

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

SHARON BERNSTEIN, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

GINKGO BIOWORKS HOLDINGS, INC., et
al.,

Defendants.

Case No. 4:21-cv-08943-KAW

STIPULATION OF SETTLEMENT

This Stipulation and Agreement of Settlement (together with all Exhibits hereto, the “Stipulation”), dated as of April 4, 2024, which is entered into by and among Lead Plaintiff Sharon Bernstein (“Lead Plaintiff,” and together with Class Members, “Plaintiffs”), on behalf of herself and the Class (as defined herein), and Defendants Ginkgo Bioworks Holdings, Inc. (“Ginkgo” or “the Company”), Harry E. Sloan, Eli Baker, Scott M. Delman, Joshua Kazam, Isaac Lee, Timothy Leiweke, Dennis A. Miller, Laurence E. Paul, Jason Kelly, Reshma Shetty, Arie Beldegrun, Marijn Dekkers, Christian Henry, Reshma Kewalramani, Shyam Sankar, and Anna Marie Wagner (“Defendants,” and together with Lead Plaintiff, the “Parties” and each a “Party”), by and through their undersigned attorneys, states all of the terms of the settlement and resolution of this matter by the Parties and is intended by the Parties to fully, finally, and forever release, resolve, remise, discharge, and dismiss with prejudice the Action and all Released Plaintiffs’ Claims as against Released Defendants’ Parties and all Released Defendants’ Claims as against Released Plaintiffs’

Parties (all as defined herein), subject to the approval of the United States District Court for the Northern District of California (the “Court”) and the terms and conditions set forth in this Stipulation.

WHEREAS, the initial complaint in the above-captioned action (this “Action”) was filed on November 18, 2021 (ECF No. 1) by initial plaintiff Kevin Stuart against Ginkgo, Harry Sloan, Jason Kelly and Mark Dmytruk, alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”). On March 22, 2022, the Parties submitted a statement consenting to the referral of the Action to a magistrate judge for all purposes (ECF No. 30), and on March 25, 2022, the Action was referred to Magistrate Judge Kandis A. Westmore (ECF Nos. 32, 35). Also on March 25, 2022, an order was entered appointing Ms. Bernstein Lead Plaintiff (ECF No. 31);

WHEREAS, on May 26, 2022, Lead Plaintiff filed an Amended Complaint (ECF No. 45), which added claims under Section 14(a) of the Exchange Act and Sections 11 and 15 of the Securities Act of 1933 (“Securities Act”), added as Defendants Eli Baker, Scott M. Delman, Joshua Kazam, Isaac Lee, Timothy Leiweke, Dennis A. Miller, Laurence E. Paul, Reshma Shetty, Arie Belldegrun, Marijn Dekkers, Christian Henry, Reshma Kewalramani, Shyam Sankar, and Anna Marie Wagner, and omitted as a Defendant Mark Dmytruk, whom Lead Plaintiff voluntarily dismissed from this Action the following day (ECF No. 46). By stipulation, a Second Amended Complaint was filed thereafter correcting minor errors in the Amended Complaint (ECF No. 58);

WHEREAS, all Defendants moved to dismiss the Second Amended Complaint on July 21, 2022 (ECF No. 61), which Lead Plaintiff opposed, and on March 10, 2023, the Court entered an Order (ECF No. 81) granting dismissal without prejudice of the Securities Act claims and denying dismissal of the Exchange Act claims. On March 15, 2023, Lead Plaintiff filed a Third Amended

Complaint adding certain Securities Act allegations (ECF No. 82), which was answered by Defendants (ECF No. 84);

WHEREAS, the Parties thereafter exchanged initial disclosures and engaged in substantial additional discovery, including subpoenas upon third parties;

WHEREAS, between party and non-party productions, Lead Plaintiff received and reviewed over 13,000 documents comprising approximately 145,000 pages, informing her of the strengths and weaknesses of her case;

WHEREAS, on January 30, 2024, the Parties mediated before an experienced mediator familiar with securities class actions, Michelle Yoshida. Although the January 30, 2024 session did not result in a resolution, the parties continued their mediation settlement discussions;

WHEREAS, the Parties thereafter agreed to settle this Action for a cash payment of \$17,750,000, and documented their agreement in a Term Sheet executed on March 4, 2024;

WHEREAS, the Term Sheet calls for the Settlement to be more fully documented in a Stipulation of Settlement;

WHEREAS, Lead Plaintiff believes that the claims asserted in the Action have merit and that the evidence of the underlying events and transactions alleged in the Third Amended Complaint, developed through discovery to date, support her claims. Nonetheless, Lead Plaintiff and her counsel recognize and acknowledge the expense and length of continued prosecution of the Action through trial and any subsequent appeals. Lead Plaintiff and her counsel also have taken into account the uncertain outcome and risks of any litigation, including risk of collecting upon a judgment, and believe that it is desirable that the settlement as set forth in this Stipulation confers substantial benefits upon the Class. Based on their evaluation, Lead Plaintiff and her counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable and

adequate to the Class, and that it is in the best interests of the Class to settle the claims raised in the Action pursuant to the terms and provisions of this Stipulation; and

WHEREAS, Defendants expressly have denied and continue to deny all allegations of wrongdoing or liability whatsoever arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action. Defendants maintain that their conduct was at all times proper and in compliance with all applicable laws, but also recognize the expense, risks and uncertainty inherent in any litigation, and desire to settle the claims against them solely so as to avoid the burden, expense, and uncertainty of further litigation. Defendants therefore believe that it is desirable to secure releases to the fullest extent permitted by law and fully and finally resolve the Action in the manner and upon the terms and conditions set forth in this Stipulation;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Parties through their undersigned counsel that, subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, that, in consideration of the benefits flowing to the Parties from the Settlement set forth herein, the Released Plaintiffs' Claims and Released Defendants' Claims shall be finally and fully compromised, settled and released as against the Released Parties, and the Action shall be dismissed fully, finally and with prejudice, upon and subject to the terms and conditions of this Stipulation, as follows:

I. Definitions

A. "Action" means the putative consolidated class action captioned *Bernstein, et al. v. Ginkgo Bioworks Holdings, Inc., et al.*, No. 4:21-cv-08943-KAW (N.D. Cal.). The Action was originally docketed as *Stuart v. Ginkgo Bioworks Holdings, Inc., et al.*, No: 4:21-cv-08943-KAW (N.D. Cal.).

