect to the
14 Settlement Fund. Defendants' Releasees shall not have any liability or responsibility for any such
15 Taxes. Upon written request, Splunk will provide to Lead Counsel the statement described in
16 Treasury Regulation § 1.468B-3(e). Lead Counsel, as administrator of the Settlement Fund within
17 the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are
18 necessary or advisable to carry out this paragraph, including, as necessary, making a "relation back
19 election," as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement
20 Fund to come into existence at the earliest allowable date, and shall take or cause to be taken all
21 actions as may be necessary or appropriate in connection therewith.

22 12. All Taxes shall be paid out of the Settlement Fund, and shall be timely paid, or
23 caused to be paid, by Lead Counsel and without further order of the Court. Any tax returns
24 prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with
25 the previous paragraph and in all events shall reflect that all Taxes on the income earned by the
26 Settlement Fund shall be paid out of the Settlement Fund as provided herein. Defendants'
27 Releasees shall have no responsibility or liability for the acts or omissions of Lead Counsel or its
28 agents with respect to the payment of Taxes, as described herein.

1 13. The Settlement is not a claims-made settlement. Upon the occurrence of the
2 Effective Date, no Defendant, Defendants' Releasee, or any other person or entity who or which
3 paid any portion of the Settlement Amount shall have any right to the return of the Settlement Fund
4 or any portion thereof for any reason whatsoever, including without limitation, the number of
5 Claims submitted, the collective amount of Recognized Claims of Authorized Claimants (as
6 defined in the Notice), the percentage of recovery of losses, or the amounts to be paid to Authorized
7 Claimants from the Net Settlement Fund.

8 14. Notwithstanding the fact that the Effective Date of the Settlement has not yet
9 occurred, Lead Counsel may pay from the Settlement Fund, without further approval from
10 Defendants or further order of the Court, all Notice and Administration Costs actually incurred
11 and paid or payable.

12 15. Such Notice and Administration Costs shall include, without limitation, the actual
13 costs of printing and mailing the Notice, publishing the Summary Notice, reimbursements to
14 nominee owners for forwarding the Notice to their beneficial owners, the administrative expenses
15 incurred and fees charged by the Claims Administrator in connection with providing notice and
16 administering the Settlement (including processing the submitted Claims), and the fees, if any, of
17 the Escrow Agent. In the event that the Settlement is terminated pursuant to the terms of this
18 Stipulation, all Notice and Administration Costs paid or incurred, including any related fees, shall
19 not be returned or repaid to Defendants, any of the other Defendants' Releasees, or any other
20 person or entity who or which paid any portion of the Settlement Amount.

21 16. Defendants' Releasees shall have no responsibility for, interest in, or liability
22 whatsoever with respect to the processing, review, determination, or calculation of any claims, the
23 investment or distribution of the Settlement Fund or the Net Settlement Fund, the Plan of
24 Allocation, the payment or withholding of Taxes, or any losses incurred in connection therewith.

25 **ATTORNEYS' FEES AND LITIGATION EXPENSES**

26 17. Lead Counsel will apply to the Court for a collective award of attorneys' fees to
27 Plaintiff's Counsel to be paid solely from (and out of) the Settlement Fund. Lead Counsel also
28 will apply to the Court for payment of Litigation Expenses, to be paid solely from (and out of) the

1 Settlement Fund. Lead Counsel's application for an award of attorneys' fees and/or Litigation
2 Expenses is not the subject of any agreement between Defendants and Lead Plaintiff other than
3 what is set forth in this Stipulation.

4 18. Any attorneys' fees and Litigation Expenses that are awarded by the Court shall be
5 paid to Lead Counsel immediately upon award, notwithstanding the existence of any timely filed
6 objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any
7 part thereof, subject to Plaintiff's Counsel's obligation to make appropriate refunds or repayments
8 to the Settlement Fund, plus accrued interest at the same net rate as is earned by the Settlement
9 Fund, if the Settlement is terminated pursuant to the terms of this Stipulation or if, as a result of
10 any appeal or further proceedings on remand, or successful collateral attack, the award of
11 attorneys' fees and/or Litigation Expenses is reduced or reversed and such order reducing or
12 reversing the award has become Final. Plaintiff's Counsel shall make the appropriate refund or
13 repayment in full no later than thirty (30) days after: (a) receiving from Defendants' Counsel notice
14 of the termination of the Settlement; or (b) any order reducing or reversing the award of attorneys'
15 fees and/or Litigation Expenses has become Final. An award of attorneys' fees and/or Litigation
16 Expenses is not a necessary term of this Stipulation and is not a condition of the Settlement
17 embodied herein. Neither Lead Plaintiff nor Lead Counsel may cancel or terminate the Settlement
18 based on this Court's or any appellate court's ruling with respect to attorneys' fees and/or
19 Litigation Expenses.

