

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement” or “Agreement”) is entered into by and between Jaime Dempsey, Jane Doe on behalf of her minor child, J.D. and Kaitlyn Vargas (“Plaintiffs”), individually and on behalf of Participating Settlement Class Members (as defined in Paragraph 24), and La Jolla Group, Inc. (“Defendant”) (collectively the “Parties”), in the action titled *Jaime Dempsey, et al v. La Jolla Group, Inc.*, alleging claims arising out of an alleged cybersecurity incident, pending in the Superior Court of California, County of Orange and assigned Case No. 30-2024-01416569-CU-MC-CXC.

RECITALS

WHEREAS, Plaintiffs allege that Defendant failed to properly secure and safeguard Plaintiffs’ and other current and former employees’ personal information, which was allegedly posted on the Dark Web as a result of a cybersecurity incident in or around November 2023 (“Cybersecurity Incident”);

WHEREAS, Defendant expressly denies Plaintiffs’ allegations and believes it possesses strong legal defenses to Plaintiffs’ claims;

WHEREAS, subsequent to the alleged Cybersecurity Incident, Defendant implemented certain remedial measures, including enhanced cybersecurity;

WHEREAS, the Parties agree that the Settlement is a compromise of disputed claims, and not an admission of any liability or wrongdoing or an admission of the validity or truth of any claim, defense or counterclaim;

WHEREAS, this Agreement is for settlement purposes only, and nothing in this Agreement shall constitute, be construed as, or be admissible in evidence as any admission of the validity of any claim or fact alleged by Plaintiffs in this Action or in any other pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Released Parties or admission of the validity or lack thereof of any claim, allegation, or defense asserted in this Action or any other action.

NOW, THEREFORE, in exchange for the mutual promises and valuable consideration provided for in this Agreement, the Parties agree to a full, complete, and final settlement and resolution of the Action and any and all Released Claims, subject to Court approval, on the following terms and conditions:

I. DEFINITIONS

In addition to terms defined at various points within this Agreement, the following defined terms shall have the meanings set forth below:

1. “Action” means *Jaime Dempsey et al v. La Jolla Group, Inc.*, No. 30-2024-01416569-CU-MC- CXC, pending in the Superior Court of California, County of Orange.

2. “Approved Claim” means the timely submission of a Claim Form by a Participating Settlement Class Member that has been approved by the Settlement Administrator or through the Claims Review Process.
3. “California Subclass” means those members of the Settlement Class who were California residents at the time of the Cybersecurity Incident. There are 2,293 individuals in the California Subclass.
4. “Claim Form” or “Claim” means the form(s) Settlement Class Members must submit to be eligible for reimbursement of Out-of-Pocket Losses, Credit Monitoring Services, or Cash Compensation under the terms of the Settlement, substantially in the form annexed hereto as **Exhibit F**.
5. “Claims Deadline” means the deadline by which Settlement Class Members must submit valid Claim Form(s), which will occur ninety (90) days after the Notice Deadline. Any Class Member who receives a remailed notice shall have at least thirty (30) days from the date of remailing to submit a Claim Form.
6. “Claims Period” means the period of time during which Settlement Class Members may submit Claim Forms.
7. “Claims Review Process” means the process for reviewing and determining whether Claims are valid as set forth in Paragraph 49.
8. “Court” means the Superior Court of California, County of Orange.
9. “Credit Monitoring Services” means the twenty-four (24) months of credit monitoring services offered through one of the national credit bureaus as described in Paragraph 43.
10. “Defendant’s Counsel” means James Monagle of Mullen Coughlin LLC.
11. “Effective Date” means one business day following the latest of: (a) the date upon which the time expires for filing or noticing any appeal of the Final Approval Order and Judgment, or the date of entry of the Final Approval Order and Judgment if no person or entity has standing to appeal other than the Parties; (b) if there is an appeal or appeals, the date on which the Final Approval Order and Judgment is affirmed without material modification and is no longer subject to judicial review; or (c) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari.
12. “Fee Award and Costs” means the amount of attorneys’ fees and reimbursement of Litigation Costs and Expenses awarded by the Court to Settlement Class Counsel in satisfaction of any request or claim for payment of attorneys’ fees, costs, and litigation expenses in connection with this Action.
13. “Final Approval Order and Judgment” means an order and judgment, substantially in the form annexed hereto as **Exhibit A**, that the Court enters, which finally approves the Settlement Agreement, certifies the Settlement Class, and otherwise satisfies the settlement-related provisions of the California Rules of Court and California Code of Civil Procedure, and is consistent with all material provisions of this Agreement.
14. “Final Approval Hearing” means the hearing to be conducted by the Court to determine

the fairness, adequacy, and reasonableness of the Settlement pursuant to the California Rules of Court and California Code of Civil Procedure and whether to issue the Final Approval Order and Judgment.

15. “Litigation Costs and Expenses” means costs and expenses incurred by Settlement Class Counsel in connection with commencing, prosecuting, and settling the Action.

