

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class Action Settlement Agreement and Release (“Settlement Agreement” or “Agreement”) is made by and among Billy Thomas, Darrell Denson, Andre Brown and Joseph Williams (“Class Representatives” or “Plaintiffs”), on behalf of themselves and all others similarly situated, and Defendant California Department of Corrections and Rehabilitation (“Defendant” or “CDCR”) (collectively, the “Parties”), subject to Court approval.

In consideration of the mutual promises, agreements and covenants contained in this Agreement, the sufficiency and receipt of which are acknowledged by the Parties, the Parties stipulate and agree to the following settlement terms.

I. DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the meanings set forth below. Where appropriate, terms used in the singular shall be deemed to include the plural and vice versa.

A. “Action” means the case entitled *Thomas, et al. v. California Department of Corrections and Rehabilitation*, Case No. 34-2022-00328693 (Superior Court of the State of California, County of Sacramento).

B. “Administrator Expenses Payment” means the amount the Settlement Administrator will be paid from the Gross Settlement Amount to pay its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement, as approved by the Court.

C. “CDCR” means California Department of Corrections and Rehabilitation, the defendant in the Action.

D. “Claim Deadline” means sixty (60) days from the Class Notice Date, or a date otherwise ordered by the Court. Class Members to whom Class Notice is resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) days beyond the Claim Deadline. Class Members incarcerated within CDCR custody at the time of this Deadline will have a Grace Period to allow fourteen (14) additional days to submit a claim.

E. “Claim Form” means the form a Class Member who was not sent a Postcard Notice must submit to the Settlement Administrator in accordance with Section V.A in order to be allocated a Settlement Share under this Agreement. The Claim Form shall be substantially similar to **Exhibit 1**.

F. “Claimant” means a Class Member that was not sent Postcard Notice by direct mail, including electronic mail, from the Settlement Administrator and who submits a timely and valid Claim Form to the Settlement Administrator by the Claim Deadline.

G. “Class” and “Settlement Class” mean the class defined as: “All individuals within the State of California whose [Protected Health Information (PHI) and/or Personally Identifiable Information (PII)] was stored by Defendant and/or was exposed to unauthorized third parties as a

result of the data breach discovered in or around January 2022.” Defendant’s agents and representatives, the judge presiding over the Action, and members of their immediate respective families are excluded from the Class.

H. “Class Counsel” means Scott Edward Cole of Cole & Van Note.

I. “Class Counsel Fees Payment” means the amounts allocated to Class Counsel for reasonable attorneys’ fees incurred to prosecute the Action, as approved by the Court.

J. “Class Counsel Litigation Expenses Payment” means the amounts allocated to Class Counsel for reimbursement of reasonable expenses incurred to prosecute and resolve the Action, as approved by the Court.

K. “Class Data” means Class Member identifying information in CDCR’s possession, which may include the Class Member’s name, last-known address, CDCR number, and Social Security number.

L. “Class Members” and “Settlement Class Members” mean members of the “Class,” as defined in Paragraph G, above.

M. “Class Notice” means the Court-approved forms of notice to be disseminated to the Class Members in English, with a Spanish translation, substantially similar to the Postcard Notice, Long Form Notice, Prison Notice, and Published Notice attached hereto as **Exhibits 2, 3, 4, and 5** respectively, subject to Court’s approval. Class Notice shall also be posted on the Settlement Website.

N. “Class Notice Date” means ten (10) days after the Settlement Administrator receives the Class Data.

O. “Class Representatives” and/or “Plaintiffs” mean(s) Billy Thomas, Darrell Denson, Andre Brown, and Joseph Williams.

P. “Court” means the Superior Court of the State of California, County of Sacramento.

Q. “Defendant’s Counsel” means Amanda Waters and Adriano Hrvatin of the Office of the Attorney General of California.

R. “Effective Date” means the date by when: (a) if there are no objections to the Settlement submitted, or any timely objections have been submitted and then withdrawn before entry of the Final Approval Order, then the date the Court enters the Final Approval Order; or (b) if an objection to the Settlement has been submitted by a member of the Final Settlement Class found by the Court to have standing to object, sixty-five (65) days after the Court enters the Final Approval Order; or (c) if any appeal, writ, or other appellate proceeding opposing the Court’s Final Approval Order has been filed by a member of the Final Settlement Class found by the Court to have standing to object, five (5) business days after any appeal, writ, or other appellate proceedings opposing the Final Approval Order have been finally and conclusively dismissed with no right to pursue further remedies or relief. The Effective Date shall not be altered in the event the Court

declines to approve, in whole or in part, Class Counsel's Fees Payments and Litigation Expenses Payment in the amounts requested by Class Counsel. Further, the Effective Date shall not be altered in the event that an appeal is filed with the sole issue on appeal being the Class Counsel's Fees Payment and Litigation Expenses Payment.

S. "Final Approval Hearing" means the hearing on the Motion for Final Approval of the Settlement.

T. "Final Approval Order" means the Court's Order granting final approval of the Settlement.

U. "Final Settlement Class" refers to all members of the Settlement Class who do not timely and validly exclude themselves from the Class in compliance with the exclusion procedures set forth in Section VII of this Agreement.

V. "Final Settlement Class Member" refers to a member of the Final Settlement Class.

W. "Grace Period" means a fourteen (14) day extension for all deadlines contemplated in this Agreement for individuals who are incarcerated in CDCR custody at the time of the deadline. This Grace Period is intended to provide sufficient time for such individuals due to the additional time required for processing mail by CDCR, as permitted by the California Code of Regulations, Title 15.

X. "Gross Settlement Amount" means \$1,800,000.00, which is the maximum amount CDCR agrees to pay in order to receive the releases provided for under the Settlement. The Gross Settlement Amount will be used to pay all costs, fees, expenses, forms of relief, claims, payments, and reimbursements necessary to execute this Settlement, including but not limited to, Settlement Shares, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Awards, and the Administrator's Expenses Payment.

Y. "Incident" means the security incident at issue in the Action, which was identified by Defendant in or around January 2022 and announced on or about August 19, 2022, and as further described in Section II, below.

Z. "Judgment" means the judgment entered by the Court based upon the Final Approval.

AA. "Long Form Notice" means the detailed Settlement information which shall be mailed or emailed to Class Members who request further detail regarding the Settlement, substantially similar to the notice attached as **Exhibit 3**.

BB. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Administration Expenses Payment, and any other fees, costs, expenses, and reimbursements which become necessary and appropriate in order to execute the terms of this Agreement, before Settlement Share payments are issued to Participating Class Members.

CC. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Settlement Administrator a valid and timely Request for Exclusion.

DD. “Objection Deadline” means sixty (60) days from the Class Notice Date, or a date otherwise ordered by the Court, for members of the Class to object to the terms of this Settlement Agreement, Class Counsel’s Fees and Expenses Payment, or Class Representative Service Payments, in accordance with Section VIII of this Agreement. Class Members to whom Notice is resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) days beyond the Objection Deadline.

EE. “Participating Class Members” means any Final Settlement Class Member who is allocated a Settlement Share.

FF. “Parties” means Plaintiffs and Defendant.