B. “Authorized Claimant” means any Class Member who is a Claimant and whose claim for recovery has been allowed pursuant to the terms of this Stipulation, the exhibits hereto, and any order of the Court.

C. “Award to Lead Plaintiff” means a request for reimbursement to Lead Plaintiff for her reasonable costs and expenses (including lost wages) directly related to Lead Plaintiff’s representation of the putative class and Class in the Action.

D. “Business Day” means any day except Saturday or Sunday or any other day on which national banks are authorized by law or executive order to close in the State of California.

E. “Claimant” means any Class Member who files a Proof of Claim in such form and manner, and within such time, as the Court shall prescribe.

F. “Claims” means any and all manner of claims, debts, demands, controversies, obligations, losses, costs, interest, penalties, fees, expenses, rights, duties, judgments, sums of money, suits, contracts, agreements, promises, damages, actions, causes of action and liabilities, of every nature and description in law or equity (including, but not limited to, any claims for damages, whether compensatory, special, incidental, consequential, punitive, exemplary or otherwise, injunctive relief, declaratory relief, rescission or rescissionary damages, interest, attorneys’ fees, expert or consulting fees, costs, or expenses), accrued or unaccrued, known or unknown, arising under federal, state, common, administrative, or foreign law, or any other law, rule, or regulation.

G. “Class” means: (1) all persons who purchased or otherwise acquired shares in Ginkgo (including by way of exchange of SRNG shares) pursuant or traceable to the proxy/registration statement (the “Proxy/Registration Statement”) that Defendants filed with the SEC on Form S-4 on May 14, 2021, and that was thereafter amended on Forms S-4/A on June 28,

2021, July 16, 2021, August 4, 2021, and August 9, 2021 and the body of which was incorporated into the final prospectus on Form 424(b)(3) filed on August 13, 2021; (2) all persons who were solicited to approve the Ginkgo Bioworks, Inc.–SRNG merger and to retain rather than redeem SRNG shares pursuant to the Proxy/Registration Statement; and (3) all persons who purchased or otherwise acquired in a public offering or on public markets securities of Ginkgo (including its predecessor SRNG) between May 11, 2021 and October 5, 2021, both dates inclusive. Excluded from the Class are: (a) Defendants and their immediate families; (b) current and former directors of Ginkgo or SRNG; (c) any entity that has entered into a stockholder agreement or co-venture agreement with Ginkgo, or was a Private Investment in Public Equities (“PIPE”) investor in Ginkgo; and (d) any entity controlled, majority-owned or wholly owned, or affiliated with any of the above. Also excluded from the Class are any persons and entities who or which submit a request for exclusion from the Class that is accepted by the Court. For the avoidance of doubt, “affiliates” are persons or entities that are controlled by or are under common control with one or more of the Defendants.

H. “Class Counsel” means Pomerantz LLP.

I. “Class Members” means all persons or entities who are members of the Class and who have not submitted a request for exclusion from the Class that is accepted by the Court.

J. “Defendants’ Counsel” means Wachtell, Lipton, Rosen & Katz and Morrison & Foerster LLP.

K. “Effective Date” means the date that is five (5) Business Days after the date on which all of the conditions to the Settlement, set forth in Section X.A, are satisfied.

L. “Escrow Account” means an interest-bearing account maintained by the Escrow Agent, wherein the Settlement Amount shall be deposited and held in escrow in accordance with the terms of the Stipulation and any order(s) of the Court.

M. “Escrow Agent” means Huntington National Bank.

N. “Final” when referring to the Judgment means exhaustion of all possible appeals or requests for review, meaning (i) if no appeal or request for review is filed, the day after the date of expiration of any time for appeal or review of the Judgment, and (ii) if an appeal or request for review is filed, the day after the date the last-taken appeal or request for review is dismissed, or the Judgment is upheld on appeal or review in all material respects, and is not subject to further review on appeal or by certiorari or otherwise; provided, however, that no order of the Court or modification or reversal on appeal or any other order relating solely to the amount, payment, or allocation of attorneys’ fees and expenses or to the Plan of Allocation shall constitute grounds for cancellation or termination of this Settlement or affect its terms, including the release in Section X.B, or shall affect or delay the date on which the Judgment becomes Final.

O. “Judgment” means the order and judgment to be entered by the Court finally approving the Settlement and dismissing the Action with prejudice, materially in the form attached hereto as Exhibit B.

P. “Net Settlement Fund” has the meaning set forth in Section III.A.

Q. “Notice” means the “Notice of Pendency and Proposed Settlement of Class Action,” substantially in the form attached hereto as Exhibit A-1.

R. “Person” means an individual, corporation, fund, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or

any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assigns.

S. “Plan of Allocation” means a plan or formula for allocating the Settlement Fund to Authorized Claimants after payment of Settlement Administration Costs, taxes and tax expenses, and such attorneys’ fees, costs, and expenses as may be awarded by the Court. Any Plan of Allocation is not a condition to the effectiveness of this Stipulation, and Defendants shall have no responsibility or liability with respect thereto.