20 19. Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiff's
21 Counsel in a manner which it, in good faith, believes reflects the contributions of such counsel to
22 the institution, prosecution, and settlement of the Action. Defendants' Releasees shall have no
23 responsibility for or liability whatsoever with respect to the allocation or award of attorneys' fees
24 or Litigation Expenses. The attorneys' fees and Litigation Expenses that are awarded to Plaintiff's
25 Counsel shall be payable solely from the Settlement Fund.

26 **NOTICE AND SETTLEMENT ADMINISTRATION**

27 20. As part of the Preliminary Approval Order, Lead Counsel shall seek appointment
28 of a Claims Administrator. The Claims Administrator shall administer the Settlement, including

1 but not limited to the process of receiving, reviewing, and approving or denying Claims, under
2 Lead Counsel's supervision and subject to the jurisdiction of the Court. Other than Splunk's
3 obligation to provide its shareholder list as provided in ¶ 21 below, none of the Defendants, nor
4 any of the other Defendants' Releasees, shall have any involvement in or any responsibility,
5 authority, or liability whatsoever for the selection of the Claims Administrator, the Plan of
6 Allocation, the administration of the Settlement, the Claims process, or disbursement of the Net
7 Settlement Fund, and shall have no liability whatsoever to any person or entity, including, but not
8 limited to, Lead Plaintiff, any other Settlement Class Members, or Lead Counsel in connection
9 with the foregoing. Defendants and Defendants' Counsel shall cooperate in the administration of
10 the Settlement to the extent reasonably necessary to effectuate its terms.

11 21. In accordance with the terms of the Preliminary Approval Order to be entered by
12 the Court, Lead Counsel shall cause the Claims Administrator to mail the Notice and Claim Form
13 to those members of the Settlement Class as may be identified through reasonable effort. Lead
14 Counsel shall also cause the Claims Administrator to have the Summary Notice published in
15 accordance with the terms of the Preliminary Approval Order to be entered by the Court. For the
16 purposes of identifying and providing notice to the Settlement Class, within ten (10) calendar days
17 of the date of entry of the Preliminary Approval Order, Splunk shall provide or cause to be
18 provided to the Claims Administrator in electronic format (at no cost to the Settlement Fund, Lead
19 Counsel, or the Claims Administrator) a list (consisting of names, mailing addresses, and, if
20 available, email addresses) of the record purchasers of Splunk common stock during the Class
21 Period. This information will be kept confidential and not used for any purpose other than to
22 provide the notice.

23 22. No later than ten (10) calendar days following the filing of this Stipulation with the
24 Court, Defendants shall serve the notice required under the Class Action Fairness Act, 28 U.S.C.
25 § 1715, et seq. ("CAFA"). Defendants are solely responsible for the costs of the CAFA notice and
26 administering the CAFA notice. At least seven (7) calendar days before the Settlement Hearing,
27 Defendants shall cause to be served on Lead Counsel and filed with the Court proof, by affidavit
28 or declaration, regarding compliance with the notice requirements of CAFA. The Parties agree

1 that any delay by Defendants in timely serving the CAFA notice will not provide grounds for delay
2 of the Settlement Hearing or entry of the Judgment.

3 23. The Claims Administrator shall receive Claims and determine first, whether the
4 Claim is a valid Claim, in whole or part, and second, each Authorized Claimant's *pro rata* share
5 of the Net Settlement Fund based upon each Authorized Claimant's Recognized Claim compared
6 to the total Recognized Claims of all Authorized Claimants (as set forth in the Plan of Allocation
7 set forth in the Notice attached hereto as Exhibit 1 to Exhibit A, or in such other plan of allocation
8 as the Court approves).

9 24. The Plan of Allocation proposed in the Notice is not a necessary term of the
10 Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation
11 that any particular plan of allocation be approved by the Court. Lead Plaintiff and Lead Counsel
12 may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any
13 appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation in this
14 Action. Defendants and the other Defendants' Releasees shall not object in any way to the Plan
15 of Allocation or any other plan of allocation in this Action. No Defendant, or any of the other
16 Defendants' Releasees, shall have any involvement with or liability, obligation or responsibility
17 whatsoever for the application of the Court-approved plan of allocation.

