

## SETTLEMENT AGREEMENT AND RELEASE

This Agreement is entered into by and among the individuals defined below as “Plaintiffs” and the entity defined below as “Defendant” (collectively, the “Parties”).

This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Plaintiff Claims and Released Class Claims (as those terms are defined below), upon and subject to the terms and conditions of this Agreement and subject to preliminary and final approval of the Court.

WHEREAS, on September 21, 2018, Selena Scola filed a complaint against Facebook, Inc. (“Facebook”) and PRO Unlimited, Inc. (“PRO”) in the Superior Court of the State of California, County of San Mateo, captioned *Selena Scola v. Facebook, Inc. and PRO Unlimited, Inc.*, asserting claims relating to content she viewed while performing content moderation services for Facebook as an employee of PRO;

WHEREAS, on March 1, 2019, Erin Elder and Gabriel Ramos joined the lawsuit as additional plaintiffs in an amended complaint asserting substantially similar claims against Facebook only;

WHEREAS, on May 17, 2019, Facebook filed a motion for judgment on the pleadings, seeking dismissal of Plaintiffs’ class claims and three of their four causes of action;

WHEREAS, on August 13, 2019, the Parties jointly sought a stay of the action, including a request that no rulings be issued on Facebook’s motion for judgment on the pleadings or the Parties’ other pending motions, pending the outcome of settlement discussions and mediation;

WHEREAS this Agreement is the result of arm’s-length settlement discussions and negotiations that took place over the course of several months and included three private mediation

sessions before the Honorable Judge Rebecca J. Westerfield (Ret.) of JAMS on October 30, 2019, December 9, 2019, and February 7, 2020;

WHEREAS the Court has stayed all proceedings through April 30, 2020, and the parties have stipulated to a further stay of proceedings through May 8, 2020, pending mediation and further settlement discussions;

WHEREAS, since April 2019, the Parties have engaged in extensive discovery involving the production of over five hundred thousand pages of documents, the exchange of extensive written discovery, multiple days of meet-and-confer about the parties' data, policies, and processes and multiple fact depositions;

WHEREAS, at all times, Defendant has denied and continues to deny (a) that it has liability for the claims and allegations of wrongdoing made in the Action by Plaintiffs or members of the Settlement Class, as defined herein; (b) all charges of fault, liability, and wrongdoing against it arising out of any of the conduct, actions, or omissions alleged or that could have been alleged in the Action; (c) that Plaintiffs or members of the Settlement Class have asserted any valid claims against Defendant; (d) that Plaintiffs or members of the Settlement Class were harmed by any conduct of Defendant alleged in the Action or otherwise; and (e) that the Action was, or properly could be, certified as a class action for any purpose other than settlement purposes in accordance with this Agreement;

WHEREAS, Defendant, without any admission or concession whatsoever and despite believing (a) that the Action cannot properly be certified as a class action for any purpose other than settlement purposes in accordance with this Agreement; (b) that it is not liable for the claims asserted against it in the Action; and (c) that it has good and meritorious defenses thereto, has

nevertheless agreed to enter into this Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation and thereby to put to rest this controversy and avoid the risks inherent in complex litigation; and

WHEREAS Class Counsel have considered the arm's-length settlement negotiations conducted by the Parties and, based on their investigation of the facts, review of applicable law, and analysis of the benefits that this Agreement affords to Plaintiffs and Class Members, have concluded that (a) the terms and conditions of this Agreement are fair, reasonable, and adequate to Plaintiffs and Class Members; and (b) it is in the best interests of Plaintiffs and Class Members to settle the claims raised in the Action pursuant to the terms and provisions of this Agreement in order to avoid the uncertainties of litigation and to ensure that the benefits reflected herein are obtained for Plaintiffs and Class Members;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiffs and Defendant, through their undersigned counsel, that, subject to final approval of the Court and in consideration of the benefits flowing to the Parties from this Agreement set forth herein, the Released Claims shall be finally and fully compromised, settled, and released and that the Action as against Defendant shall be dismissed with prejudice, upon and subject to the terms and conditions set forth below.

## **1. DEFINITIONS**

1.1. "Action" means the civil action captioned *Selena Scola v. Facebook, Inc.*, Case No. 18-CIV-05135, pending in the Superior Court of the State of California, County of San Mateo.

1.2. "Aggregate Action" means any litigation proceeding in which five or more separate individuals propose to prosecute their claims together in the context of the same legal proceeding.

1.3. "Agreement" means this Agreement.

- 1.4. “Alternative Judgment” has the meaning set forth in Section 12.1.
- 1.5. “Arbitrable Claims” has the meaning set forth in Section 6.5.
- 1.6. “Arbitration Provision” has the meaning set forth in Section 6.6.
- 1.7. “Attorneys’ Fees Award” means the attorneys’ fees, reimbursement of expenses, and any and all other costs awarded by the Court to Class Counsel out of the Settlement Fund.
- 1.8. “Claim” or “Claims” means any and all manner of allegations of wrongdoing, actions, causes of action, claims, counterclaims, damages whenever and however incurred (whether actual, punitive, treble, compensatory, or otherwise), demands (including, without limitation, demands for arbitration), judgments, liabilities of any kind (including costs, fees, penalties, or losses of any kind or nature), and suits, whether direct, indirect, or otherwise in nature, known or unknown, suspected or unsuspected, accrued or unaccrued, asserted or unasserted, whether in law, in equity, or otherwise.
- 1.9. “Claim Form” means the document a Class Member may use to claim a Medical Treatment Payment and an Other Damages Payment, as further described in Appendix A.
- 1.10. “Claim Form Deadline” has the meaning set forth in Appendix A.
- 1.11. “Class Counsel” means the law firms listed on the signature page of this Agreement as representing Plaintiffs.
- 1.12. “Class Member” means an individual who is a member of the Settlement Class and is not an Excluded Person under Section 2.2.
- 1.13. “Class Release” has the meaning set forth in Section 6.3.