GG. “Personally Identifiable Information” or “PII” means information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information.

HH. “Protected Health Information” or “PHI” means a category of information that refers to an individual’s medical records, which is protected under the Health Insurance Portability and Accountability Act (“HIPAA”). PHI includes, but is not limited to, things such as test results, procedure descriptions, diagnoses, personal or family medical histories, treatment records, and data points applied to a set of demographic information for a particular patient.

II. “Postcard Notice” means the summary notice on a postcard to be sent by U.S. Mail or email (where email addresses are available), substantially similar to the notice attached as **Exhibit 2**.

JJ. “Preliminary Approval Order” means the Court’s Order preliminarily approving this Settlement Agreement.

KK. “Prison Notice” means the notice to be posted in CDCR’s prisons, in the law libraries and in dormitories to the extent possible, substantially similar to the notice attached as **Exhibit 4**.

LL. “Published Notice” means the notice provided by targeted advertising to be published on social media platform(s) (e.g., Facebook); business social platform(s) (e.g., LinkedIn); digital network(s) (e.g., Google), and other appropriate platforms geared toward a California readership demographic and reasonably determined to reach members of the Settlement Class, which shall direct them to the Settlement Website, substantially similar to the notice attached as **Exhibit 5**.

MM. “Released Claims” means the claims released by this Settlement Agreement, as set forth in Section IX.

NN. “Released Parties” means CDCR, Defendants, and its respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, related or affiliated

entities and agencies, whether named or unnamed and whether served or unserved, and any and all of their past and present employees, executives, officers, directors, agents, representatives, and attorneys. The term “Released Parties” expressly includes, but is not limited to, the State of California and its departments, divisions and agencies and the California Correctional Health Care Services.

OO. “Releasing Parties” means the Class Representatives, all Final Settlement Class Members, Claimants, and each of their respective heirs, assigns, beneficiaries, and successors. Each of the Releasing Parties may be referred to individually as a “Releasing Party.”

PP. “Request for Exclusion” means a timely and valid written request signed by any Class Member for exclusion from the Settlement in accordance with the provisions in Section VII of this Agreement. To the extent any Class Member delivers both a timely and valid Claim Form and a timely and valid request for exclusion to the Settlement Administrator, the request for exclusion will be deemed invalid. The Claim Form will be processed, and the Class Member will be considered a Claimant.

QQ. “Request for Exclusion Deadline” means sixty (60) days from the Class Notice Date, or a date otherwise ordered by the Court, for Class Members to request exclusion from the Settlement. Class Members to whom Notice is resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) days beyond the Request for Exclusion Deadline. Class Members incarcerated within CDCR custody at the time of this Deadline will have a Grace Period to allow fourteen (14) additional days to submit a request for exclusion.

RR. “Restitution Participating Class Member” means a Participating Class Member who is in CDCR custody, on parole, or on post release community supervision and who has an outstanding restitution balance on or around the date the Preliminary Approval Order is entered.

SS. “Service Award” means the amount to be paid to each Class Representative to compensate them for their time and effort on behalf of the Class, subject to the Court’s approval, and which shall not exceed an amount of \$2,500 to each Class Representative.

TT. “Settlement” and “Settlement Agreement” mean the Parties’ agreement to resolve this Action, the terms of which have been memorialized in this Agreement and the Judgment

UU. “Settlement Administrator” or “Administrator” means CPT Group Class Action Administrators (CPT), the neutral entity the Parties have agreed to appoint to administer the Settlement.

VV. “Settlement Share” refers to the pro rata payment as calculated in Section IV.H of this Agreement to which a Participating Settlement Class Member may receive.

WW. “Settlement Website” means the website to be established by the Settlement Administrator that will inform members of the Settlement Class of the terms of this Settlement Agreement, their rights, dates and deadlines and related information, and shall include in .pdf format and available for download the following: (1) the Class Notice; (2) the Claim Form; (3) the Motion for Preliminary Approval; (4) the Preliminary Approval Order; (5) this Settlement Agreement; (6) the Operative Complaint; (7) the Motion for Final Approval; (8) the Motion for

Class Counsel Fees Payment; (9) Class Counsel Litigation Expenses Payment and Class Representative Service Payments; (10) the Final Approval; (11) the Judgment, and (12) any other materials agreed upon by the Parties or required by the Court. The Settlement Website shall provide members of the Settlement Class who can access the website with the ability to complete and submit the Claim Form, Requests for Exclusion, and Objections electronically. Class Members in CDCR custody will not have access to the settlement website.

XX. “Unknown Claims” means any and all Released Claims that Defendant or any Class Representative or Final Settlement Class Member does not know or suspect to exist in his, her or its favor as of the Effective Date and which, if known by him, her or it, might have materially affected his, her or its decision(s) with respect to the Settlement.

II. RECITALS

A. This Action arises from a security incident (the “Incident,” as defined above and in this subparagraph). In or around January 2022, during routine maintenance on one of its information systems, CDCR discovered a potential data breach. CDCR took immediate action to secure its network and launched an investigation, which found that an unauthorized user accessed data on a CDCR platform. Defendant alleges there was no indication that any data was copied, downloaded, or otherwise acquired by the unauthorized user as a result of this Incident.

B. Defendant further alleges that, on or around August 19, 2022, Defendant mailed direct notice to approximately 236,211 individuals with PII/PHI on the breached server. Of those individuals, approximately 230,763 notices were sent to addresses within the State of California. Additionally, Defendant provided substituted notice to approximately 571,000 individuals, who were incarcerated with CDCR between 2008 and January 2022 and may have had PII or PHI, or personal information, as defined in California Civil Code section 1798.29 on the breached server. CDCR also established a call center regarding the Data Breach that notice-recipients could utilize.

C. On or about October 20, 2022, Plaintiffs filed a Complaint against Defendant in the Superior Court of the State of California, Sacramento County, Case Number 34-2022-00328693, asserting multiple causes of action against Defendant related to the Incident under the Information Practices Act of 1977 (Civ. Code, §1798), Confidentiality of Medical Information Act (Civ. Code, § 56), negligence, invasion of privacy, breach of confidence, breach of implied contract, breach of the implied covenant of good faith and fair dealing, unfair business practices, and unjust enrichment (the “Complaint”) and seeking monetary damages and injunctive relief. Subsequent to Defendant’s demurrers to the Complaint and its amendments, Plaintiffs filed a Third Amended Complaint (the “Operative Complaint”) in which the only remaining cause of action is brought under the Information Practices Act of 1977 (Civ. Code, §§ 1798, *et seq.*).

D. The Class Representatives sought by the Operative Complaint to certify a class of approximately 600,000 persons potentially affected by the Incident as follows:

“All individuals within the State of California whose [Protected Health Information and/or Personally Identifiable Information] was stored by Defendant and/or was exposed to unauthorized third parties as a result of the data breach discovered in or around January 2022.”

E. CDCR denies all allegations of wrongdoing made by Plaintiffs and denies liability. The Parties recognize the outcome of the Action is uncertain, and that pursuing the Action to judgment would entail substantial cost, risk and delay.