16. “Lost Time” means time Settlement Class Members spent monitoring accounts or otherwise dealing with issues related to the Cybersecurity Incident, up to a maximum of one hundred dollars (\$100) per Settlement Class Member, comprised of up to four (4) hours at a rate of twenty five dollars (\$25) per hour, if at least one (1) full hour was spent dealing with the Cybersecurity Incident, and if supported by an attestation that the activities were related to the Cybersecurity Incident.

17. “Notice” means notice of the proposed class action Settlement to be provided to Settlement Class Members, substantially in the forms attached hereto as **Exhibit B** (“Postcard Notice”), **Exhibit C** (“Email Notice”) and **Exhibit D** (“Long Form Notice”).

18. “Notice Deadline” means the last day by which Notice is sent to the Settlement Class Members and occurs thirty (30) days after entry of the Preliminary Approval Order.

19. “Notice and Administrative Expenses” means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Settlement Class, locating Settlement Class Members, performing National Change of Address search(es) and/or skip tracing, processing claims, determining the eligibility of a person to be a Settlement Class Member, and administering, calculating, and distributing payments to Settlement Class Members who submit valid Claim Forms. Notice and Administrative Expenses also includes all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

20. “Objection Deadline” is the last day on which a Settlement Class Member may file an objection to the Settlement, which will be ninety (90) days after the Notice Deadline. Any Class Member who receives a remailed notice shall have at least thirty (30) days from the date of the remailed notice to file an objection.

21. “Opt-Out” means a Settlement Class Member (i) who timely submits a properly completed and executed Request for Exclusion, (ii) who does not rescind that Request for Exclusion prior to the Opt-Out Deadline, and (iii) as to which there is not a successful challenge to the Request for Exclusion.

22. “Opt-Out Deadline” is the last day on which a Settlement Class Member may submit a Request for Exclusion, which will be ninety (90) days after the Notice Deadline. Any Class Member who receives a remailed notice shall have at least thirty (30) days from the date of the remailed notice to submit a Request for Exclusion.

23. “Out-of-Pocket Losses” means documented out-of-pocket costs or expenditures that a Settlement Class Member actually incurred that are fairly traceable to the Cybersecurity Incident, and that have not already been reimbursed by a third party, as set forth in Paragraph 43. Out-of-Pocket Losses may include, without limitation, monetary losses due to identity theft

or fraud, Lost Time, bank fees, postage, copying, mileage, telephone charges, and notary charges, and costs incurred as a result of purchasing credit monitoring or other identity theft insurance services, between November 2023 and the Claims Deadline.

24. “Participating Settlement Class Member” means a Settlement Class Member who does not submit a valid Request for Exclusion prior to the Opt-Out Deadline, as set forth in Paragraph 60.

25. “Personal Information” means information that identifies an individual or in combination with other information can be used to identify, locate, or contact an individual. The term “Personal Information” is not intended here, nor should it be viewed as, having any bearing on the meaning of this term or similar term in any statute or other source of law beyond this Agreement.

26. “Preliminary Approval Order” means an order directing issuance of Notice to Settlement Class Members, determining that the Court will likely be able to approve the Settlement under the California Rules of Court and California Code of Civil Procedure, and determining that the Court will likely be able to certify the Settlement Class for purposes of resolving this Action. Such order will include the forms and procedure for providing notice to the Settlement Class, including notice of the procedure for Settlement Class Members to object to or opt-out of the Settlement, and set a date for the Final Approval Hearing, substantially in the form annexed hereto as **Exhibit E**.

27. “Released Claims” means any and all claims, liabilities, rights, demands, suits, actions, causes of action, obligations, damages, penalties, costs, attorneys’ fees, losses, and remedies of every kind or description— existing or potential, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, legal, statutory, or equitable—that were or reasonably could have been asserted in the Class Action Complaint, or subsequent operative complaint, based on the facts alleged in the Class Action Complaint, arising from the Cybersecurity Incident, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law. This release explicitly includes any future claims that may arise from the Cybersecurity Incident, even if the full extent of damages are not currently known. The release does not constitute a California Civil Code § 1542 waiver by absent Participating Class Members.

28. “Released Parties” means Defendant and each and every of its respective predecessors, its current, former, and future related or affiliated entities of any nature whatsoever, parents or subsidiaries whether direct or indirect, , related entities under common ownership, as well as all such parties’ customers, representatives, officers, agents, advisors, stockholders, vendors, members, managers, directors, employees, insurers, reinsurers, successors, assigns, and attorneys.

29. “Releasing Parties” means the Settlement Class Representatives and Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, predecessors, successors, attorneys, assigns, and any other person purporting to assert a claim on their respective behalf.

30. “Request for Exclusion” is the written communication by or on behalf of a Settlement

Class Member in which he or she requests to be excluded from the Settlement Class in the form and manner provided for in the Notice and as described below in Paragraph 60.