1.14. “Class Representatives” means Selena Scola, Erin Elder, Gabriel Ramos, April Hutchins, Konica Ritchie, Allison Trebacz, Jessica Swarner, and Gregory Shulman in their capacities as class representatives of the Settlement Class.

1.15. “Class Representative Service Award” means any amount awarded by the Court to Plaintiffs for their time and effort bringing the Action and serving as Class Representatives.

1.16. “Clinicians” has the meaning set forth in Section 5.1.1(i).

1.17. “Comorbid Diagnosis” has the meaning set forth in Appendix A.

1.18. “Complaint” means the Class Action Complaint filed on September 21, 2018, the Amended Class Action Complaint filed on March 1, 2019, and the Second Amended Class Action Complaint filed on April 9, 2020 in the Action.<sup>1</sup>

1.19. “Content Moderator” means any individual who works in a group that reviews user-generated content posted to Facebook platforms to determine whether, or to train Artificial Intelligence to determine whether, such material violates Facebook’s Community Standards.

1.20. “Court” means the Superior Court of California, County of San Mateo, the Honorable V. Raymond Swope or any judge who shall succeed him in the Action, presiding.

1.21. “Covered Conduct” means any act, omission, fact, or matter occurring or existing on or prior to the Final Approval Order and Final Judgment and that arises in whole or in part out of or relates in any way to (a) the allegations involved, set forth, or referred to in the Complaint,

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<sup>1</sup> On April 9, 2020—two weeks after the Superior Court of California, San Mateo County closed due to the COVID-19 crises—Plaintiffs e-filed the Second Amended Complaint (“SAC”), attaching a joint Stipulation and [Proposed] Order Granting Plaintiffs Leave to File the Second Amended Complaint (“Joint Stipulation”) pursuant to California Code of Civil Procedure § 472. The SAC adds April Hutchins, Konica Ritchie, Allison Trebacz, Jessica Swarner, and Gregory Shulman as plaintiffs and expands the Class to include content moderators in Arizona, Texas, and Florida. Plaintiffs also filed the SAC and Joint Stipulation with the Clerk’s Office on April 16, 2020.

including without limitation allegations of bodily injury; and/or (b) claims asserted or that could have been asserted in the Action against Defendant.

1.22. “Cy Pres Recipient” means the entity approved by the Court to receive any funds remaining in the Settlement Fund after all other distributions under this Agreement, as set forth in Appendix A.

1.23. “Defendant” means Facebook, Inc.

1.24. “Defense Counsel” means Covington & Burling LLP.

1.25. “Effective Date” means the first date after the Final Approval Order and Final Judgment have been entered and either (a) the time to appeal the Final Approval Order and Final Judgment has expired with no appeal having been filed; or (b) the Final Approval Order and Final Judgment is affirmed on appeal by a reviewing court and is no longer reviewable by any court.

1.26. “Excluded Person” has the meaning set forth in Section 2.2.

1.27. “Execution Date” means the date this Agreement has been signed by all signatories hereto.

1.28. “Facebook Vendor” means a vendor or subcontractor with whom Facebook has contracted to provide Content Moderator services and who (a) directly employed an individual as a Content Moderator; or (b) subcontracted with an individual to provide services as a Content Moderator.

1.29. “Fairness Hearing” means the hearing at or after which the Court determines whether to finally approve this Agreement as fair, reasonable, and adequate.

1.30. “Final Approval Order” means the order entered by the Court finally approving this Agreement as fair, reasonable, and adequate, following Preliminary Approval, Notice, and the Fairness Hearing, as further described in Section 10.

1.31. “Final Judgment” means the Final Order of judgment entered by the Court dismissing the Action with prejudice as to Defendant.

1.32. “Final Order” means, with respect to any order of a court (including a judgment), that such order represents a final and binding determination of all issues within its scope and is not subject to further review on appeal or otherwise. An order becomes a “Final Order” when (a) no appeal has been filed and the prescribed time for commencing, filing, or noticing any appeal has expired; or (b) an appeal has been filed and either (i) the appeal has been dismissed and any prescribed time for commencing, filing, or noticing any further appeal has expired, or (ii) the order has been affirmed in its entirety and any prescribed time for commencing, filing, or noticing any further appeal has expired. For purposes of this definition, an “appeal” includes appeals as of right, discretionary appeals, interlocutory appeals, proceedings involving writs of certiorari or mandamus and any other proceedings of like kind, together with all proceedings ordered on remand and all proceedings arising out of any subsequent appeal or appeals following decisions on remand.

1.33. “Fully Releasing Class Member Party” has the meaning set forth in Section 6.7.

1.34. “Initial Payment” has the meaning set forth in Appendix A.

1.35. “Licensed Medical Provider” means an individual who is licensed by a U.S. state or territory to provide health care services and who is qualified to diagnose patients with a Qualifying Diagnosis (and a Comorbid Diagnosis, if applicable).

- 1.36. “Medical Treatment Payment” has the meaning set forth in Appendix A.
- 1.37. “Medical Treatment Payment Tier” has the meaning set forth in Appendix A.
- 1.38. “Motion for Preliminary Approval” means the motion described in Section 10.1.
- 1.39. “Non-Monetary Consideration” has the meaning set forth in Section 5.1.
- 1.40. “Notice” means the notice disseminated pursuant to the Notice Plan.
- 1.41. “Notice Plan” means the plan for providing notice of this Settlement to the Settlement Class.
- 1.42. “Objection/Exclusion Deadline” means the date to be designated by the Court by which a written objection to this Agreement or a submitted request for exclusion must be filed or postmarked.
- 1.43. “Other Damages Claims” has the meaning set forth in Section 6.8.
- 1.44. “Other Damages Payment” has the meaning set forth in Section 6.7.
- 1.45. “Other Damages Release” has the meaning set forth in Section 6.7.
- 1.46. “Person” means any individual, corporation, partnership, limited partnership, limited liability company, 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.
- 1.47. “Plaintiffs” means Selena Scola, Erin Elder, Gabriel Ramos, April Hutchins, Konica Ritchie, Allison Trebacz, Jessica Swarner, and Gregory Shulman.
- 1.48. “Plaintiffs’ Release” has the meaning set forth in Section 6.1.