F. The Parties have explored and discussed at length the factual and legal issues in the Action, have participated in a mediation session and engaged in subsequent discussions with a well-respected mediator concerning the issues raised by or on behalf of the Class Representatives and Class in the Action, as well as the issues relating to or arising from the Incident, and have agreed to a global, final settlement of the Action that renders the need for further litigation unnecessary.

G. The Parties desire to compromise and settle all issues, claims, or facts asserted in the Action, or that could have been asserted based upon the facts alleged in the Action, by or on behalf of the Class Representatives and the Class.

H. The Class Representatives, by and through Class Counsel, have: (a) made a thorough investigation of the facts and circumstances surrounding the Incident and the allegations asserted in the Operative Complaint; (b) engaged in a thorough investigation into the causes of action asserted, or that could have been asserted in the Action, including, but not limited to, informal discovery obtained by the Class Representatives in connection with the Action and before execution of this Agreement; and (c) evaluated and considered the law applicable to the factual allegations and causes of actions asserted in the Action, including the defenses that CDCR has already asserted and likely would assert.

I. Class Counsel is experienced in this type of class litigation, recognizes the costs and risks of prosecuting this Action, and believe that it is in the Class Representatives' interest and the interest of all Class Members to resolve this Action and any and all claims against CDCR and Released Parties arising from the conduct, acts or omissions, as alleged in the Action.

J. Class Counsel and Class Representatives, in their respective capacities relating to this Action, reasonably believe and hereby attest that the claims asserted in the Action have merit and, if required, Class Counsel and Plaintiffs can and will produce sufficient admissible evidence supporting their claims. Class Counsel and the Class Representatives have examined and considered the benefits to be obtained under the Settlement set forth in this Agreement and the risks associated with the continued prosecution of the Action. Class Counsel and the Class Representatives have concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class Members.

K. CDCR does not believe the Class Representatives' claims are meritorious and has denied and continues to deny any and all causes of action alleged by the Class Representatives. CDCR has denied and continues to deny that it is legally responsible or liable to the Class Representatives or any member of the Class for any of the matters or causes of action asserted in this Action. However, CDCR has concluded that settlement is desirable to avoid the time, expense, inconvenience, distraction, and inherent uncertainties of defending protracted litigation and to resolve, finally and completely, all pending and potential causes of action of the Class Representatives and all members of the Class relating to causes of action which were or could have

been asserted by the Class Representatives and the Class in this Action relating to the alleged practices and Incident at issue.

L. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiffs or Class Members, or of any wrongdoing or liability of the Released Parties; or (ii) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

M. Significant arm's-length settlement negotiations have taken place between the Parties and, as a result, this Settlement Agreement has been reached without collusion, subject to the Court-approval process set forth in this Agreement.

N. The Parties now agree to settle the Action in its entirety, without any admission of liability or wrongdoing, with respect to all Released Claims of the Settlement Class. The Parties intend this Agreement to bind the Class Representatives, Defendant, and the Final Settlement Class Members.

III. REQUIRED EVENTS

Promptly after execution of this Settlement Agreement by all Parties:

A. Class Counsel and Defendant's Counsel shall take all reasonable and necessary steps to obtain entry of the Preliminary Approval Order and subsequently obtain entry of the Final Approval Order. Class Counsel, with CDCR's pre-filing review (for a period not to exceed five (5) business days), shall prepare and file all documents in connection with the Motion for Preliminary Approval and the Motion for Final Approval.

B. In the event that the Court fails to issue the Preliminary Approval Order, or fails to issue the Final Approval Order, the Parties agree to use their best efforts, consistent with this Settlement Agreement, to cure any defect(s) identified by the Court, unless curing such defect(s) results in a material change to the Agreement. If, despite their best efforts, or in the event curing such defect would result in a material change to the Agreement, the Parties cannot cure said defects in order for the Court to issue the Preliminary Approval Order, the Settlement Agreement is voidable at the election of Class Representatives or Defendant with each party returning to their respective pre-settlement posture and without prejudice or waiver to any party's pre-settlement position on any legal or factual issue. If, despite their best efforts, or in the event curing the defect(s) would result in a material change to the Agreement, the Parties cannot cure any defect(s) identified by the Court after the Court issued the Preliminary Approval Order, the Settlement Agreement is voidable at the election of Defendant, with each party returning to its respective pre-settlement posture and without prejudice or waiver to any party's pre-settlement position on any legal or factual issue.

C. Upon Entry of the Final Approval Order, the Court must enter Judgment in accordance with the terms of this Settlement Agreement. The Final Approval Order must enjoin the prosecution of any litigation or class action by Plaintiffs or any Class Member related to or

arising out of the Complaint, Operative Complaint, the Action, and Released Claims, including Unknown Claims.

D. Each Party retains the right to respond to any objection raised by a Final Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

IV. SETTLEMENT FUNDING AND PAYMENTS

A. Settlement Fund: CDCR agrees to make or cause to be made a payment totaling no more than the Gross Settlement Amount of \$1,800,000.00, referred to as the Settlement Fund. The Gross Settlement Amount represents the total and sole extent of Defendant's obligations under this Settlement Agreement. Under no circumstances will Defendant or any of the Released Parties be required to make any other payments or otherwise be responsible for any other costs or expenses in consideration for the releases set forth in the Settlement Agreement.

B. Payment: No later than ninety (90) days after the date of entry of the Preliminary Approval Order or the date of receipt of all necessary information from the Settlement Administrator, including a completed Payee Data Record (State of California Form STD 204), whichever is later, Defendant will advance to the Settlement Administrator the Gross Settlement Amount. Plaintiffs understand and recognize the payment may be delayed by the lack of a State budget, a funding shortfall despite a State budget, the processing efforts of the State Controller's Office, and other events not attributable to CDCR. No penalties or interest shall be incurred or paid by Defendant or any of the Released Parties on the settlement amount.

C. Reversion: There shall be a reversion of the Settlement Fund, including the total amount of uncashed Settlement Share checks, to the State of California by and through CDCR within ten (10) days after the period to negotiate, cash, or deposit all Settlement Share checks has expired, and such reversion of these funds shall be issued in the manner directed by Defendant's Counsel. Should the Court strike this term, the Settlement Agreement shall be voidable on that basis, at the sole discretion of Defendant.

D. Qualified Settlement Fund: The Administrator shall establish a Qualified Settlement Fund (QSF), as defined by 26 C.F.R. 1.468B-1, for the deposit of the Settlement Fund.

E. Payments from Settlement Fund: The Settlement Administrator shall maintain control over the Settlement Fund and shall be responsible for all disbursements as described in this Settlement Agreement, including any reversion back to State of California by and through CDCR. The Settlement Administrator shall pay from the Settlement Fund the following amounts specified by the Court in the Final Approval: the Administrator Expenses Payment; all taxes and tax-related expenses; Class Counsel Fees Payment; Class Counsel Litigation Expenses Payment; Class Representatives' Service Awards; and, any other fees, costs, expenses, and reimbursements which are determined by the Parties or the Court to be reasonably necessary and appropriate to execute the terms of this Settlement Agreement before Settlement Shares are issued to Participating Class Members. No amounts may be withdrawn from the Settlement Fund unless expressly authorized by this Agreement or its addendum(s), or approved by the Court.