T. “Postcard Notice” means the postcard form of notice directing Class Members to the Settlement Website for the full Notice and other relevant documents, substantially in the form attached hereto as Exhibit A-4.

U. “Preliminary Approval Order” means the proposed order preliminarily approving the Settlement and directing notice thereof to be provided to the Class, substantially in the form attached hereto as Exhibit A.

V. “Proof of Claim” means the Proof of Claim and Release to be submitted by Claimants, substantially in the form attached hereto as Exhibit A-2.

W. “Released Claims” means all Released Plaintiffs’ Claims and all Released Defendants’ Claims, including Unknown Claims.

X. “Released Defendants’ Claims” means all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims asserted in the Action against Defendants. Released Defendants’ Claims shall not include any claims relating to the enforcement of the Settlement.

Y. “Released Defendants’ Parties” means (i) each Defendant; (ii) the immediate family members of the Individual Defendants; (iii) direct or indirect parent entities, direct and indirect subsidiaries, related entities, and affiliates of Ginkgo or SRNG; (iv) any trust of which any Individual Defendant is the settlor or which is for the benefit of any Individual Defendant and/or his or her immediate family members; (v) for any of the persons or entities listed in parts (i) through (iv) as applicable, their respective past, present, and future general partners, limited partners, principals, shareholders, joint venturers, officers, directors, managers, managing directors, supervisors, employees, contractors, consultants, experts, auditors, accountants, financial advisors, insurers, reinsurers, indemnitors, trustees, trustors, agents, attorneys, predecessors, successors, assigns, heirs, executors, administrators, estates, and any controlling person thereof; and (vi) any entity in which a Defendant has a controlling interest; all in their capacities as such.

Z. “Released Plaintiffs’ Claims” means all claims, actions, causes of action, demands, losses, rights, duties, obligations, debts, sums of money, suits, contracts, agreements, judgments, matters, issues, promises, damages and liabilities of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that Lead Plaintiff, any other Class Member, or any other Releasing Plaintiffs’ Party: (i) asserted in the Third Amended Complaint; (ii) could have asserted in any forum that arise out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Third Amended Complaint or any previous complaint in the Action; or (iii) that relate to the purchase, acquisition, sale, conversion, holding, redemption, or retention of Ginkgo’s publicly traded securities (and those of Ginkgo’s predecessor, SRNG) during the period from May 11, 2021 through October 5, 2021, or pursuant or traceable to the Proxy/Registration Statement. Released Plaintiff’s Claims shall not include (i) any claims relating to the enforcement

of the Settlement; (ii) any claims of any person or entity who or which submits a request for exclusion from the Class that is accepted by the Court; and (iii) any derivative claims asserted by shareholders on behalf of Ginkgo in *Hu v. Baker*, No. 4:23-cv-02077 (N.D. Cal.), or *Bowers et al. v. Kelly et al.*, No. 3:23-cv-05396 (N.D. Cal.).

AA. “Released Plaintiffs’ Parties” means (i) Lead Plaintiff, all Class Members, any other plaintiffs in the Action and their counsel, Lead Plaintiff’s Counsel, liaison counsel or referring counsel, and (ii) each of their respective immediate family members, and their respective partners, general partners, limited partners, principals, shareholders, joint venturers, members, officers, directors, managing directors, supervisors, employees, contractors, consultants, experts, auditors, accountants, financial advisors, insurers, trustees, trustors, agents, attorneys, predecessors, successors, assigns, heirs, executors, administrators, and any controlling person thereof, all in their capacities as such.

BB. “Releasing Plaintiffs’ Parties” means Lead Plaintiff and all Class Members who have not opted out of this Settlement pursuant to the procedures ordered by the Court, together with their successors, assigns, executors, heirs, administrators, representatives, attorneys, and agents, in their capacities as such.

CC. “Settlement” means the settlement contemplated by this Stipulation.

DD. “Settlement Administrator” means the firm retained by Class Counsel, subject to approval of the Court, to provide all notices approved by the Court to potential Class Members and to administer the Settlement, as set forth in Section IV.A.

EE. “Settlement Administration Costs” means all costs and expenses associated with providing notice of the Settlement to the Class and otherwise administering or carrying out the terms of the Settlement. Such costs may include, without limitation: the costs of publishing the

Summary Notice, the costs of printing and mailing the Postcard Notice and/or Notice and Proof of Claim, as directed by the Court, taxes and tax expenses, and the costs of allocating and distributing the Net Settlement Fund (as defined in Section III.A) to the Authorized Claimants. Such costs do not include legal fees.

FF. “Settlement Amount” means the sum of \$17,750,000.00 (Seventeen Million Seven-Hundred and Fifty Thousand U.S. Dollars). The Settlement Amount includes all Settlement Administration Costs, Class Counsel’s attorneys’ fees and expenses (as allowed by the Court), Award to Lead Plaintiff (as allowed by the Court), Class Member benefits, as well as any other costs, expenses, or fees of any kind whatsoever associated with the Settlement or the Action.

GG. “Settlement Fund” means all funds transferred to the Escrow Account pursuant to this Stipulation and any interest or other income earned thereon.

HH. “Settlement Hearing” means the hearing at or after which the Court will make a final decision pursuant to Rule 23(e)(2) of the Federal Rules of Civil Procedure as to whether the Settlement contained in the Stipulation is fair, reasonable and adequate, and therefore, should receive final approval from the Court.

II. “Settlement Website” means a website to be developed for the Settlement.

JJ. “SRNG” means Soaring Eagle Acquisition Corp. (f/k/a Spinning Eagle Acquisition Corp.).