1.49. “Preliminary Approval” and “Preliminary Approval Order” mean the order issued by the Court provisionally (a) granting preliminary approval of this Agreement; (b) certifying the Settlement Class for settlement purposes; (c) appointing Class Representatives and Class Counsel; (d) approving the Notice Plan and appointing a Settlement Administrator; (e) establishing deadlines for the filing of objections to or exclusions from the proposed settlement contemplated by this Agreement; and (f) scheduling the Final Approval Hearing.

1.50. “Qualifying Diagnosis” means a diagnosis that qualifies a Class Member for a Medical Treatment Payment, as set forth in Appendix A.

1.51. “Released Claims” means the Released Plaintiff Claims, the Released Class Claims, and the Released Other Damages Claims.

1.52. “Released Class Claims” has the meaning set forth in Section 6.4.

1.53. “Released Defendant Parties” means Defendant and Defendant’s past and present parents, subsidiaries, divisions, affiliates, officers, directors, insurers, employees, agents, attorneys, and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors, purchasers, and assigns of each of the foregoing); provided, however, that Released Defendant Parties does not include any U.S. Facebook Vendor.

1.54. “Released Plaintiff Claims” has the meaning set forth in Section 6.2.

1.55. “Released Other Damages Claims” has the meaning set forth in Section 6.8.

1.56. “Releases” means Plaintiffs’ Release, the Class Release, and the Other Damages Release.

1.57. “Releasing Class Member Parties” means each Class Member and anyone claiming by, for, or through a Class Member, including any present, former, and future spouses, heirs,

executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns of a Class Member.

1.58. “Releasing Plaintiff Parties” means each Plaintiff and anyone claiming by, for, or through a Plaintiff, including any present, former, and future spouses, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns of a Plaintiff.

1.59. “Request for Exclusion” has the meaning set forth in Section 8.1.

1.60. “Settlement” means (a) the Release of the Released Claims by the Releasing Plaintiff Parties and Releasing Class Member Parties, as provided in Section 6; and (b) the dismissal of the Action with prejudice as to Defendant as contemplated by this Agreement.

1.61. “Settlement Administrator” means a third-party class action settlement administrator(s) to be proposed by Plaintiffs and approved by the Court.

1.62. “Settlement Amount” means the sum total of fifty-two million U.S. dollars (\$52,000,000.00) that Facebook will pay in connection with this Agreement, deposited into the Settlement Fund.

1.63. “Settlement Class” has the meaning set forth in Section 2.1.

1.64. “Settlement Fund” means the common fund into which Facebook shall deposit the Settlement Amount for payment of (a) costs payable to the Settlement Administrator; (b) distributions to Plaintiffs and Class Members; (c) any Attorneys’ Fees Award; (d) any Class Representative Service Awards; and (e) any distribution to the Cy Pres Recipient. The Parties agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning

of § 468B of the Internal Revenue Code and the Treasury regulations thereunder and agree not to take any position for tax purposes inconsistent therewith.

1.65. “Well-Being Preferences” has the meaning set forth in Section 5.1.5.

## **2. SETTLEMENT CLASS**

2.1. Definition of the Settlement Class. The Settlement Class shall be defined, for purposes of this Settlement only, as all Content Moderators who performed work for Facebook in California, Arizona, Texas, or Florida as an employee or subcontractor of one or more of the Facebook Vendors from September 15, 2015 to the date of Preliminary Approval.

2.2. Excluded Persons. The following Persons (each, an “Excluded Person”) shall be excluded from the Settlement Class and shall not be Class Members: (a) the Settlement Administrator; (b) employees, officers, and directors of Facebook as of the date of filing of the Action, provided that such a person who performed Content Moderator work for Facebook in California, Arizona, Texas, or Florida as an employee or subcontractor of one or more of the Facebook Vendors at any time between September 15, 2015 to the date of Preliminary Approval is not excluded; (c) any judge presiding over the Action and his or her immediate family members; and (d) Persons who properly and timely opt out of the Settlement Class by submitting a Request for Exclusion in accordance with Section 8.1.

2.3. Stipulation to Certification of the Settlement Class. The Parties hereby stipulate, solely for settlement purposes and in consideration of the Settlement set forth herein, to (a) certification of the Settlement Class; (b) appointment of Class Counsel as counsel for the Settlement Class; and (c) conditional approval of the Class Representatives as suitable representatives of the Settlement Class. However, if (i) the motion for Preliminary Approval is denied in whole or in part; (ii) the Final Judgment does not become a Final Order for any reason;

(iii) this Agreement or the Settlement is terminated as provided herein; or (iv) the Final Approval Order is reversed or vacated following any appeal taken therefrom, then the stipulations in Section 2.3(a) through (c) shall automatically become null and void ab initio and may not be cited or referred to for any other purpose in the Action. It is expressly understood and agreed by the Parties that the stipulations in Section 2.3(a) through (c) above shall be binding only with respect to the Settlement and this Agreement, and Defendant expressly denies that the Action met or meets the requisites for class certification under California law for any purpose other than this Settlement.

### **3. SETTLEMENT FUND**

3.1. Settlement Payment. In consideration of the full and complete Releases, the dismissal of the Action with prejudice, and the other consideration specified herein, Defendant agrees to place the Settlement Amount of fifty-two million U.S. dollars (\$52,000,000.00) into the Settlement Fund in the following amounts at the following times: (a) \$150,000 within fifteen (15) days after the later of (i) the date of Preliminary Approval and (ii) the date Defendant receives wire instructions and a Form W-9 for the payment; and (b) the remainder within fifteen (15) days after the Effective Date. The Settlement Fund will be placed into an interest-bearing escrow account (the “Account”), and the Settlement Administrator shall be the administrator of the Settlement Fund and Account and responsible for causing the filing of all tax returns required to be filed by or with respect to the account, including by any escrow agent.