F. Service Awards to the Class Representatives: Class Counsel will move the Court for a Service Award payment from the Settlement Fund for each Class Representative in an amount not to exceed two thousand, five hundred dollars (\$2,500), or the aggregate of ten-thousand dollars (\$10,000.00), in recognition of the time and effort reportedly taken by them as the Class Representatives in commencing the Action. Defendant will not oppose Class Counsel's request for Service Award payments from the Settlement Fund up to \$2,500 per Class Representative, not to exceed the aggregate total of \$10,000.00. The Service Awards shall be in addition to the other benefits available to Participating Settlement Class Members under the Settlement, and shall be taken from the Settlement Fund. If awarded by the Court, the Settlement Administrator shall pay from the Settlement Fund the Service Award to each Class Representative not owing restitution, as determined by CDCR pursuant to Section V.H. The Service Award payment to Class Representatives not owing restitution shall be made in the manner directed by Class Counsel within ten (10) days after the Effective Date. If the Court approves a Class Representative Service Award less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. Service Awards to the Class Representatives are subject to the deductions described in Section V.H. The Administrator will pay the Class Representative Service Award payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for taxes, if any, owed on the Class Representative Service Award. The Settlement is neither conditioned upon the Court's approval of Service Awards to any or all Class Representatives, nor the amount of the Service Awards.

G. Payment of Class Counsel's Fees and Litigation Expense Payment: Class Counsel will move the Court for an award of Class Counsel's reasonable attorneys' fees in an amount not to exceed 35% of the Settlement Fund, or Six Hundred and Thirty Thousand dollars (\$630,000.00), plus reasonable costs of the Action not to exceed \$10,682.69. Defendant will not oppose Class Counsel's request for an award of reasonable attorneys' fees and reimbursement for the costs of the Action, which are to be paid from the Settlement Fund. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. If awarded by the Court, the Settlement Administrator shall issue from the Settlement Fund any Class Counsel's Fees and Litigation Expense Payment in the amounts awarded by the Court within ten (10) days after the Effective Date. Payment will be made as directed by Class Counsel. The Settlement is not conditioned upon the Court's approval of an award of or a particular amount for Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment. Released Parties shall have no liability to Class Counsel or any other plaintiff's counsel arising from or relating to any claim to any portion of any Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Released Parties harmless, and indemnifies Released Parties, from any dispute or controversy regarding any division or sharing of any of these Payments.

H. Payment of Settlement Share: Each Participating Settlement Class Member shall be entitled to receive a *pro rata* cash distribution payment from the Settlement Fund, referred to as the "Settlement Share." The Settlement Administrator shall calculate the Settlement Share by (i) taking the Net Settlement Amount; and (ii) dividing it by the number of Participating Class Members (= X) as represented in the following formula:

$$\text{Settlement Share} = \frac{\text{Net Settlement Amount}}{\text{X}}$$

I. Tax Allocation of Settlement Shares to Participating Class Members: Settlement Shares will be reported on IRS 1099 Forms by the Settlement Administrator, if required by law. Participating Class Members assume full responsibility and liability for any taxes owed on their Settlement Shares.

V. SETTLEMENT SHARE PROCESS

A. Claim Form Submissions: The Settlement Administrator shall send the Postcard Notice to Class Members in accordance with the relevant provisions of Section VI, below. Settlement Class Members who are not sent a Postcard Notice shall submit a timely and valid Claim Form by mail or via the Settlement Website in order to be eligible for allocation of a Settlement Share. Claim Forms must be submitted to the Settlement Administrator by the Claim Deadline. The submission date for a Claim Form is deemed to be the date (a) the form is deposited in the U.S. Mail as evidenced by the postmark, in the case of submission by U.S. Mail, or (b) in the case of submission electronically through the Settlement Website, the date the Settlement Administrator receives the form, as evidenced by the transmission receipt. No Class Member that was sent a Postcard Notice shall be required to submit a valid Claim Form in order to be allocated a Settlement Share.

B. Valid Claim Form: To be valid, the Claim Form must be completed and signed by a Class Member. Upon receipt of a claim form, the Settlement Administrator will confirm the individual's identity as a Class Member whose Class Data was provided by CDCR.

C. Weekly Reports: The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a weekly report informing them of any and all Claim Forms received by the Settlement Administrator, the number of Postcard Notices mailed, the number of Postcard Notices returned undeliverable during each week following the Class Notice Date, and the number of Requests for Exclusion. The Settlement Administrator must file a declaration reporting on the mailing of the Class Notice and identifying the number of Postcard Notices mailed, Postcard Notices returned undeliverable, Claim Forms, Requests for Exclusion, and objections received no later than sixteen (16) court days prior to the Final Approval Hearing.

D. Address Updates: All Participating Class Members are responsible for notifying the Settlement Administrator as to changes in their addresses.

E. Amount of Settlement Share Checks sent to Participating Class Members: The amount of each Settlement Share disbursement payment sent to Participating Class Members will be determined by the Settlement Administrator by making a calculation pursuant to Section IV.H of this Agreement. In no event may any Class Member receive more than one (1) Settlement Share.

F. Disbursement of Settlement Share Payments: Within ten (10) days of the Effective Date, the Settlement Administrator will disburse Settlement Share payments to each Participating Class Member pursuant to this Agreement. For any Settlement Share payment returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the mailing address), the Settlement Administrator will make reasonable efforts to find a valid mailing address, including through skip tracing, and will resend any returned Settlement Share payment within thirty (30) days after the Settlement Share check is returned to the Settlement Administrator as undeliverable.

G. Applicability of California Code of Regulations, Title 15: For Settlement Shares issued to Participating Class Members who are incarcerated in CDCR custody, the Settlement Administrator must comply with the rules and regulations in Title 15 of the California Code of Regulations, including those pertaining to correspondence and funds enclosed therein. Funds deposited into inmate trust accounts may be encumbered up to and including thirty (30) days. Plaintiffs and Class Counsel also acknowledge and understand that rules and regulations applicable to Class Members incarcerated in CDCR custody remain in full force and effect, and Plaintiffs and Class Counsel understand that Class Members incarcerated with CDCR will not be able to access the Settlement Website and the toll-free number established by the Settlement Administrator. All correspondence with Class Members incarcerated with CDCR is presumed to be via USPS mail.

H. Settlement Share Disbursement to Restitution Participating Class Members and Class Representatives: Payments to Class Members, including Class Representatives, pursuant to this Agreement will be subject to all applicable federal and state laws and regulations, including but not limited to those governing deposits into inmate trust accounts. CDCR is obligated by Penal Code Section 2085.8 to collect any amounts owed by a Participating Class Members, including Class Representatives, pursuant to a restitution fine or order (“Restitution Participating Class Members”), including any administrative fees related to such amounts. CDCR may also be obligated to disburse Settlement Share funds to lienholders for all outstanding liens against a Participating Class Member currently incarcerated with CDCR, whether known or unknown by the Participating Class Member, if any, which amounts must be deducted from the incarcerated Participating Class Member’s Settlement Share check and paid on the incarcerated Participating Class Member’s behalf to the lienholder(s). At or around the time of the Preliminary Approval Order, CDCR will determine those Class Members who have any outstanding restitution obligation as described above. Prior to the Effective Date, CDCR will provide this list to the Settlement Administrator. Payments to Restitution Participating Class Members will be issued and sent to CDCR Inmate Accounting, Attn: Settlements, P.O. Box 276088, Sacramento, CA 95827 by the Settlement Administrator. Payments on behalf of Restitution Participating Class Members must include the individual’s name and CDCR number in the subject line.