KK. “Summary Notice” means the Summary Notice of Pendency and Proposed Settlement of Class Action, substantially in the form attached hereto as Exhibit A-3.

LL. “Supplemental Agreement” means the separate confidential agreement being executed by the Parties as of the date hereof.

MM. “Third Amended Complaint” means the Third Amended Class Action Complaint for Violations of the Federal Securities Laws (ECF No. 82).

NN. “Unknown Claims” means and includes any and all Claims that Lead Plaintiff and Class Members (with respect to Released Plaintiffs’ Claims) or Defendants (with respect to Released Defendants’ Claims) do not know or suspect to exist at the time of the release. This includes Claims which, if known, might have affected the Settlement and Released Plaintiffs’ Claims and Released Defendants’ Claims, including the decision to object or not to object to this Settlement or to request exclusion from the Class. The Parties expressly acknowledge, and the other Class Members by operation of law are deemed to acknowledge, and shall be deemed to have expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or any other jurisdiction, or principle of common law that is similar, comparable, or equivalent to, California Civil Code ¶ 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Lead Plaintiff, Class Members, and Defendants may hereafter discover facts, legal theories, or authorities in addition to or different from those known or believed to be true with respect to the subject matter of Released Plaintiffs’ Claims or Released Defendants’ Claims, but they expressly, fully, finally, and forever settle and release, and upon the Effective Date and by operation of the Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. The Parties expressly acknowledge, and each releasing party (including Class Members) and Released Party 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 a material element of the Settlement.

II. Settlement Consideration

A. In consideration of the dismissal with prejudice of the Action and the full and final release, settlement and discharge of all Released Plaintiffs’ Claims as set forth herein, Defendants shall within twenty (20) Business Days after the later of (a) the Court’s entry of the Preliminary Approval Order, and (b) the provision by Class Counsel of complete wire funding details (including a contact name and number to verify the wire instructions) and a signed Form W-9, wire or cause to be wired by their insurers to the Escrow Account the Settlement Amount of \$17,750,000.00. Upon the Effective Date, Defendants shall also release all of Released Defendants’ Claims as set forth herein.

B. Under no circumstances will Defendants or their insurers be required to pay, or cause payment of, more than the Settlement Amount pursuant to this Stipulation and the Settlement, including, without limitation, as compensation to any Class Member, as payment of attorneys’ fees and expenses awarded by the Court, in payment of any fees or expenses incurred by any Class Member or Class Counsel, for any taxes or tax expenses, or as interest on the Settlement Amount of any kind and relating to any time period (including prior to the payment of the Settlement Amount into the Escrow Account).

III. The Escrow Account

A. The Escrow Account, including any interest earned thereon net of any taxes on the income thereof, shall be used to pay: (i) Class Counsel’s attorneys’ fees and expenses as may be awarded by the Court; (ii) taxes and tax expenses; (iii) Settlement Administration Costs, (iv) any Award to Lead Plaintiff as may be awarded by the Court, and (v) any other costs and fees approved

by the Court. The balance of the Escrow Account shall be the “Net Settlement Fund” and shall be distributed to the Authorized Claimants as set forth in the Plan of Allocation. Plaintiffs and Class Members shall look solely to the Net Settlement Fund for payment and satisfaction of all such fees, costs, and expenses, as well as any and all Released Claims. Defendants and their insurers shall have no responsibility to pay any amount in excess of the Settlement Amount (except for the costs associated with providing shareholder lists in accordance with Section IV.D and for the costs of Defendants’ providing notice as required under the Class Action Fairness Act).

B. All funds and instruments held by the Escrow Agent shall be deemed *in custodia legis* of the Court and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

C. The Escrow Agent shall invest the Settlement Fund exclusively in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank account that is either (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or (b) secured by instruments backed by the full faith and credit of the United States Government. The Escrow Agent shall reinvest the proceeds of these instruments or accounts as they mature in similar instruments or accounts at their then-current market rates.

D. Prior to the Effective Date, the Escrow Agent shall not disburse the Settlement Fund except as provided in this Stipulation, by order of the Court, or with the prior written agreement of both Class Counsel and Defendants’ Counsel.

E. After the Effective Date, Defendants shall have no interest in the Settlement Fund or in the Net Settlement Fund.

F. The Escrow Agent shall be authorized to execute only such transactions as are consistent with the terms of this Stipulation and the order(s) of the Court.

IV. The Notice and Administration Account

A. As part of the Preliminary Approval Order, Class Counsel shall seek appointment of a Settlement Administrator. The Settlement Administrator shall establish and administer the Notice and Administration Account. The Notice and Administration Account shall be established using funds in the Settlement Fund and shall be used only for the payment of necessary and reasonable Settlement Administration Costs.

B. The Escrow Agent is authorized to transfer up to \$300,000 from the Settlement Fund to the Notice and Administration Account for Settlement Administration Costs without further approval. No further amounts may be transferred prior to final approval of the Settlement and entry of the Judgment, except by Court order.

C. Plaintiffs, Class Counsel, Defendants, Defendants' insurers, and Defendants' Counsel shall not bear any liability for Settlement Administration Costs.

D. Ginkgo shall provide within fifteen (15) Business Days after the Court's entry of the Preliminary Approval Order, and at no cost to the Settlement Fund, Lead Plaintiff, the Class, Class Counsel, or the Settlement Administrator, lists of shareholders of record during the period from May 11, 2021 through May 26, 2022 in electronic format, such as Excel, to the extent such lists are reasonably available from Ginkgo's stock transfer agent.