3.2. No Additional Payment by Defendant. The Settlement Amount shall constitute the full monetary consideration provided by Defendant for the Settlement and shall be the limit and full extent of Defendant’s monetary obligation under the Agreement to Plaintiffs, Class Members, Class Counsel, and the Settlement Administrator(s). Defendant does not and shall not have any other financial obligation under this Agreement. No portion of the Settlement Fund will

revert to Defendant unless the Settlement is terminated pursuant to Section 13, is not finally approved, or does not become effective for any reason.

#### **4. DISTRIBUTION OF SETTLEMENT FUND**

4.1. Distribution Parameters. The distribution of the Settlement Fund is described in Appendix A. Class Counsel will seek approval of a plan of distribution as reflected in APPENDIX A: DISTRIBUTION PLAN attached hereto and incorporated by reference.

#### **5. NON-MONETARY CONSIDERATION**

5.1. Non-Monetary Consideration. In further consideration of the full and complete Class Release and Plaintiffs' Release, the dismissal of the Action with prejudice, and other consideration specified herein, Defendant agrees to implement the following business practice enhancements no later than sixty (60) days after the Effective Date (the "Non-Monetary Consideration"):

5.1.1. Facebook shall require all U.S. Facebook Vendors to implement the following interventions to promote the wellness of Content Moderators:

(i) Each U.S. Facebook Vendor will retain clinicians ("Clinicians") who are licensed, certified, experienced in the area of mental health counseling, and familiar with symptoms of and Diagnostic and Statistical Manual of Mental Disorders (DSM-5) Criteria for Post-Traumatic Stress Disorder ("PTSD"). For Community Operations ("CO") and Product Data Operations ("PDO") review projects determined by Facebook to involve regular exposure to graphic and objectionable content, U.S. Facebook Vendors must provide sufficient Clinicians in order to allow for coverage during all shift hours. In the event that CO or PDO are re-named or re-structured, the terms CO and PDO as used in this agreement shall include the successor

department(s) within Facebook that take over the review projects encompassed within the Settlement Agreement.

(ii) Each U.S. Facebook Vendor will conduct resiliency pre-screening and assessments as part of their recruitment and hiring processes.

(iii) Each U.S. Facebook Vendor will make individual one-on-one coaching sessions with a Clinician available to Content Moderators within the first month of onboarding and throughout employment and will prioritize the scheduling of these sessions within one week or less.

(iv) Each U.S. Facebook Vendor will make group wellness sessions with a Clinician available to Content Moderators on a monthly basis during onboarding and throughout employment.

(v) For CO and PDO review projects determined by Facebook to involve regular exposure to graphic and objectionable content, each U.S. Facebook Vendor will make one-on-one coaching or wellness sessions with a Clinician available to Content Moderators on a weekly basis, each session lasting a minimum of thirty (30) minutes. Each U.S. Facebook Vendor shall ensure that when a Content Moderator requests to speak with a Clinician on an expedited basis, such coaching is delivered at the next possible slot within the next working day.

(vi) Each U.S. Facebook Vendor will provide clear guidelines for how and when a Content Moderator may remove him or herself from a specific content type. To the extent possible, and as a last resort, each U.S. Facebook Vendor will be required to permit Content Moderators to perform alternative work assignments.

(vii) Each U.S. Facebook Vendor will provide information regarding the psychological support resources described in Section 5 to each Content Moderator during onboarding and during the ongoing resiliency training delivered throughout employment.

(viii) Each U.S. Facebook Vendor will post information regarding the psychological support resources described in Section 5 at every Content Moderator's workstation.

5.1.2. Facebook shall standardize the following basic resiliency requirements across all U.S. Facebook Vendor contracts:

(i) All U.S. Facebook Vendors shall offer monthly group coaching sessions with Clinicians, accommodate requests to transition to other content types, provide early access to support resources, and provide onboarding and ongoing well-being and resiliency training;

(ii) All U.S. Facebook Vendors shall be required to consent to formal audits, unannounced onsite checks, and self-reporting to verify compliance with Facebook's requirements.

5.1.3. All U.S. Content Moderators will have access to Facebook's anonymous whistleblower hotline and will be able to use this hotline to report any violation by Facebook or a U.S. Facebook Vendor of the requirements imposed in Section 5 of this Settlement Agreement. Facebook will require U.S. Facebook Vendors to make the hotline number reasonably available to Content Moderators.

5.1.4. Although Facebook will make reasonable commercial efforts to ensure that each U.S. Facebook Vendor complies with the terms of the contracts requiring the U.S. Facebook Vendor to implement the requirements imposed by Section 5 of this Settlement

Agreement, the parties agree that any action by any U.S. Facebook Vendor that is not under the legal control of Facebook cannot constitute a breach of this Agreement by Facebook. If Plaintiffs, Class Members, or Content Moderators inform Facebook that a U.S. Facebook Vendor is engaging in acts that would constitute a breach of the provisions of the U.S. Facebook Vendor's contract with Facebook that imposes the requirements described in Section 5.1 of this Settlement Agreement, Facebook will make commercially reasonable efforts to have the U.S. Facebook Vendor remedy the breach.

5.1.5. Facebook will continue to roll out a suite of Well-Being Preferences on the Single Review Tool platform allowing U.S. Content Moderators to set the following tooling enhancements to "On" or "Off" by default for images and videos on demand subject to review (which Facebook has already begun to roll out):

- (i) Viewing images in black and white;
- (ii) Blurring images;
- (iii) Blocking faces within images posted to Facebook;
- (iv) Blurring video previews; and
- (v) Auto-muting videos on start.

5.1.6. Facebook will continue to roll out the following tooling enhancements (which Facebook has already begun to roll out):

- (i) The ability to preview videos using thumbnail images when technically feasible;
- (ii) Default settings preventing automatic video playback.