I. Failure to Cash Settlement Share Checks: Absent a demonstration of reasonable circumstances or excuse, any Settlement Share check not cashed within one-hundred-and-eighty (180) days of issuance (based on the date of the check) will be deemed expired. Any Participating Class Member who does not cash their Settlement Share check within the aforementioned time period may petition the Settlement Administrator within thirty (30) days of the expiration of their uncashed check to reissue the Settlement Share check, and the Settlement Administrator will issue a new check. Participating Class Members are entitled to only one petition on this basis, and any Settlement Share checks reissued in such reasonable circumstances will expire within sixty (60)

days of issuance (based on the date of the check). Any Participating Class Member who does not timely cash their Settlement Share check and who fails to timely petition for a reissuance of the uncashed Settlement Share check will be considered as having waived any right to a Settlement Share under this Settlement Agreement. In no event will a Participating Class Member be permitted to cash a check once the value of the Settlement Fund has reverted back to the State of California by and through CDCR, pursuant to Section IV.C.

VI. SETTLEMENT ADMINISTRATION

A. Engagement of Settlement Administrator: Promptly upon entry of the Preliminary Approval Order, the Parties shall engage the Settlement Administrator. The Settlement Administrator will be paid the Administrator Expenses Payment, which shall include its reasonable fees and estimated costs for administering the Settlement Fund, estimated not to exceed \$690,000 paid from the Settlement Fund in accordance with this Agreement. To the extent the Administrator's fees and expenses are less or the Court approves payment less than \$690,000 the Settlement Administrator will retain the remainder in the Net Settlement Amount. The Settlement Administrator has verified that, as a condition of appointment, it agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for the Administration Expenses Payment. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

B. Class Member Privacy: To protect Class Members' privacy rights, the Settlement Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement.

C. Class Member Information: No later than ninety (90) days after entry of the Preliminary Approval Order, CDCR shall provide the Settlement Administrator with Class Data available in its electronic system(s) where information for each group of Class Members is maintained in CDCR's normal course of business, for the Settlement Administrator to mail the Postcard Notice to Class Members. CDCR, however, does not represent, guarantee, or warrant that it has accurate contact information for all Class Members.

D. Mail Notice: The Settlement Administrator shall send the Postcard Notice, attached as **Exhibit 2**, via First Class U.S. Mail, postage pre-paid, to all Class Members for whom Defendant can ascertain a mailing address from its electronic records system where mailing addresses are maintained in CDCR's normal course of business with reasonable effort, including all Class Members currently incarcerated with CDCR. Before mailing, the Settlement Administrator will process the United States Postal Service (USPS) addresses provided through the USPS National Change of Address System to increase mail deliverability and accuracy. The Settlement Administrator will also process the USPS address through the USPS's Coding Accuracy Support System (CASS) to standardize the addresses for Zip +4 Codes, carrier routes, and 5-digit Zip Coding. It is the Parties' intent that these efforts will reduce undeliverable mail, reduce unsortable mail, and increase the mail that reaches the intended addressees. All notices that are returned by the USPS with a forwarding address attached will be re-mailed to the updated address and the Class Member list will be updated accordingly.

E. Returned Notices for Class Members Incarcerated in CDCR Custody: The Settlement Administrator will promptly notify the Parties' Counsel of all notices for Class Members currently incarcerated in CDCR custody that are returned by the USPS as undeliverable. The Settlement Administrator shall conduct a search of California Incarcerated Records & Information Search (CIRIS) - CDCR at <https://apps.cdcr.ca.gov/ciris/search> to locate the incarcerated Class Member's current mailing address. If the mailing address on CIRIS-CDCR is the mailing address that resulted in the undeliverable mail, the Settlement Administrator shall again notify Parties' Counsel and CDCR will conduct a search to determine if it has an updated address for the Class Member and notify the Settlement Administrator of this address, if available. If CDCR does not have an updated address for the Class Member with a last-known mailing address at a CDCR institution, the Settlement Administrator will endeavor to identify the most current address available. Notices will be re-mailed to the updated address provided and the Class Member list will be updated accordingly. The Settlement Administrator only needs to make one attempt to re-mail any Postcard Notice that is returned as undeliverable.

F. Prison Notice: CDCR will post the Prison Notice, or substantially similar printed notices, in each of its prisons' libraries and housing units on or around the Class Notice Date, to the extent practical. This is intended by the Parties to provide adequate and public notice of this Settlement to incarcerated Class Members, including those who may not have received the Postcard Notice. The Prison Notice will be removed from prisons' libraries and housing units ninety days after the Class Notice Date, unless otherwise ordered by the Court.

G. Duties of Settlement Administrator: In addition to other duties as set forth in this Agreement, the Settlement Administrator shall be solely responsible for the following:

1. Obtaining from Defendant the name and last known mailing address of Class Members for the purpose of sending Postcard Notice to Settlement Class Members to the extent that such information is reasonably available from Defendant's records systems and updating the addresses using a National Change of Address database, and a proper search of databases that list individuals currently in custody with federal, state, and local law enforcement agencies;
2. Preparing, printing, and disseminating the Postcard Notice to Class Members;
3. Ensuring that mail sent to individuals incarcerated with CDCR must include the individual's name and CDCR number;
4. Not later than the Class Notice Date, sending by First Class Mail the Postcard Notice to Class Members. The Parties agree to use reasonable efforts and to work cooperatively to obtain the best practicable Class Member contact information prior to the date of mailing of the first Postcard Notice. CDCR, however, does not and cannot represent, guarantee or warrant that it has accurate contact information for all Class Members. For those Postcard Notices that are returned as undeliverable with a forwarding address, the Settlement Administrator will forward the Postcard Notice to

the new address. For those Postcard Notices that are returned as undeliverable with no forwarding address, the Settlement Administrator will run a skip trace in an attempt to obtain a current address and re-mail Postcard Notices to any current addresses it locates;