18 25. Any Settlement Class Member who does not submit a valid Claim will not be
19 entitled to receive any distribution from the Net Settlement Fund, but will otherwise be bound by
20 all of the terms of this Stipulation and the Settlement, including the terms of the Judgment to be
21 entered in the Action and the Releases provided for herein and therein, and will be permanently
22 barred and enjoined from bringing any action, claim, or other proceeding of any kind against the
23 Defendants' Releasees with respect to the Released Plaintiff's Claims in the event that the
24 Effective Date occurs with respect to the Settlement.

25 26. Lead Counsel shall be responsible for supervising the administration of the
26 Settlement and the disbursement of the Net Settlement Fund subject to Court approval. No
27 Defendant, or any other Defendants' Releasee, shall be permitted to review, contest, or object to
28 any Claim, or any decision of the Claims Administrator or Lead Counsel with respect to accepting

1 or rejecting any Claim for payment. Lead Counsel shall have the right, but not the obligation, to
2 waive what it deems to be formal or technical defects in any Claims submitted in the interests of
3 achieving substantial justice.

4 27. For purposes of determining the extent, if any, to which a Settlement Class Member
5 shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

6 (a) Each Claimant shall be required to submit a Claim in paper form,
7 substantially in the form attached hereto as Exhibit 2 to Exhibit A, or in electronic form, in
8 accordance with the instructions for the submission of such Claims, and supported by such
9 documents as are designated therein, including proof of the Claimant's loss, or such other
10 documents or proof as the Claims Administrator or Lead Counsel, in their discretion, may deem
11 acceptable;

12 (b) All Claims must be submitted by the date set by the Court in the Preliminary
13 Approval Order and specified in the Notice. Any Settlement Class Member who fails to submit a
14 Claim by such date shall be forever barred from receiving any distribution from the Net Settlement
15 Fund or payment pursuant to this Stipulation (unless by Order of the Court such Settlement Class
16 Member's Claim is accepted), but shall in all other respects be bound by all of the terms of this
17 Stipulation and the Settlement, including the terms of the Judgment and the Releases provided for
18 herein and therein, and will be permanently barred and enjoined from bringing any action, claim,
19 or other proceeding of any kind against any Defendants' Releasees with respect to any Released
20 Plaintiff's Claim. Provided that it is mailed by the claim-submission deadline, a Claim Form shall
21 be deemed to be submitted when postmarked, if received with a postmark indicated on the
22 envelope and if mailed by first-class mail and addressed in accordance with the instructions
23 thereon. In all other cases, the Claim Form shall be deemed to have been submitted on the date
24 when actually received by the Claims Administrator;

25 (c) Each Claim shall be submitted to and reviewed by the Claims Administrator
26 who shall determine in accordance with this Stipulation and the plan of allocation the extent, if
27 any, to which each Claim shall be allowed, subject to review by the Court pursuant to subparagraph
28 (e) below as necessary;

1 (d) Claims that do not meet the submission requirements may be rejected. Prior
2 to rejecting a Claim in whole or in part, the Claims Administrator shall communicate with the
3 Claimant in writing, to give the Claimant the chance to remedy any curable deficiencies in the
4 Claim submitted. The Claims Administrator shall notify, in a timely fashion and in writing, all
5 Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting
6 forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be
7 rejected has the right to a review by the Court if the Claimant so desires and complies with the
8 requirements of subparagraph (e) below; and

9 (e) If any Claimant whose Claim has been rejected in whole or in part desires
10 to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of
11 the notice required in subparagraph (d) above or a lesser time period if the Claim was untimely,
12 serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's
13 grounds for contesting the rejection along with any supporting documentation, and requesting a
14 review thereof by the Court. If a dispute concerning a Claim cannot be otherwise resolved, Lead
15 Counsel shall thereafter present the request for review to the Court.

16 28. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court
17 with respect to the Claimant's Claim, and the Claim will be subject to investigation and discovery
18 under the Federal Rules of Civil Procedure, provided, however, that such investigation and
19 discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity
20 and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action
21 or of the Settlement in connection with the processing of Claims.