5.1.7. Facebook will make reasonable commercial efforts to ensure that the tooling enhancements identified in Section 5.1.5, which involve significant technical complexity and require substantial technical resources to implement in all of the applicable review workflows, are implemented in eighty (80) percent of the review workflows used by Content Moderators for making decisions on whether user-generated content violates Facebook’s Community Standards relating to graphic violence, murder, sexual abuse and exploitation, child sexual exploitation, and physical abuse by the end of 2020. Facebook also will make reasonable commercial efforts to ensure that the tooling enhancements identified in Section 5.1.5 are implemented in 100 percent of the review workflows used by Content Moderators for making decisions on whether user-generated content violates Facebook’s Community Standards relating to graphic violence, murder, sexual abuse and exploitation, child sexual exploitation, and physical abuse by the end of 2021. This provision does not include “correspondence workflows” through which Facebook communicates with its users regarding routine issues that do not involve exposure to graphic or objectionable content (e.g., lost passwords, user impersonation, compromised accounts). Nothing in this Settlement Agreement shall prevent Facebook from making changes to its tooling designed to promote resiliency to a greater degree.

5.2. No Additional Non-Monetary Consideration. The Non-Monetary Consideration shall constitute the full non-monetary consideration provided by Defendant for the Settlement and shall be the limit and full extent of Defendant’s non-monetary obligation to Plaintiffs, Class Members, Class Counsel, and the Settlement Administrator(s). Defendant does not and shall not have any other non-monetary obligation under this Agreement.

## 6. RELEASES AND COVENANTS NOT TO SUE

6.1. Plaintiffs' Release and Covenant Not to Sue. On the Effective Date, the Releasing Plaintiff Parties (a) shall be deemed to have and, by operation of law and of the Final Judgment, shall have fully, finally, and forever compromised, released, relinquished, settled, and discharged all Released Plaintiff Claims against each of the Released Defendant Parties; (b) shall have covenanted not to sue any of the Released Defendant Parties with respect to any of the Released Plaintiff Claims; and (c) shall be permanently barred and enjoined from instituting, commencing, or prosecuting any of the Released Plaintiff Claims against any of the Released Defendant Parties. The foregoing releases, covenants, and injunctions (collectively, the "Plaintiffs' Release") incorporate the waivers and other terms in Sections 6.2, 6.10, and 6.11.

6.2. Definition of Released Plaintiff Claims. As used herein, the term "Released Plaintiff Claims" means any and all Claims that the Releasing Plaintiff Parties or any one of them ever had, now has, or hereafter can, shall, or may have, claim, or assert in any capacity against the Released Defendant Parties or any of them with respect to the Covered Conduct.

6.3. Class Release and Covenant Not to Sue. On the Effective Date, the Releasing Class Member Parties, and each of them, (a) shall be deemed to have and, by operation of law and of the Final Judgment, shall have fully, finally, and forever compromised, released, relinquished, settled, and discharged all Released Class Claims against each of the Released Defendant Parties; (b) shall have covenanted not to sue any of the Released Defendant Parties with respect to any of the Released Class Claims; (c) shall be permanently barred and enjoined from instituting, commencing, or prosecuting any of the Released Class Claims against any of the Released Defendant Parties; (d) shall be deemed to have agreed to individual arbitration, using the procedures set forth in the Arbitration Provision, of any and all Arbitrable Claims against the

Released Defendant Parties; and (e) shall be permanently barred and enjoined from instituting, commencing, or prosecuting any Arbitrable Claims against the Released Defendant Parties except in an individual capacity in arbitration to be conducted in accordance with the Arbitration Provision. The foregoing releases, covenants, and injunctions (collectively, the “Class Release”) incorporate the waivers and other terms in Sections 6.4, 6.10, and 6.11.

6.4. Definition of Released Class Claims. As used herein, the term “Released Class Claims” means any and all Claims that the Releasing Class Member Parties or any one of them ever had, now has, or hereafter can, shall, or may have, claim, or assert in any capacity against the Released Defendant Parties or any of them with respect to the Covered Conduct (a) for Other Damages Claims, if and to the extent such claims are brought (i) as a representative or member of any class of claimants in a class action, whether under Rule 23 of the Federal Rules of Civil Procedure or under state laws analogous to Rule 23 of the Federal Rules of Civil Procedure or (ii) through any other form of Aggregate Action; or (b) for injunctive relief, medical monitoring costs, and medical treatment costs.

6.5. Definition of Arbitrable Claims. As used herein, “Arbitrable Claims” means any and all Claims for damages not released under this Agreement, whether under the Class Release or the Other Damages Release, that the Releasing Class Member Parties or any one of them ever had, now has, or hereafter can, shall, or may have, claim, or assert in any capacity against the Released Defendant Parties or any of them with respect to the Covered Conduct.

6.6. Arbitration Provision. To the extent the Releasing Class Member Parties or any one of them have any Arbitrable Claims remaining against the Released Defendant Parties, those claims shall be brought only in accordance with the following procedures (the “Arbitration Provision”).

Any such Arbitrable Claims shall be brought in an individual capacity only, not on a class or Aggregate basis, and shall be arbitrated. The Federal Arbitration Act shall govern the interpretation and enforcement of this Arbitration Provision. All issues shall be for an arbitrator to decide, except that only a court may decide issues relating to the prohibition against class or Aggregate Actions. If any Releasing Class Member Party intends to seek arbitration of a dispute, that party must provide the Released Defendant Party or Parties named in the arbitration with notice in writing. This notice of dispute to the Released Defendant Party or Parties named in the arbitration must be sent to the following address: Facebook Legal Department, Attn: Employment Law, Facebook, Inc., 1601 Willow Rd., Menlo Park, CA 94025. The arbitration shall be governed by the JAMS Streamlined Arbitration Rules & Procedures (“JAMS Rules”) as modified by this Arbitration Provision, provided that the parties to any such arbitration will stipulate that a party may file a dispositive motion in the arbitration. The arbitration shall be administered by JAMS. If JAMS is unavailable, the parties shall agree to another arbitration provider. The arbitrator in a particular individual arbitration shall not be bound by rulings in other arbitrations in which the Releasing Class Member Party at issue is not a party. To the fullest extent permitted by applicable law, any evidentiary submissions made in arbitration shall be maintained as confidential in the absence of good cause for disclosure, and the arbitrator’s award shall be maintained as confidential; provided that the parties will have the option to opt out of these confidentiality provisions. The Defendant Released Party or Parties named in the arbitration shall pay for any filing, administrative, and arbitrator fees, unless the claim for Other Damages is determined by the arbitrator to be frivolous (as measured by the standards set forth in Federal Rule of Civil Procedure

11(b)), in which case the Releasing Class Member Party shall be responsible for the Class Member's own filing, administrative, and arbitrator fees.