5. Publishing or causing to be published the Published Notice, as set forth in **Exhibit 5**. Any revisions, modifications or changes to the Published Notice; any images used with the Published Notice; audience profiles and search algorithms used for the Published Notice must be approved by CDCR in advance of publication;
6. Confirming through reasonable means, and by undertaking reasonable effort, that individuals who submit Claim Forms are proper Class Members;
7. From the date of mailing of the first Postcard Notice, and thereafter for six (6) months after the Effective Date, maintaining (i) the Settlement Website; and (ii) an 800 number with recorded answers to commonly asked settlement questions, the ability to leave a message and request a call back, and reference to the Settlement Website. The Administrator will also maintain and monitor an email address to receive Class Members emails. The Settlement Website and the email address shall be pre-approved by Class Counsel and Defendant. Neither Class Counsel nor Defendant will unreasonably withhold their approval;
8. Mailing the Long Form Notice to Class Members who request further information in writing and to those incarcerated Class Members who request more information;
9. Keeping track of Requests for Exclusion, including maintaining the original mailing envelope in which each request was mailed, or in the case of submission electronically through the Settlement Website, the date the Settlement Administrator receives the form, as evidenced by the transmission receipt;
10. Keeping track of Claim Forms, including maintaining the original mailing envelope in which each form was mailed, or in the case of submission electronically through the Settlement Website, the date the Settlement Administrator receives the form, as evidenced by the transmission receipt;
11. Keeping track of objections, including maintaining the original mailing envelope in which each objection was mailed, or in the case of submission electronically through the Settlement Website, the date the Settlement Administrator receives the form, as evidenced by the transmission receipt;
12. Keeping track of all other communications from Class Members, including maintaining the original mailing envelope in which any communication was mailed, or in the case of submission electronically through the Settlement

Website, the date the Settlement Administrator receives the form, as evidenced by the transmission receipt;

13. Maintaining adequate records of its activities, including the dates of each mailing of Class Notices, returned mail and other communications, and attempted written or electronic communications with Class Members;
14. Promptly furnishing to counsel for the Parties (i) copies of any Requests for Exclusion; (ii) copies of any objections; and (iii) all other written or electronic communications received from Class Members, including the date the Settlement Administrator receives the form, as evidenced by the transmission receipt;
15. Determining whether Requests for Exclusion comply with the terms of this Agreement and are timely and valid to exclude the submitting Class Member from the Class;
16. Determining whether Claim Forms comply with the terms of this Agreement and are timely and valid;
17. Promptly preparing and distributing any rejection of a Request for Exclusion to the submitting Class Member. Rejections shall set forth the reasons for rejection, including the reason(s) the Request for Exclusion fails to comply with the terms of this Agreement;
18. Promptly preparing and distributing notices of deficiencies to the submitting Class Member that sets forth the reasons their Claim Form is deficient, including the reason(s) the Claim Form fails to comply with the terms of this Agreement;
19. Delivering to the Parties' counsel in a reasonably timely manner, but in no event later than sixteen (16) court days before the Final Approval Hearing, a written report concerning all Postcard Notices mailed, all returned Postcard Notices, all Requests for Exclusion (valid and invalid), all Claim Forms (valid and deficient), and all objections;
20. Establishing a Qualified Settlement Fund (QSF), as defined by 26 C.F.R. 1.468B-1, for the deposit of the Settlement Fund payment, ensuring that all Taxes associated with the administration of the Settlement Fund are timely paid to the appropriate tax authorities and all tax filings are timely filed, which taxes shall be paid from the Settlement Fund;
21. Determining the Settlement Share of each member of the Participating Settlement Class in accordance with this Agreement and communicating this to Class Counsel and Defendant's Counsel within fourteen (14) days of the Claim Deadline and the Exclusion Deadline;

22. Preparing a list of Participating Settlement Class Members and communicating this to Class Counsel and Defendant's Counsel within fourteen (14) days of the Claim Deadline and the Exclusion Deadline;
23. Distributing the Settlement Share payment for each Participating Settlement Class Member. For each Restitution Participating Class Members, the Settlement Administrator shall send the Settlement Share payment by First Class Mail to CDCR Inmate Accounting, Attn: Settlements, PO Box 276088, Sacramento, CA 95827. Settlement Share payments to incarcerated Participating Class Members shall comply with the California Code of Regulations, Title 15, and must include the individual's name and CDCR number;
24. Distributing any Service Award as described in Sections IV.F and V.H, in accordance with the terms and provisions of this Agreement;
25. Preparing and distributing, in accordance with this Agreement and the Final Approval Order, Class Counsel's Fees and Litigation Expenses Payment in the manner directed by Class Counsel;
26. Calculating the remaining funds in the Settlement Fund after the time period for all Settlement Share checks to have been deposited, negotiated or cashed has expired and providing a check to CDCR in the manner directed by Defendant's Counsel within ten (10) days; and
27. Confirming in writing its completion of the administration of the Settlement.

H. Costs of Settlement Administration: All fees and costs associated with the Settlement Administrator's provision of the services provided for in this Agreement shall be paid exclusively out of the Settlement Fund, subject to the Court's approval.

VII. REQUESTS FOR EXCLUSION BY CLASS MEMBERS

A. Deadline for a Submission of a Request for Exclusion: Any Class Member may make a Request for Exclusion by mailing or emailing such request in writing to the Settlement Administrator at the address or email address set forth in the Class Notice. Any Request for Exclusion must be postmarked no later than sixty (60) days after the Class Notice Date or such other date specified in the Court's Preliminary Approval Order. Class Members whose Class Notice is re-mailed have an additional fourteen (14) days to submit a request for exclusion.

B. Valid Request for Exclusion: A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name and address, and may include their email address. To be valid, a Request for Exclusion must be timely postmarked by the date provided in this section.

C. Rejection of Request for Exclusion: The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

D. Effect of a Valid Request for Exclusion: Any Class Member who submits a timely Request for Exclusion is a Non-Participating Class Member and does not have the right to object to the class action components of the Settlement and shall not receive a Settlement Share.

E. Weekly Reports: The Settlement Administrator shall provide Class Counsel and Defendant's counsel with a weekly report informing them of any Requests for Exclusion received by the Settlement Administrator during each week following the Class Notice Date. The Settlement Administrator must provide Class Counsel with a declaration identifying all Class Members who requested exclusion from the Settlement and indicating those requests that were untimely no later than sixteen (16) court days prior to the Final Approval Hearing. Class Counsel will file with the Court and serve CDCR with the declaration along with their motion for final approval of the Settlement, as well as sending a draft of the motion to CDCR for pre-filing review.

VIII. OBJECTIONS TO SETTLEMENT BY CLASS MEMBERS

A. Objection by Final Settlement Class Members: Any Final Settlement Class Member may make an objection to the terms of the Settlement, including contesting the fairness of the Settlement or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, or Class Representative Service Award.

B. Deadline to Object in Writing: Final Settlement Class Members may send written objections to the Administrator by mail or email, to the mailing address or email address set forth in the Class Notice. To be considered timely, an objection must be mailed and postmarked no later than the Objection Date, i.e., sixty (60) days from the Class Notice Date. Non-Participating Class Member may not submit an objection or speak at the Final Approval Hearing.

C. Valid Objection: To state a valid objection to the Settlement, an objecting Final Settlement Class Member must mail a letter to the Settlement Administrator setting forth all of the following information in writing: (i) the objector's full name, current address, current telephone number, and be personally signed; (ii) the case name and number—*Thomas, et al. v. California Department of Corrections and Rehabilitation*, Case No. 34-2022-00328693 (Superior Court of the State of California, County of Sacramento); (iii) a statement of the position(s) the objector wishes to assert, including the factual and legal grounds for the position; (iv) provide copies of any other documents that the objector wishes to submit in support of his/her position; (v) whether the objecting Class Member intends to appear at the Final Approval Hearing; and (vi) whether the objecting Class Member is represented by counsel and, if so, the name, address, and telephone number of his/her counsel.