V. Preliminary Approval Order

A. The Parties shall submit this Stipulation together with its exhibits to the Court, and Lead Plaintiff shall apply for entry of a Preliminary Approval Order substantially in the form and content of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the

Settlement as set forth in the Stipulation, preliminary certification of the Class for settlement purposes only, and approval of forms of notice to be mailed or emailed to all potential Class Members who can be identified with reasonable effort (the “Postcard Notice” and the “Notice”) and to be published (the “Summary Notice”), substantially in the forms and contents of Exhibits A-1, A-3, and A-4 hereto. The Notice shall include a Proof of Claim, substantially in the form of Exhibit A-2 attached hereto (the “Proof of Claim and Release”), the general terms of the Settlement set forth in the Stipulation, and shall set forth the procedure by which Persons who otherwise would be members of the Class may request to be excluded from the Class.

B. The Parties shall request that, after the Postcard Notice and Notice have been mailed and emailed and the Summary Notice published, in accordance with this Stipulation, the Court hold the Settlement Hearing and finally approve the Settlement and enter the Judgment.

VI. Final Approval of the Settlement

A. Plaintiffs shall move consistent with the schedule to be set by the Court for final approval of the Settlement, including entry of the Judgment. At the Settlement Hearing, the Parties shall jointly request entry of the Judgment.

B. In the Judgment, the Class shall be certified for purposes of this Settlement only, but in the event that the Judgment does not become Final or the Settlement fails to become effective for any reason, all Parties reserve all their rights on all issues, including class certification. For purposes of this settlement only, in connection with the Judgment, Defendants shall consent to (i) the appointment of Lead Plaintiff as the class representative, (ii) the appointment of Pomerantz LLP as Class Counsel, and (iii) the certification of the Class pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure.

C. The terms of 15 U.S.C. §78u-4(f)(7) shall apply to this Settlement, pursuant to which each Defendant shall be discharged from all claims for contribution brought by other persons or entities. In accordance with 15 U.S.C. §78u-4(f)(7), the Judgment shall include a bar order constituting the final discharge of all obligations to any Class Member of each of the Defendants arising out of the Action or any of the Released Plaintiffs' Claims and, upon the Effective Date, shall bar, extinguish, discharge, satisfy, and render unenforceable all future claims for contribution arising out of the Action or any of the Released Plaintiffs' Claims (a) by any person or entity against any Defendant; and (b) by any Defendant against any person or entity other than any person or entity whose liability has been extinguished by the Settlement. For the avoidance of doubt, nothing in this Stipulation shall apply to bar or otherwise affect any claim for insurance coverage by any Defendant.

D. Until otherwise ordered by the Court, pending final determination of whether the Settlement should be finally approved, all proceedings in the Action shall remain stayed except for activities related to the approval or enforcement of the Settlement. The Preliminary Approval Order will provide that, pending final determination of whether the Settlement should be finally approved, the Court bars and enjoins all Class Members from prosecuting any of the Released Plaintiffs' Claims against any of the Released Defendants' Parties.

VII. Attorneys' Fees and Expenses

A. Class Counsel may submit an application or applications (the "Fee and Expense Application") for distributions from the Settlement Fund for: (a) an award of attorneys' fees; plus (b) reimbursement of actual costs and expenses, including experts and consultants, incurred in connection with prosecuting the Action plus any interest on such attorneys' fees, costs and expenses at the same rate and for the same periods as earned by the Settlement Fund (until paid)

as may be awarded by the Court. Class Counsel reserves the right to make additional applications for expenses incurred, if necessary.

B. Immediately after the Court enters an order awarding Class Counsel fees and expenses (“Fee Award”), the amounts awarded by the Court shall be released from escrow and wired as directed by Class Counsel. These payments shall be subject to Class Counsel’s obligation to make appropriate refund or repayment within thirty (30) days of the date that any condition to establishing the Effective Date has not occurred and shall not occur, or if the Court or any appellate court enters an order reversing or reducing any award of attorneys’ fees or litigation expenses. Any such refund or repayment by Class Counsel shall be included in any amounts to be refunded to Defendants and/or their insurers pursuant to Section X.D, in the event such provision becomes applicable.

C. The procedure for and allowance or disallowance by the Court of any application for Class Counsel’s attorneys’ fees and expenses are not part of the Settlement set forth in this Stipulation and are to be considered by the Court separately from the Court’s consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation. Any order or proceedings relating to the Fee and Expense Application, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to modify, terminate, or cancel this Stipulation, or affect or delay the finality of the Judgment approving this Stipulation and the Settlement of the Action.

D. Except for their obligation to pay the Settlement Amount as provided in Section II, Defendants and their insurers shall have no responsibility for, or liability with respect to, any payment to Lead Plaintiff, Class Members, Class Counsel or any other Plaintiffs’ counsel and/or any other Person who receives payment from the Settlement Fund.

E. Defendants shall have no responsibility for, or liability with respect to, the allocation of a Fee Award that the Court may make in the Action among Class Counsel, any other Plaintiffs' counsel, and/or any other Person who may assert some claim thereto.

F. Class Counsel may apply to the Court to authorize the payment of an Award to Lead Plaintiff for the time and expenses expended by Lead Plaintiff in assisting Class Counsel in the litigation of this Action. Any Award to Lead Plaintiff shall be payable after the Effective Date, and from the Settlement Fund only.

VIII. Administration of Net Settlement Fund

A. Each Class Member wishing to participate in the Settlement shall be required to submit a Proof of Claim in the form annexed hereto as Exhibit A-2, signed under penalty of perjury by the beneficial owner(s) of the stock or by someone with documented authority to sign for the beneficial owner(s), and supported by such documentation as specified in the instructions accompanying the Proof of Claim.