6.7. Other Damages Release and Covenant Not To Sue. Without limiting the foregoing in Sections 6.1 and 6.3, on the date that any Releasing Class Member Party accepts a payment other than for medical monitoring costs or medical treatment costs (an "Other Damages Payment"), thereby becoming a Fully Releasing Class Member Party, that individual (a) shall be deemed to have and, by operation of law and of the Final Judgment, shall have fully, finally, and forever compromised, released, relinquished, settled, and discharged all Released Other Damages Claims against each of the Released Defendant Parties; (b) shall have covenanted not to sue any of the Released Defendant Parties with respect to any of the Released Other Damages Claims; and (c) shall be permanently barred and enjoined from instituting, commencing, or prosecuting any of the Released Other Damages Claims against any of the Released Defendant Parties. The foregoing releases, covenants, and injunctions (collectively, the "Other Damages Release") incorporate the waivers and other terms in Sections 6.8, 6.10, and 6.11. A Releasing Class Member Party accepts an Other Damages Payment by cashing a check containing the Other Damages Payment or by retaining the electronic transfer of an Other Damages Payment.

6.8. Definition of Released Other Damages Claims. As used herein, the term "Released Other Damages Claims" and the term "Other Damages Claims" mean any and all Claims that the Releasing Class Member Parties or any one of them ever had, now has, or hereafter can, shall, or may have, claim, or assert in any capacity against the Released Defendant Parties or any of them with respect to the Covered Conduct.

6.9. Reservation of Rights. Nothing in this Section shall be construed to preclude a Class Member from exercising her rights under Section 5.1.3.

6.10. Section 1542 Waiver. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date, the Releasing Plaintiff Parties shall expressly and each of the Releasing Class Member Parties shall be deemed to have and, by the operation of the Final Judgment, shall have to the fullest extent allowed by law waived the provisions, rights, and benefits of Section 1542 of the California Civil Code, which provides as follows:

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.

6.11. Other Unknown Claims. Upon the Effective Date, the Releasing Plaintiff Parties and Releasing Class Member Parties, and each of them, also shall be deemed to have and shall have waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, by principle of common law, or by the law of any jurisdiction outside of the United States that is similar, comparable, or equivalent to Section 1542 of the California Civil Code.

6.12. Mistake of Fact. Plaintiffs and Class Counsel acknowledge that they may discover facts in addition to or different from those they now know or believe to be true with respect to the Covered Conduct but that it is their intention to finally and forever settle and release the Released Claims.

6.13. Finality of Release. This Agreement shall provide the sole and exclusive remedy for any and all Released Claims against the Released Defendant Parties, and the obligations incurred

pursuant to this Agreement shall be a full and final disposition of the Action and of any and all Released Claims as against all Released Defendant Parties. No Released Defendant Party shall be subject to any liability or expense of any kind to any Releasing Party with respect to any Released Claim.

## 7. CLASS NOTICE

7.1. Notice Plan. Notice shall be disseminated in a manner approved by the Court. Class Counsel shall propose to the Court a Notice Plan for approval in the Preliminary Approval Order.

7.2. Contact Information Required for Notice. Neither Facebook nor the U.S. Facebook Vendors are required to take any action with respect to Notice other than to provide to the Settlement Administrator lists of Settlement Class members and their available contact information, including (to the extent available) each Settlement Class member's full name, email address, last known mailing address, and dates of employment with the U.S. Facebook Vendor(s) as Content Moderators for Facebook. Class Counsel will submit with their Motion for Preliminary Approval a [Proposed] Order Regarding *Belair* Notice to Proposed Settlement Class Members, which, with the Court's approval, shall govern Counsel's access to the contact information of the members of the Settlement Class who do not exercise their right to opt out of the disclosure of their contact information to Counsel.

7.3. Defendant's Input. Prior to submission of the Notice Plan to the Court for approval, Plaintiffs will provide Defendant with the opportunity to comment on the Notice Plan and the content of the short- and long-form Notice and the Claim Form. Defendant will also have the opportunity to comment on the content of any settlement website.

## 8. EXCLUSIONS AND OBJECTIONS

8.1. Exclusions from the Settlement Class. A Person may opt out of the Settlement Class by requesting exclusion on or before the Objection/Exclusion Deadline (a “Request for Exclusion”). To file a Request for Exclusion, the Person must write to the Settlement Administrator at the address provided in the Notice stating a request to “opt out” or be “excluded” from the Settlement Class. In order to be effective, the request must be (a) signed by the Person making the request; and (b) postmarked on or before the Objection/Exclusion Deadline. Each Request for Exclusion shall be made individually by the Person requesting the opt-out or exclusion; no generic or “class” opt-outs shall be allowed. The Settlement Administrator shall process Requests for Exclusion received pursuant to this Section 8.1 and promptly provide to Class Counsel copies thereof upon receipt.

8.2. Challenges to Exclusion. Within five (5) days after the Objection/Exclusion Deadline, the Settlement Administrator shall provide to Defense Counsel and Class Counsel a list of all Persons who opted out by filing a Request for Exclusion pursuant to Section 8.1.

8.3. Objections by Class Members. To be considered, any objection must (a) be made in writing; (b) be filed with the Court; (c) be mailed to the Settlement Administrator (i) at the address provided in the Notice, (ii) with copies to Class Counsel and Defense Counsel, and (iii) postmarked no later than the Objection/Exclusion Deadline; and (d) include the following: (i) the name of the Action; (ii) the objector’s full name, address, and telephone number; (iii) all grounds for the objection, accompanied by any legal and factual support (including copies of any documents relied upon); (iv) whether the objector is represented by counsel and, if so, the identity of such counsel; (v) a statement confirming whether the objector intends personally to appear and/or testify at the Fairness Hearing; (vi) the identity of any counsel who will appear at the Fairness Hearing on the



objector's behalf; (vii) a list of any witnesses the objector wishes to call to testify and of any documents or exhibits the objector or the objector's counsel may use at the Fairness Hearing; and (viii) the objector's signature.