D. Efficient Administration: The agreed-upon procedures and requirements for submitting objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Class Member's objection to the Settlement Agreement, in accordance with the due process rights of all Class Members. The Preliminary Approval Order and Class Notice will require all Class Members who have any objections to submit the objections to the Settlement Administrator at the address set forth in the Class Notice, by no later than the Objection Deadline.

E. Final Approval Order Defense: Class Counsel, at their own expense, will defend the Court's Final Approval Order and any related orders in the event of an appeal. This provision does not deprive Defendant, in its sole discretion, of the ability to defend the Court's Final Approval Order or any related orders in the event of an appeal.

IX. RELEASE OF CLAIMS

A. Final Settlement Class Members' Release: As of the Effective Date, Plaintiffs and Final Settlement Class Members release Defendant and Released Parties from any and all causes of action which Plaintiffs or any Class Member has against Defendant or the Released Parties as well as any and all claims, causes of action, damages, penalties, attorneys' fees, costs, and any other form of relief or remedy in law, equity, of whatever kind or nature and for any relief whatsoever, including monetary, injunctive, or declaratory relief, whether direct or indirect for any acts or omissions that were pled or could have been pled in the Action based on the facts, subject matter, or the factual or legal allegations in the Complaint or any amendment to the Complaint, including the Operative Complaint, regardless of whether such claims arise under federal, state or local law, statute, ordinance, regulation, common law, or other source of law ("Released Claims").

B. Release of Unknown Claims: The Class Representatives and all Final Class Members release CDCR, Defendants, and Released Parties, whether named or unnamed and whether served or unserved, from all claims, past, present and future, known or unknown, that arise or could arise from the facts alleged in the Complaint, Operative Complaint, or Action.

In furtherance of this intention, the Releasing Parties stipulate, acknowledge and agree, that upon the Effective Date, Class Representatives and Final Settlement Class Members shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, and any law of any state of the United States, or principle of common law or otherwise, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code, with respect to the Released Claims. Section 1542 of the California Civil Code 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.”

This Agreement is the compromise of various disputed claims and shall not be treated as an admission of liability by any of the Parties for any purpose.

C. Full Release: It is the intention of the Parties in signing this Agreement that it shall be effective as a full and final accord and satisfaction and release CDCR and Released Parties from all claims and causes of action asserted or that could have been asserted in the Complaint, Operative Complaint, and the Action.

D. No Effect on the Rights of Non-Participating Class Members: This Settlement Agreement does not affect the rights of Class Members who submit a timely and valid Request for Exclusion from the Settlement.

E. Exclusive Remedy: Upon issuance of the Final Approval Order: (i) the Settlement Agreement shall be the exclusive remedy for any and all Class Members, except those who have opted out in accordance with the Agreement's provisions; (ii) Defendant and Released Parties shall not be subject to liability or expense of any kind to any Class Member for reasons related to the Action except as set forth in the Agreement; and (iii) Class Members shall be permanently barred from initiating, asserting, or prosecuting any and all Released Claims against Defendant and Released Parties.

F. Class Representatives and Class Counsel acknowledge, and each Final Settlement Class Member by operation of law shall be deemed to have acknowledged, that the inclusion of Unknown Claims in the definition of Released Claims was separately bargained for and was a key element of the Settlement Agreement.

X. REPRESENTATIONS, WARRANTIES, AND COVENANTS

A. Class Counsel's Authority: Class Counsel represent and warrant that they have the authority, on behalf of Plaintiffs, to execute, deliver, and perform this Settlement Agreement and to consummate all of the transactions contemplated by the Agreement. This Agreement has been duly and validly executed and delivered by Class Counsel and Plaintiffs and constitutes their legal, valid, and binding obligation.

B. Defense Counsel's Authority: CDCR, through its attorneys, represents, and warrants that it has the authority to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated by the Agreement. The execution, delivery, and performance by CDCR of this Agreement and the consummation by it of the actions contemplated by the Agreement have been duly authorized by CDCR. This Settlement Agreement has been duly and validly executed and delivered by CDCR and constitutes its legal, valid, and binding obligation.

XI. TERMINATION

A. Termination at Defendant's Election: Defendant shall have the right to, in its sole discretion, terminate the Agreement if one-hundred-and-twenty (120) Class Members or more submit timely and valid Requests for Exclusion. In no event will Class Counsel, the Class Representatives, Defendant's officers or directors, or Defendant's counsel encourage Class

Members to submit Requests for Exclusion. Upon request by Defendant, the Settlement Administrator shall promptly provide an accounting of the costs incurred to date for settlement administration and notices.

B. Effect of Termination: In the event of a termination as provided in this Agreement, this Agreement shall be considered null and void, and the certification for settlement purposes of the Settlement Class will be vacated; all of the Parties' obligations under the Agreement shall cease to be of any force and effect and the Parties shall return to the *status quo ante* in the Action as of November 17, 2023; and the Settlement Administrator will promptly return to Defendant the Settlement Fund, minus any reasonable costs incurred to date by the Settlement Administrator for settlement administration or Notice. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved.

XII. MISCELLANEOUS PROVISIONS

A. No Admission: This Settlement Agreement is not to be used in evidence (except in connection with obtaining approval of this Settlement Agreement and enforcing its terms) and shall not at any time be construed or deemed to be any admission or concession by CDCR with respect to any alleged wrongdoing, fault, or omission of any kind whatsoever, regardless of whether or not this Settlement Agreement results in entry of a Final Approval Order as contemplated by the Agreement. CDCR specifically denies all of the allegations made in connection with the Action. Neither this Settlement Agreement nor any class certified by the Court pursuant to it shall constitute, in this or in any other proceeding, an admission by CDCR, or evidence or a finding of any kind, that any requirement for class certification is satisfied with respect to the Action, or any other litigation, except for the limited purpose of settlement pursuant to this Settlement Agreement. This Settlement Agreement also is made with the Parties' express understanding and agreement that if for any reason this Settlement is not approved by the Court, CDCR may continue to contest and deny that any class, including the proposed Settlement Class, is suitable for certification as a class under the law of any jurisdiction.

B. Confidentiality Prior to Preliminary Approval: Plaintiffs, Class Counsel, CDCR, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, or publicize, or cause or permit another person to disclose disseminated or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties or the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to obtain bids for settlement administrators; (4) to the extent necessary to report income to appropriate taxing authorities; (5) in response to a court order or subpoena; or (6) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, CDCR, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's

communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

C. Best Efforts to Cure: This Settlement Agreement is entered into only for purposes of Settlement. In the event that the Final Approval Order is not entered, or a Final Approval Order is subsequently reversed on appeal, this Settlement Agreement, including any releases or dismissals under the Agreement, is canceled, and no term or condition of this Settlement Agreement, or any draft, or of the discussion, negotiation, documentation or other part or aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose, or used for any purposes whatsoever in the Action, and all Parties shall be restored to their prior rights and positions as if the Settlement Agreement had not been entered into. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Award or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

D. Headings: The headings of the sections and paragraphs of this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

E. Capitalized Words: Capitalized words, terms and phrases are used as defined in Section I, above.

F. No Representations: The consideration recited in this Agreement is the only consideration for this Agreement, and no representations, promises, or inducements have been made to the Parties, or any of their representatives, other than those set forth in this Agreement.