B. All Proofs of Claim must be received within the time prescribed in the Preliminary Approval Order unless otherwise ordered by the Court. Any Class Member who fails to submit a properly completed Proof of Claim within such period as shall be authorized by the Court shall be forever barred from receiving any payments pursuant to this Stipulation or from the Net Settlement Fund, but will in all other respects be subject to the provisions of this Stipulation and the Judgment, including, without limitation, the release of the Released Claims and dismissal of the Action with prejudice.

C. The Settlement Administrator shall administer the Settlement subject to such approvals by the Court as circumstances may require.

D. Each Proof of Claim shall be submitted to the Settlement Administrator who shall determine, in accordance with this Stipulation and the Plan of Allocation to be formulated by Class Counsel for approval by the Court, the extent, if any, to which each claim shall be allowed, subject to appeal to the Court.

E. The Settlement Administrator shall administer and calculate the claims submitted by Class Members, determine the extent to which claims shall be allowed, and oversee distribution of the Net Settlement Fund subject to appeal to, and jurisdiction of, the Court. Neither Class Counsel, its designees or agents, Plaintiffs, Defendants' Counsel, nor Defendants shall have any liability arising out of such determination.

F. The administrative determination of the Settlement Administrator accepting and rejecting claims shall be presented to the Court, on notice to the Defendants' Counsel, for approval by the Court.

G. Following the Effective Date and upon application to the Court by Class Counsel, the Net Settlement Fund shall be distributed to Authorized Claimants by the Settlement Administrator. The Net Settlement Fund shall be distributed to the Authorized Claimants substantially in accordance with the terms of this Stipulation and a Plan of Allocation to be approved by the Court, subject to and in accordance with paragraphs G-Q of this Section.

H. Any such Plan of Allocation is not a part of this Stipulation and it is not a condition of this Settlement that any particular Plan of Allocation be approved.

I. No funds from the Net Settlement Fund shall be distributed to Authorized Claimants until after the Effective Date.

J. Each Class Member who claims to be an Authorized Claimant shall be required to submit to the Settlement Administrator a completed Proof of Claim and Release signed under

penalty of perjury and supported by such documents as specified in the Proof of Claim and Release and as are reasonably available to such Class Member.

K. Except as otherwise ordered by the Court, all Class Members who fail timely to submit a Proof of Claim and Release within such period as may be ordered by the Court or otherwise allowed shall be forever barred from receiving any payments pursuant to the Stipulation and the Settlement set forth herein, but shall in all other respects be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment.

L. All Persons who fall within the definition of the Class and who do not timely and validly request to be excluded from the Class in accordance with the instructions set forth in the Notice (as defined in Section V.A, above) shall be subject to and bound by the provisions of this Stipulation, the releases contained herein, and the Judgment with respect to all Released Plaintiffs' Claims, regardless of whether such Persons seek or obtain by any means, including, without limitation, by submitting a Proof of Claim and Release or any similar document, any distribution from the Settlement Fund or the Net Settlement Fund.

M. Neither Defendants nor their counsel or insurers shall have any responsibility for, interest in, or liability whatsoever with respect to the investment or distribution of the Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of claims, the distribution of the Net Settlement Fund, or any losses incurred in connection with any such matters.

N. This is not a claims made settlement. There will be no reversions to Defendants or their insurers after the Effective Date.

O. Defendants shall have no involvement in the solicitation or review of Proofs of Claim and Releases, or involvement in the administration process, which will be conducted by the Settlement Administrator in accordance with this Stipulation.

P. Any change in the allocation of the Net Settlement Fund ordered by the Court shall not affect the validity or finality of this Settlement.

Q. No Person shall have any claim against Plaintiffs or Class Counsel, the Settlement Administrator, Defendants, or Defendants' Counsel based on investments or distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation or further orders of the Court.

IX. Tax Treatment

A. The Parties, their counsel, the Court, and the Escrow Agent shall treat the Escrow Account as being at all times a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1 for all periods on and after the date of the Court order preliminarily approving this Stipulation. The Parties, their counsel, the Court and the Escrow Agent agree to take no action inconsistent with the treatment of the Escrow Account in such manner. In addition, the Settlement Administrator and Escrow Agent shall make the "relation back election" (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties and thereafter to cause the appropriate filing to occur. All provisions of this Stipulation shall be interpreted in a manner that is consistent with the Escrow Account being a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1.

B. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" shall be the Settlement Administrator. The Settlement Administrator shall satisfy the administrative requirements imposed by Treas. Reg.

§ 1.468B-2 by, e.g., (i) obtaining a taxpayer identification number, (ii) timely and properly satisfying any information reporting or withholding requirements imposed on distributions from the Escrow Account, and (iii) timely and properly filing or causing to be filed on a timely basis, all federal, state, local and foreign tax returns and other tax related statements necessary or advisable with respect to the Escrow Account (including, without limitation, all income tax returns, all informational returns, and all returns described in Treas. Reg. § 1.468B-2(1)), and (iv) timely and properly paying any taxes imposed on the Escrow Account. Such returns and statements (as well as the election described in Section IX.A) shall be consistent with this Section IX.B and in all events shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Escrow Account shall be paid out of the Escrow Account as provided in Section IX.C.

C. All (i) taxes arising with respect to the income earned by the Escrow Account and (ii) tax expenses shall be paid out of the Escrow Account. Further, taxes and the tax expenses shall be treated as, and considered to be, a cost of administration of the Settlement and shall be timely paid by the Escrow Agent out of the Escrow Account without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything herein to contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts (as well as any amounts that may be required to be deducted or withheld under Treas. Reg. § 1.468B-2(1)(2)). All Parties and their tax attorneys and accountants shall cooperate with the Settlement Administrator to the extent reasonably necessary to carry out the provisions of paragraphs A-C of this Section. Defendants and the Defendants' Released Parties shall have no responsibility or liability for the acts or omissions of the Settlement Administrator with respect to the payment of taxes and tax expenses, as described herein.