8.4. Responses to Objections. Any Party shall have the right to respond to any objection no later than fourteen (14) days after the Objection/Exclusion Deadline by filing a response with the Court and serving a copy on the objector (or counsel for the objector) and counsel for the other Parties.

## **9. SETTLEMENT ADMINISTRATION**

9.1. Selection of Settlement Administrator. The Settlement Administrator(s) shall be selected and retained by Class Counsel, subject to approval by the Court. As part of the Preliminary Approval Order, Class Counsel shall seek appointment of the Settlement Administrator(s).

9.2. Duties of the Settlement Administrator. The Settlement Administrator(s) shall perform its or their obligations in a rational, responsive, cost effective, and timely manner, acting under the supervision of Class Counsel. The Settlement Administrator(s) shall maintain reasonably detailed records of its or their activities under this Agreement, as well as all records required by applicable law, in accordance with its or their normal business practices.

9.3. Privacy Protections. The Settlement Administrator(s) shall protect the privacy of any personally identifiable information received in the course of administering the duties undertaken pursuant to this Agreement, and the Settlement Administrator(s) shall comply with all laws regarding data privacy protection and data security, including the protective order entered by the Court in this Action. The Settlement Administrator(s) shall use personally identifiable information received in the course of administering the duties provided by this Agreement solely for the purpose of administering those duties. Within one hundred twenty (120) days after the later

of (a) ninety (90) days from the sending of any Other Damages Payments to Class Members; and (b) any time period for an appeal related to the Settlement has expired and any appeals relating to the Settlement have been resolved, the Settlement Administrator(s) shall delete any personally identifiable information received in the course of administering the duties undertaken pursuant to this Agreement and shall certify in writing to the Parties that the deletion has been completed.

**10. PRELIMINARY APPROVAL ORDER, FINAL APPROVAL ORDER, AND FINAL JUDGMENT**

10.1. Motion for Preliminary Approval. After the Execution Date, Class Counsel shall submit this Agreement to the Court and shall apply for entry of an order requesting preliminary approval of this Agreement, approval of the forms of Notice and of the Notice Plan, and entry of a stay of all proceedings in the Action until the Court renders a final decision on approval of the Settlement. The Motion for Preliminary Approval shall include the proposed form of an order preliminarily approving the Settlement. Class Counsel shall provide Defense Counsel with an opportunity to review and comment on the draft Motion for Preliminary Approval, including all supporting materials, before it is submitted to the Court.

10.2. Motion for Final Approval. No later than thirty (30) days following the Objection/Exclusion Deadline, Class Counsel shall submit a motion for final approval by the Court of the Settlement. Defense Counsel shall be provided with an opportunity to review and comment on the Motion for Final Approval, including all supporting materials. In connection with the Motion for Final Approval, Class Counsel shall ask the Court to set a date for the Fairness Hearing that ensures compliance with the requirements of California Rule of Court 3.769(g).

10.3. Final Approval Order Requirements. It shall be a material term of the Settlement and of this Agreement, and the obligations of Defendant hereunder (with the exception of any

amounts spent out of the Settlement Fund by the Settlement Administrator to provide Notice to Class Members pursuant to a court-ordered Notice Plan) are expressly conditioned upon, the entry of a Final Approval Order and the Settlement becoming effective.

## **11. ATTORNEYS' FEES AWARD; CLASS REPRESENTATIVE SERVICE AWARDS**

11.1. Attorneys' Fees Award and Class Representative Service Awards. Class Counsel may seek an award from the Court, to be paid out of the Settlement Fund, for (a) an Attorneys' Fees Award; and (b) Class Representative Service Awards for each Class Representative. For the avoidance of doubt, any Attorneys' Fee Award or Class Representative Service Award shall be paid out of the Settlement Fund and shall not be separately payable, in whole or in part, by Facebook. The Parties acknowledge and agree that (a) the payment of any Attorneys' Fees Award and/or Class Representative Service Award is solely in the discretion of the Court; (b) the Settlement and this Agreement do not depend on the Court's approval of any such application by Class Counsel; and (c) neither an Attorneys' Fees Award nor a Class Representative Service Award is a necessary term of this Agreement or a condition of the Settlement embodied herein.

11.2. Payment of Attorneys' Fees Award and Class Representative Service Awards. Plaintiffs shall pay and be responsible for all taxes, if any, due and payable as a result of the receipt of any Class Representative Service Awards and represent and warrant that they have not relied on Defendant for any tax advice regarding taxability or the tax status of said awards. Other than as provided in this Section 11, Defendant shall not be liable for any costs, fees, or expenses of Class Counsel, Plaintiffs, the Class Representatives, any Class Member, or any of the Class Members' attorneys, experts, advisors, agents, or representatives.

## **12. EFFECTIVE DATE; CONDITIONS OF SETTLEMENT**

12.1. Effective Date. This Agreement is expressly contingent upon the completion of all of the following events and shall be effective on the date (the “Effective Date”) that is one business day following the completion of all of the following events: (a) this Agreement has been executed and delivered by Class Counsel and Defense Counsel; (b) the Court has entered the Preliminary Approval Order; (c) the Court has entered the Final Approval Order approving this Agreement, following notice to the Settlement Class and a Fairness Hearing, as provided in the California Code of Civil Procedure and California Rules of Court, and has entered the Final Judgment or Alternative Judgment; and (d) an order has been issued in connection with any Attorneys’ Fees Award or Class Representative Service Awards approved by the Court and has become a Final Order; (e) the Final Approval Order and the Final Judgment have each become a Final Order or, in the event that the Court enters an order and final judgment in a form other than but materially similar to that provided above (an “Alternative Judgment”), the Final Approval Order and such Alternative Judgment have each become a Final Order.