G. Modifications: This Settlement Agreement may not be modified or amended except in writing and signed by the Parties.

H. No Tax Advice: Neither Plaintiff, Class Counsel, CDCR, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

I. Execution: This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

J. Costs: Except as otherwise provided in this Settlement Agreement, each Party shall bear his, her, or its own costs of the Action.

K. Reasonable Extensions: The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement, as well as to correct any inadvertent, non-substantive mistakes or typographical errors contained in any of the Settlement papers.

L. Jurisdiction of the Court: The administration and consummation of the Settlement as embodied in this Settlement Agreement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and implement the Settlement Agreement, including, but not limited to, the release. The Final Approval Order will provide that the Court expressly retains jurisdiction to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of this Settlement Agreement, including, but not limited to, orders enjoining Class Members from prosecuting claims that are released pursuant to this Settlement Agreement, and allowing for discovery related to objectors, if any.

M. Mutual Agreement: The determination of the terms of, and the drafting of, this Settlement Agreement has been by mutual agreement after negotiation, with consideration by and participation of all Parties and their counsel. Since this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. The Parties were represented by competent and effective counsel throughout the course of settlement negotiations and in the drafting and execution of this Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement.

N. Entire Agreement: This Settlement Agreement constitutes the entire, fully integrated agreement among the Parties expressing the entire agreement of the Parties, and there are no other agreements, written or oral, express or implied, between the Parties, except as set forth in this Settlement of the Action.

O. Good Faith Cooperation: The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement Agreement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. The Parties agree that they will seek the assistance of the Court for any unresolved disputes regarding the meaning of the terms and conditions of this Settlement Agreement, the Parties' rights and obligations under this Settlement Agreement, and/or as to any disagreement regarding the manner in which any issue or dispute arising under this Settlement Agreement should be resolved, after the Parties have met and conferred in good faith.

P. Use and Return of Class Data: Information provided to Class Counsel pursuant to California Evidence Code Sections 1119, 1152, *et seq.* and all copies and summaries of the Class Data provided to Class Counsel by CDCR in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges the Settlement Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Class Counsel shall destroy all paper and electronic versions of Class Data received from CDCR unless, prior to the Court's discharge of the Settlement Administrator's obligation, CDCR makes a written request to Class Counsel for the return, rather than the destruction, of Class Data. Notwithstanding the foregoing, Class Counsel shall be allowed to maintain an electronic or hard copy of any documents it believes necessary, and for the amount of time necessary, to fulfill its ethical retention obligations. To the extent Class Counsel retains a copy or copies of such records, Class Counsel agrees to indemnify and hold

CDCR harmless from any and all liability, actions, and claims arising from or relating to retention, maintenance, disposal, or destruction of such records.

Q. Calculation of Time Periods: All time periods set forth in this Settlement Agreement shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Agreement or by order of the Court, the day of the act, or default, from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period shall run until the end of the next day that is not one of the aforementioned days. Each of the Parties reserves the right, subject to the Court’s approval, to seek any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement, and to modify or supplement any notice contemplated hereunder.

R. Waiver: Any failure by any of the Parties to insist upon the strict performance by any of the other Parties of any of the provisions of this Agreement shall not be deemed a waiver of any provision of this Agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the Agreement’s provisions.

S. California Law: Unless expressly stated otherwise in this Agreement, the terms, conditions, and provisions of this Settlement Agreement are governed by and interpreted under California law.

T. Notices: All notices to the Parties or counsel required by this Settlement Agreement shall be made in writing and communicated by electronic and regular mail to the following addresses (unless one of the Parties subsequently designates one or more other designees):

For Class Counsel:

Scott Edward Cole
sec@colevannote.com
Cole & Van Note
555 12th Street, Suite 2100
Oakland, CA 94607

For CDCR:

Amanda Waters
Deputy Attorney General
Amanda.WatersLuttrell@doj.ca.gov
Office of the Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102

Plaintiffs and CDCR, by and through their respective counsel, execute this Settlement Agreement as of the date(s) indicated on the lines below.

Dated: May ___, 2024

Billy Thomas

ID MS7gXW7P6KfDThDKamoR6atQ

Billy Thomas
Plaintiff

Dated: May ___, 2024

Darrell Denson

ID hSow2ajQVKn3KjKJLjsk5p95x

Darrell Denson
Plaintiff

Dated: May ____, 2024


ID e4NCQ2DigT1DXHuMx1SCyqow

Andre Brown
Plaintiff

Dated: May ____, 2024

Joseph Williams
Plaintiff

Dated: May ____, 2024

Scott Edward Cole, Esq.
Cole & Van Note
Attorneys for Plaintiffs

5/3/2024
Dated: May ____, 2024

DocuSigned by:
Jennifer Neill
D907561C2AE047B...

Jennifer Neill
As the Duly Authorized Representative of
Defendant California Department of Corrections
and Rehabilitation

5/3/2024
Dated: May ____, 2024

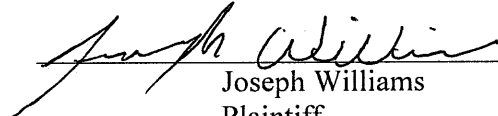
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Amanda Waters
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Amanda Waters
Deputy Attorney General
Adriano Hrvatin
Supervising Deputy Attorney General
Office of the Attorney General
Attorneys for Defendant

Dated: May __, 2024

Andre Brown
Plaintiff

Dated: May 6, 2024



Joseph Williams
Plaintiff

Dated: May __, 2024

Scott Edward Cole, Esq.
Cole & Van Note
Attorneys for Plaintiffs

Dated: May __, 2024

Jennifer Neill
As the Duly Authorized Representative of
Defendant California Department of Corrections
and Rehabilitation

Dated: May __, 2024

Amanda Waters
Deputy Attorney General
Adriano Hrvatin
Supervising Deputy Attorney General
Office of the Attorney General
Attorneys for Defendant

Dated: May ___, 2024

Andre Brown
Plaintiff

Dated: May ___, 2024

Joseph Williams
Plaintiff

Dated: May 17, 2024

Scott Edward Cole, Esq.
Cole & Van Note
Attorneys for Plaintiffs

5/3/2024

Dated: May ___, 2024

DocuSigned by:
Jennifer Neill
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Jennifer Neill
As the Duly Authorized Representative of
Defendant California Department of Corrections
and Rehabilitation

5/3/2024

Dated: May ___, 2024

DocuSigned by:
Amanda Waters
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Amanda Waters
Deputy Attorney General
Adriano Hrvatin
Supervising Deputy Attorney General
Office of the Attorney General
Attorneys for Defendant