22 29. Lead Counsel will apply to the Court, on notice to Defendants' Counsel, for a Class
23 Distribution Order: (a) approving the Claims Administrator's administrative determinations
24 concerning the acceptance and rejection of the Claims submitted; (b) approving payment of any
25 administration fees and expenses associated with the administration of the Settlement from the
26 Escrow Account; and (c) if the Effective Date has occurred, directing payment of the Net
27 Settlement Fund to Authorized Claimants from the Escrow Account.
28

1 (c) The terms and provisions of this Stipulation, with the exception of this ¶ 36
2 and ¶¶ 15, 18, 40, 60, and 61 shall have no further force and effect with respect to the Parties and
3 shall not be used in the Action or in any other proceeding for any purpose, and any Judgment or
4 order entered by the Court in accordance with the terms of this Stipulation shall be treated as
5 vacated, *nunc pro tunc*.

6 (d) Within five (5) business days after joint written notification of termination
7 is sent by Defendants' Counsel and Lead Counsel to the Escrow Agent, or after written notification
8 of termination is sent by Defendants' Counsel to the Escrow Agent, the Settlement Fund (including
9 accrued interest thereon, and change in value as a result of the investment of the Settlement Fund,
10 and any funds received by Lead Counsel consistent with ¶ 18 above), less any Notice and
11 Administration Costs actually incurred, paid, or payable and less any Taxes paid, due, or owing
12 shall be refunded by the Escrow Agent pursuant to written instructions from Defendants' Counsel
13 to the party, parties, or insurers that paid the Settlement Amount. In the event that the funds
14 received by Lead Counsel consistent with ¶ 18 above have not been refunded to the Settlement
15 Fund within the five (5) business days specified in this paragraph, those funds shall be refunded
16 by the Escrow Agent to Splunk (or such other persons or entities as Splunk may direct)
17 immediately upon their deposit into the Escrow Account consistent with ¶ 18 above.

18 37. It is further stipulated and agreed that Lead Plaintiff and Splunk shall each have the
19 right to terminate the Settlement and this Stipulation, by providing written notice of their election
20 to do so ("Termination Notice") to the other Parties to this Stipulation within thirty (30) days of:
21 (a) the Court's final refusal to enter the Preliminary Approval Order in any material respect; (b) the
22 Court's final refusal to approve the Settlement or any material part thereof; (c) the Court's final
23 refusal to enter the Judgment in any material respect as to the Settlement; or (d) the date upon
24 which the Judgment is modified or reversed in any material respect by the United States Court of
25 Appeals for the Ninth Circuit or the United States Supreme Court, and the provisions of ¶ 36 above
26 shall apply. However, any decision or proceeding, whether in this Court or any appellate court,
27 with respect to an application for attorneys' fees or Litigation Expenses or with respect to any plan
28

1 of allocation shall not be considered material to the Settlement, shall not affect the finality of any
2 Judgment, and shall not be grounds for termination of the Settlement.

3 38. In addition to the grounds set forth in ¶ 37 above, Splunk shall have the right to
4 terminate the Settlement in the event that Settlement Class Members timely and validly requesting
5 exclusion from the Settlement Class meet the conditions set forth in Splunk's confidential
6 supplemental agreement with Lead Plaintiff (the "Supplemental Agreement"), in accordance with
7 the terms of that agreement. The Supplemental Agreement, which is being executed concurrently
8 herewith, shall not be publicly filed with the Court and its terms shall not be publicly disclosed in
9 any other manner (other than the statements herein and in the Notice, to the extent necessary, or
10 as otherwise provided in the Supplemental Agreement). Lead Plaintiff shall submit the
11 Supplemental Agreement to the Court under seal in connection with its motion for preliminary
12 approval of the Settlement and will request that the Court afford it confidential treatment.

13 39. In addition to the grounds set forth in ¶ 37 above, Lead Plaintiff shall also have the
14 right to terminate the Settlement in the event that the Settlement Amount has not been paid as
15 provided for in ¶ 8 above, by providing written notice of the election to terminate to Defendants'
16 Counsel no sooner than five (5) business days after the deadline for payment set forth in ¶ 8 above.