D. Defendants shall have no responsibility to make any filings relating to the Escrow Account and will have no responsibility to pay tax on any income earned by the Escrow Account, nor any tax expenses incurred in connection with the administration of such account.

X. Settlement Conditions, Releases, and Termination

A. The Effective Date of the Settlement shall be deemed to occur when all of the following conditions are satisfied:

1. Counsel for Lead Plaintiff and Defendants have executed this Stipulation;
2. The Court enters the Preliminary Approval Order, as provided in Section V;
3. Defendants shall have timely funded and/or caused to be funded the Settlement Fund with the Settlement Amount;
4. The Court has approved the Settlement as described herein following notice to the Class, and has entered the Judgment dismissing the Action with prejudice, as provided in Section VI;
5. The time within which Defendants may exercise their option to terminate this Stipulation in accordance with the terms of the Supplemental Agreement shall have expired without the exercise of that option; and
6. The Judgment has become Final.

B. Upon the Effective Date, Lead Plaintiff and the Class Members, on behalf of themselves, and to the fullest extent permitted by law, the Releasing Plaintiffs' Parties, and any other Person claiming (now or in the future) to have acted through or on behalf of them, shall hereby be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever, released, relinquished, settled and discharged the Released Plaintiffs' Claims as against each of

the Released Defendants' Parties and shall be permanently barred and enjoined from instituting, commencing, or prosecuting any of the Released Plaintiffs' Claims against any of the Released Defendants' Parties, directly or indirectly, whether or not such Class Members execute and deliver a Proof of Claim and Release to the Settlement Administrator. Defendants also release and shall be permanently barred and enjoined from instituting, commencing, or prosecuting any of Released Defendants' Claims as against any of the Released Plaintiffs' Parties.

C. If the conditions specified in paragraph A of this Section are not met, then this Stipulation shall be canceled and terminated, unless Class Counsel and Defendants' Counsel mutually agree in writing to proceed with the Settlement.

D. If either (a) the Effective Date does not occur, (b) this Stipulation is canceled or terminated pursuant to its terms, or (c) this Stipulation does not become final for any reason, then the Settlement Fund and all interest earned on the Settlement Fund while held in escrow (less Settlement Administration Costs paid or incurred in accordance with the Stipulation or orders of the Court), plus any amount then remaining in the Notice and Administration Account, including both interest paid and accrued (less expenses and costs which have not yet been paid but which are properly chargeable to the Notice and Administration Account), and any fees or expenses previously disbursed to Class Counsel pursuant to a Fee Award, shall be refunded by the Settlement Administrator, the Escrow Agent, and/or Class Counsel, as applicable, to Defendants and/or their insurers as directed by Defendants' Counsel within thirty (30) days of such cancellation or termination, and the Parties shall retain all rights, claims, defenses, and arguments available to them prior to the execution of the Stipulation.

E. Upon the occurrence of all of the events specified in paragraph A of this Section, the obligation of the Settlement Administrator, the Escrow Agent, and/or Class Counsel to return

funds from the Settlement Fund to Defendants and/or their insurers pursuant to paragraph D of this Section, shall be absolutely and forever extinguished.

F. If either (a) the Effective Date does not occur, (b) this Stipulation is canceled or terminated pursuant to its terms, or (c) this Stipulation does not become final for any reason, all of the Parties to this Stipulation shall be deemed to have reverted to their respective status as of March 4, 2024, and counsel shall meet and confer on an appropriate schedule to propose to the Court, and they shall proceed in all respects as if the Term Sheet and this Stipulation had not been executed and the related orders had not been entered, preserving in that event all of their respective claims and defenses in the Action, including all defenses that Defendants may have with respect to certification of any class for litigation purposes. Notwithstanding the foregoing language, the following provisions of this Stipulation shall survive any termination or cancellation of the Settlement: Section X.C; Section X.D; Section X.F; Section XI; and, to the extent applicable, Section VII.B (with respect to refunds of a Fee Award) and Section XII.

G. Notwithstanding any other provision, section, or paragraph in this Stipulation, Defendants may, in accordance with the terms set forth in the Parties' Supplemental Agreement, and in their sole discretion, elect in writing to terminate the Settlement and this Stipulation if the opt-out threshold defined in the Supplemental Agreement is exceeded and not cured in accordance with the terms of the Supplemental Agreement. Unless otherwise directed by the Court, the Supplemental Agreement will not be filed with the Court.

XI. No Admissions

A. Each of the Defendants denies any wrongdoing, and this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Defendants, or any other of the Defendants' Released Parties, with respect to any claim or

allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Defendants have, or could have, asserted.

B. The Parties hereto intend the Settlement as described herein to be a final and complete resolution of all disputes between them with respect to the Action and entry in this Settlement shall not be deemed an admission by any Plaintiff or any Defendant as to the merits of any claim or defense or any allegation made in the Action.