12.2. Failure of Effective Date to Occur. If all of the conditions specified in Section 12.1 are not able to be satisfied, then this Agreement shall be terminated, subject to and in accordance with Section 13, unless the Parties mutually agree in writing to continue this Agreement for a specified period of time.

## **13. TERMINATION; EFFECT OF TERMINATION**

13.1. Rights of Termination. This Agreement may be terminated, subject to the limitation in Section 13.3, by any Party, within twenty-one (21) business days after any of the following events: (a) the Court’s refusal to grant Preliminary Approval of this Agreement in any material respect; (b) the Court’s refusal to grant Final Approval of this Agreement in any material

respect; (c) the Court's refusal to enter the Final Judgment or Alternative Judgment in the Action in any material respect; or (d) the entry of an order by a court that modifies or reverses the Final Judgment or an Alternative Judgment in any material respect.

13.2. Notice of Termination. A Party electing to terminate this Agreement pursuant to Section 13.1 shall provide written notice of its election to do so to all other Parties.

13.3. Attorneys' Fees Award and Class Representative Service Awards. Notwithstanding anything herein, the Parties acknowledge and agree that the Court's failure to approve, in whole or in part, any Attorneys' Fees Award or Class Representative Service Award pursuant to Section 11 or the reversal or modification of any Attorneys' Fees Award or Class Representative Service Award on appeal or in a collateral proceeding is not grounds for termination of this Agreement.

13.4. Effect of Termination. In the event of a termination of this Agreement pursuant to Section 13.1 or if this Agreement and the Settlement proposed herein are canceled or otherwise fail to become effective for any reason whatsoever, then (a) any order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*; and (b) the Parties shall be returned to the *status quo ante* with respect to the Action as of the Execution Date as if the Parties had never entered into this Agreement and with all of their respective legal claims and defenses preserved as they existed on that date. For the avoidance of doubt and without limiting the foregoing, the Parties acknowledge and agree in the event of a termination of this Agreement (i) that this Agreement and all the provisions of the Preliminary Approval Order shall be vacated; (ii) that the Parties shall retain all rights that they had immediately preceding the Execution Date; and (iii) that nothing in this Agreement or other papers or proceedings related to

this Settlement shall be used as evidence or argument by any Party concerning whether the Action was or may properly be certified or maintained as a class action for any purpose other than settlement in accordance with this Agreement.

13.5. Payments for Notice. In the event of a termination of this Agreement under this Section 13 or if this Agreement fails to become effective for any other reason, any amounts of the Settlement Fund spent to provide notice to Class Members pursuant to the Notice Plan will not revert to Defendant.

#### **14. MISCELLANEOUS PROVISIONS**

14.1. Final Resolution. The Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims against the Released Defendant Parties. Accordingly, the Parties agree not to assert in any forum that the Action was brought by Plaintiffs or defended by the Defendant, or each or any of them, in bad faith or without a reasonable basis.

14.2. Representation by Counsel. The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective rights and obligations with respect to the Settlement. The Parties have read and understand fully the above and foregoing Agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

14.3. Res Judicata. Except as provided herein, if this Agreement is approved by the Court, any Party and any of the Released Defendant Parties may file and otherwise rely upon this Agreement in any action that may be brought against such Party and/or Released Defendant Party 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, issue preclusion, or similar defense or counterclaim.

14.4. No Admission. This Agreement reflects, among other things, the compromise and settlement of disputed claims among the Parties hereto, and neither this Agreement nor the Releases given herein, nor any consideration therefor, nor any actions taken to carry out this Agreement are intended to be, nor may they be deemed or construed to be, an admission or concession of liability or of the validity of any claim, defense, or any point of fact or law (including but not limited to matters respecting class certification) on the part of any Party, whether or not the Effective Date occurs or this Agreement is terminated. Neither this Agreement, nor the fact of settlement, nor the settlement proceedings, nor settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by the Released Defendant Parties or be offered or received in evidence as an admission, concession, presumption, or inference of any wrongdoing by the Released Defendant Parties in any proceeding, other than such proceedings as may be necessary to consummate, interpret, or enforce this Agreement.

14.5. Counterparts. This Agreement may be executed in one or more counterparts and may be executed by facsimile or electronic signature. All executed counterparts and each of them shall be deemed to be one and the same instrument.

14.6. Waiver and Amendment. The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

14.7. Expenses. Except as otherwise provided herein, each Party shall bear his, hers, or its own attorney's fees and costs.

14.8. Representations and Warranties. Plaintiffs represent and warrant that they have not assigned any claim or right or interest therein as against the Released Defendant Parties to any other Person and that they are fully entitled to release the same. Each counsel or other Person executing this Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto hereby warrants and represents to the other Parties hereto that such counsel or other Person has the authority to execute and deliver this Agreement, its Exhibits, and related settlement documents, as applicable.

14.9. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto and the Released Defendant Parties.

14.10. Jurisdiction. The Court has and shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

14.11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflicts of law principles that would direct the application of the laws of another jurisdiction.

14.12. Drafting. All Parties have contributed substantially and materially to the preparation of this Agreement, and it shall not be construed more strictly against one Party than another.



14.13. Notice. Where this Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel at the addresses listed below.

14.14. Entire Agreement. This Agreement sets forth the entire agreement and understanding of the Parties with respect to the matters set forth herein and supersedes all prior negotiations, agreements, arrangements, and undertakings with respect to the matters set forth herein. No representations, warranties, or inducements have been made to any Party concerning this Agreement other than the representations, warranties, and covenants contained and memorialized herein.

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FOLLOWS]

Date: May 8, 2020

By: Steve Williams

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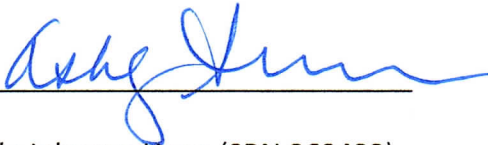
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