17 **NO ADMISSION OF WRONGDOING**

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

23 (a) shall be offered against any of the Defendants' Releasees as evidence of, or
24 construed as, or deemed to be evidence of any presumption, concession, or admission by any of
25 the Defendants' Releasees with respect to the truth of any fact alleged by Lead Plaintiff or the
26 validity of any claim that was or could have been asserted or the deficiency of any defense that has
27 been or could have been asserted in this Action or in any other litigation, or of any liability,
28 negligence, fault, or other wrongdoing of any kind of any of the Defendants' Releasees, or in any

1 way referred to for any other reason as against any of the Defendants' Releasees, in any arbitration
2 proceeding or other civil, criminal, or administrative action or proceeding, other than such
3 proceedings as may be necessary to effectuate the provisions of this Stipulation;

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

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

18 **MISCELLANEOUS PROVISIONS**

19 41. All of the exhibits attached hereto are hereby incorporated by reference as though
20 fully set forth herein. Notwithstanding the foregoing, in the event that there exists a conflict or
21 inconsistency between the terms of this Stipulation and the terms of any exhibit attached hereto,
22 the terms of the Stipulation shall prevail.

23 42. Splunk warrants that, as to the payments made or to be made pursuant to Paragraph
24 8 above, at the time of entering into this Stipulation and at the time of such payment, Splunk, or to
25 the best of its knowledge any persons or entities contributing to the payment of the Settlement
26 Amount, were not insolvent, nor will the payment required to be made by or on its behalf render
27 them insolvent, within the meaning of and/or for the purposes of the United States Bankruptcy
28

1 Code, including §§ 101 and 547 thereof. This representation is made by Splunk and not by its
2 counsel.

3 43. In the event of the entry of a final order of a court of competent jurisdiction
4 determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf
5 of Defendants to be a preference, voidable transfer, fraudulent transfer, or similar transaction and
6 any portion thereof is required to be returned, and such amount is not promptly deposited into the
7 Settlement Fund by others, then, at the election of Lead Plaintiff, Lead Plaintiff and Defendants
8 shall jointly move the Court to vacate and set aside the Releases given and the Judgment entered
9 in favor of Defendants and the other Releasees pursuant to this Stipulation, in which event the
10 Releases and Judgment shall be null and void, and the Parties shall be restored to their respective
11 positions in the litigation as provided in ¶ 36 above and any cash amounts in the Settlement Fund
12 (less any Taxes paid, due, or owing with respect to the Settlement Fund and less any Notice and
13 Administration Costs actually incurred, paid, or payable) shall be returned as provided in ¶ 36
14 above.

15 44. The Parties intend this Stipulation and the Settlement to be a final and complete
16 resolution of all disputes asserted or which could be asserted by Lead Plaintiff and any other
17 Settlement Class Members against the Defendants' Releasees with respect to the Released
18 Plaintiff's Claims. No Party shall assert any claims of any violation of Rule 11 of the Federal
19 Rules of Civil Procedure relating to the institution, prosecution, defense, or settlement of this
20 Action. The Parties agree that the amounts paid and the other terms of the Settlement were
21 negotiated at arm's length and in good faith by the Parties, including through a mediation process
22 supervised and conducted by Jed D. Melnick, Esq. of JAMS, and reflect the Settlement that was
23 reached voluntarily after extensive negotiations and consultation with experienced legal counsel,
24 who were fully competent to assess the strengths and weaknesses of their respective clients' claims
25 or defenses.

26 45. While retaining their right to deny that the claims asserted in the Action were
27 meritorious, Defendants and their counsel, in any statement made to any media representative
28 (whether or not for attribution) will not assert that the Action was commenced or prosecuted in

1 bad faith, nor will they deny that the Action was commenced and prosecuted in good faith and is
2 being settled voluntarily after consultation with competent legal counsel. In all events, Lead
3 Plaintiff and its counsel and Defendants and their counsel shall not make any accusations of
4 wrongful or actionable conduct by any Party concerning the prosecution, defense, and resolution
5 of the Action, and shall not otherwise suggest that the Settlement constitutes an admission of any
6 claim or defense alleged.

7 46. The terms of the Settlement, as reflected in this Stipulation, may not be modified
8 or amended, nor may any of its provisions be waived except by a writing signed on behalf of both
9 Lead Plaintiff and Defendants (or their successors-in-interest).

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

12 48. The administration and consummation of the Settlement as embodied in this
13 Stipulation shall be under the authority of the Court, the Court shall retain jurisdiction for the
14 purpose of entering orders providing for awards of attorneys' fees and Litigation Expenses to
15 Plaintiff's Counsel, administering and enforcing the terms of this Stipulation, including the Plan
16 of Allocation (or such other plan of allocation as may be approved by the Court) and the
17 distribution of the Net Settlement Fund to Settlement Class Members, and the Parties submit to
18 the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied
19 in the Stipulation.