C. Neither this Stipulation, the Term Sheet, the Settlement, nor any act performed or document executed pursuant to or in furtherance of the foregoing, nor any of the Parties' negotiations, nor any proceedings, communications, drafts, documents, or agreements taken pursuant to or in connection with any of the foregoing and/or approval of the Settlement (including any arguments proffered in connection therewith): (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or infirmity of any Released Claim, of any allegation made in the Action, or of any wrongdoing or liability by any Defendant; (b) is or may be deemed to be or may be used in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal as an admission of, or evidence of (i) any liability, fault or omission of any Defendant, or (ii) that any class should be certified for litigation purposes; or (c) is or may be deemed to be or may be used as an admission or evidence that Plaintiffs would have recovered any amount had the Action been prosecuted to conclusion. Neither this Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Stipulation or the Settlement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that Defendants may file this Stipulation and/or the Judgment in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith

settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

XII. Miscellaneous Provisions

A. Within forty-five (45) days after the Effective Date, and subject to commercially reasonable efforts, Plaintiffs shall either return or destroy all discovery material designated as confidential or highly confidential in accordance with the Confidentiality and Protective Order entered by the Court (ECF. No. 99) (“Confidential Information”) and copies thereof. However, Plaintiffs shall not be required to locate, isolate, or destroy/return emails generated in connection with legal representation in this Action (including attachments to emails) that may include Confidential Information, or Confidential Information contained in memoranda or draft or final expert reports. Nothing in this paragraph requires any Party, its counsel, or their respective consultants, vendors or other affiliates, to delete or destroy data which may reside on one or more backup tapes or other media maintained for the purpose of disaster recovery, business continuity or other reasons, or requires more than reasonable and practical actions to locate, identify, or destroy any other electronic data.

B. Notwithstanding the requirements of paragraph A of this Section, Class Counsel may retain (1) attorney work product, including an index that refers or relates to Confidential Information; (2) draft or final expert reports, including exhibits thereto; and (3) one complete set of all documents filed with the Court, including any filed under seal. Any retained Confidential Information shall continue to be protected under the Confidentiality and Protective Order entered by the Court (ECF. No. 99).

C. The Parties agree that any public comments from the Parties regarding the Settlement, other than any disclosures required by law, will not substantially deviate from words

to the effect that the Parties have reached a mutually acceptable resolution by way of a mediated settlement and that both sides are satisfied with this resolution. For the avoidance of doubt, nothing in this Paragraph shall prevent the Parties from making the Court filings necessary to effectuate the Settlement.

D. The Parties hereto: (a) acknowledge that it is their intent to consummate the Settlement contemplated by this Stipulation; (b) agree to cooperate to the extent necessary to effectuate and implement all terms and conditions of this Stipulation; and (c) agree to exercise their best efforts and to act in good faith to accomplish the foregoing terms and conditions of the Stipulation.

E. All counsel who execute this Stipulation represent and warrant that they have authority to do so on behalf of their respective clients.

F. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

G. This Stipulation may be amended or modified only by a written instrument signed by counsel for all Parties hereto or their successors in interest.

H. This Stipulation, exhibits attached hereto, and the Supplemental Agreement constitute the entire agreement between Plaintiffs on the one hand, and Defendants on the other hand, and supersede any and all prior agreements, written or oral, between the Parties (including the Term Sheet). No representations, warranties or inducements have been made concerning this Stipulation or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents.

I. This Stipulation may be executed in one or more original, photocopied or facsimile counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

J. This Stipulation shall be binding upon, and inure to the benefit of the successors, assigns, executors, administrators, affiliates (including parent companies), heirs and legal representatives of the Parties hereto. No assignment shall relieve any Party hereto of obligations hereunder.

K. All terms of this Stipulation and all exhibits hereto shall be governed and interpreted according to the internal laws of the State of California without regard to its conflicts of law rules and in accordance with the laws of the United States.

L. All Parties hereby irrevocably submit to the jurisdiction of the Court with respect to enforcement of the terms of this Stipulation and for any suit, action, proceeding or dispute arising out of or relating to this Stipulation or the applicability of this Stipulation. In any action to enforce the terms of this Stipulation, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

M. The Parties to this Stipulation intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by the Class Members against the Released Defendants' Parties with respect to the Released Plaintiffs' Claims, and any potential counterclaims or cross-claims any Defendant could have asserted against Released Plaintiffs' Parties with respect to Released Defendants' Claims. Accordingly, Plaintiffs and Defendants agree not to assert in any forum that the litigation was brought by Plaintiffs or Class Counsel, or defended by Defendants, or their respective counsel, in bad faith or without a reasonable basis. The Parties hereto shall assert no claims of any violation of Rule 11 of the Federal Rules of Civil

Procedure relating to the prosecution, defense, or settlement of the Action. The Parties agree that the amount paid and the other terms of the Settlement were negotiated at arm's-length and in good faith by the Parties, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel, and with the assistance of an experienced mediator, Michelle Yoshida.

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

O. Except as otherwise provided herein, each Party shall bear its own fees and costs.

P. The headings herein are used for the purpose of convenience and are not intended to have legal effect.

Q. Notices required or permitted by this Stipulation shall be submitted either by overnight mail or, if expressly agreed and receipt acknowledged, by email as follows:

To Plaintiffs:

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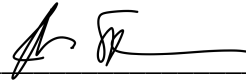
To Defendant:

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dwiener@mofocom

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound.

LEAD PLAINTIFF SHARON BERNSTEIN
AND THE CLASS

By:  _____

Joshua B. Silverman
Brian P. O'Connell
Genc Arifi
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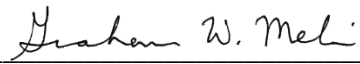
*Lead Counsel for Lead Plaintiff
and the Class*

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DELMAN, JOSHUA KAZAM, ISAAC LEE,
TIMOTHY LEIWEKE, DENNIS A.
MILLER, LAURENCE E. PAUL, JASON
KELLY, RESHMA SHETTY, ARIE
BELLDEGRUN, MARIJN DEKKERS,
CHRISTIAN HENRY, RESHMA
KEWALRAMANI, SHYAM SANKAR,
AND ANNA MARIE WAGNER

By:  _____

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