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

22 50. This Stipulation and its exhibits and the Supplemental Agreement constitute the
23 entire agreement among Lead Plaintiff and Defendants concerning the Settlement and this
24 Stipulation and its exhibits. All Parties acknowledge that no other agreements, representations,
25 warranties, or inducements have been made by any Party hereto concerning this Stipulation, its
26 exhibits, or the Supplemental Agreement other than those contained and memorialized in such
27 documents.
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1 51. This Stipulation may be executed in one or more counterparts, including by
2 signature transmitted via facsimile, or by a .pdf/.tif image of the signature transmitted via email.
3 All executed counterparts and each of them shall be deemed to be one and the same instrument.

4 52. This Stipulation shall be binding upon and inure to the benefit of the successors and
5 assigns of the Parties, including any and all Releasees and any corporation, partnership, or other
6 entity into or with which any Party hereto may merge, consolidate, or reorganize.

7 53. The construction, interpretation, operation, effect, and validity of this Stipulation,
8 the Supplemental Agreement, and all documents necessary to effectuate it shall be governed by
9 the internal laws of the State of California without regard to conflicts of laws, except to the extent
10 that federal law requires that federal law govern.

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

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

17 56. All counsel and any other person executing this Stipulation and any of the exhibits
18 hereto, or any related Settlement documents, warrant and represent that they have the full authority
19 to do so and that they have the authority to take appropriate action required or permitted to be
20 taken pursuant to the Stipulation to effectuate its terms.

21 57. Lead Counsel and Defendants' Counsel agree to cooperate fully with one another
22 in seeking Court approval of the Preliminary Approval Order and the Settlement, as embodied in
23 this Stipulation, and to use best efforts to promptly agree upon and execute all such other
24 documentation as may be reasonably required to obtain final approval by the Court of the
25 Settlement.

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

3 If to Lead Plaintiff or Lead Counsel:

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

4 Attn: John Rizio-Hamilton, Esq.
5 1251 Avenue of the Americas
6 New York, NY 10020
7 Telephone: (212) 554-1400
8 Facsimile: (212) 554-1444
9 Email: johnr@blbglaw.com

10 If to Defendants or Defendants' Counsel:

SIDLEY AUSTIN LLP

11 Attn: Sara B. Brody
12 Nicole M. Ryan
13 555 California St., Suite 2000
14 San Francisco, CA 94104
15 Tel: (415) 772-1200
16 Fax: (415) 772-7400
17 Emails: sbrody@sidley.com
18 nicole.ryan@sidley.com

19 59. Except as otherwise provided herein, each Party shall bear its own costs.

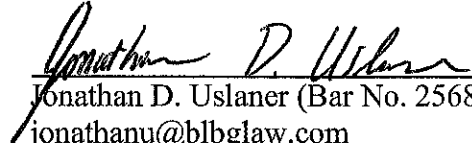
20 60. Whether or not the Stipulation is approved by the Court and whether or not the
21 Stipulation is consummated, or the Effective Date occurs, the Parties and their counsel shall use
22 their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts,
23 documents signed, and proceedings in connection with the Stipulation confidential, except where
24 disclosure may be required by law.

25 61. All agreements made and orders entered during the course of this Action relating
26 to the confidentiality of information shall survive this Settlement.

27 62. No opinion or advice concerning the tax consequences of the proposed Settlement
28 to individual Settlement Class Members is being given or will be given by the Parties or their
counsel; nor is any representation or warranty in this regard made by virtue of this Stipulation.
Each Settlement Class Member's tax obligations, and the determination thereof, are the sole
responsibility of the Settlement Class Member, and it is understood that the tax consequences may
vary depending on the particular circumstances of each individual Settlement Class Member.

1 IN WITNESS WHEREOF, the Parties hereto have caused this Stipulation to be executed,
2 by their duly authorized attorneys, as of January 30, 2023.

3 **BERNSTEIN LITOWITZ BERGER**
4 **& GROSSMANN LLP**

5 
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11 -and-

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19 ***Counsel for Lead Plaintiff Louisiana Sheriffs'***
20 ***Pension & Relief Fund and Lead Counsel for the***
21 ***Settlement Class***


22 **KLAUSNER, KAUFMAN, JENSEN**
23 **& LEVINSON**

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28 ***Additional Counsel for Lead Plaintiff Louisiana***
Sheriffs' Pension & Relief Fund

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Merritt, and Jason Child*