31. “Service Award Payment” means compensation awarded by the Court and paid to the Settlement Class Representatives in recognition of their role in this Action as set forth in Paragraph 73.

32. “Settlement” means the settlement of the Action by and between the Parties, and the terms thereof as stated in this Settlement Agreement.

33. “Settlement Administrator” means the third-party administrator Analytics Consulting LLC who was selected by the Parties.

34. “Settlement Class” means current and former employees of Defendant who reside in the United States and whose information was impacted by the Cybersecurity Incident. There are 3,455 individuals in the Settlement Class (including 2,293 individuals in the California Subclass). In other words, there are 1,162 individuals in the Settlement Class who are not in the California Subclass.

35. “Settlement Class Counsel” means Joshua Swigart of Swigart Law Group APC, Ben Travis of Ben Travis Law, APC and Cassandra Miller of Strauss Borrelli PLLC.

36. “Settlement Class List” means the list of Settlement Class Members and their contact information.

37. “Settlement Class Member” means an individual who falls within the Settlement Class definition.

38. “Settlement Class Representatives” means the named Plaintiffs.

39. “Settlement Payment” or “Settlement Check” mean the payment to be made via mailed check or via electronic means (agreed to by the Parties) to a Participating Settlement Class Member pursuant to the claims process set forth in Paragraph 48.

40. “Settlement Website” means the website that the Settlement Administrator will create to provide Settlement Class Members with notice of and information about the Settlement and relevant case documents and deadlines, as set forth in Paragraph 57.

II. SETTLEMENT FUNDS

41. **Payment of Settlement Funds.** Within thirty (30) days of the entry of the Preliminary Approval Order, Defendant shall pay or cause to be paid to the Settlement Administrator the amount to cover the Settlement Administrator's reasonable set-up costs, notice, and early administration costs. Defendant shall pay or cause to be paid the remaining Notice and Administrative Expenses as well as the amounts to pay for the benefits to the Participating Settlement Class Members within thirty (30) days following the Effective Date. The Settlement Administrator shall provide wiring instructions and a properly completed and duly executed IRS Form W-9, along with any other necessary forms, to Defendant within five (5) days after the entry of the Preliminary Approval Order.

42. **Taxes and Representations.** The Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by the Settlement Class Representatives or any Settlement Class Member of any payment or transfer made pursuant to this Agreement. The Settlement Class Representatives and Settlement Class Members shall be solely responsible for the federal, state, and local tax consequences to them of the receipt of funds pursuant to this Agreement.

III. SETTLEMENT BENEFITS AND REIMBURSEMENT

43. The Settlement Administrator will make the following benefits available to Settlement Class Members who submit valid and timely Claim Forms, to be paid for by Defendant, as described below:

- a. **Claims for Out-of-Pocket Losses.** Settlement Class Members may seek Out-of-Pocket Losses up to a total of two thousand dollars (\$2,000) per Settlement Class Member, including Lost Time of up to \$100 per Settlement Class Member (up to 4 hours at a rate of \$25 per hour), with an aggregate cap of fifty thousand dollars (\$50,000) for Out-of-Pocket Losses claims by all Settlement Class Members.
 - i. Claims for Out-of-Pocket Losses (except for Lost Time) must be supported by reasonable documentation, which may include credit card statements, invoices, telephone records, and receipts. Personal certifications, declarations, or affidavits standing alone do not constitute reasonable documentation, but may provide clarification or context for other documentation that is submitted.
 - ii. Claims for Lost Time do not need to be supported by any documentation.
- b. **Credit Monitoring Services.** A Settlement Class Member may submit a claim for twenty-four (24) months of credit monitoring services ("Credit Monitoring Services"). All Settlement Class Members can select this benefit on a Claim Form. The Credit Monitoring Services will include credit monitoring through one of the national credit reporting bureaus and with at least one million dollars (\$1,000,000) in identity theft insurance. The estimated cost to Defendant to provide Credit Monitoring Services is \$2,380 for all members of the Settlement Class. (Defendant pays a flat fee upfront for 100% of the Settlement Class).
- c. **Cash Compensation.** A Settlement Class Member may submit a claim for cash compensation, if they do not submit a claim for Out-of-Pocket Losses. Such compensation shall be ninety-five dollars (\$95) for members of the California Subclass and forty-five dollars (\$45) for all other Settlement Class Members. ("Cash Compensation").

44. **Pro Rata Adjustment of Claims for Out-of-Pocket Losses.** If the total amount of valid claims for Out-of-Pocket Losses submitted during the Claims Period exceeds the aggregate cap of fifty thousand dollars (\$50,000), the amount of each valid claim for Out-of-Pocket Losses will be reduced proportionally.

45. **Administration and Notice.** The costs of the Settlement Administrator approved by the Court, including Notice and Administrative Expenses, will be paid by Defendant. The estimated total amount of the costs of the Settlement Administrator is \$17,925.

46. **Attorneys' Fees and Costs.** Settlement Class Counsel will move the Court for an

award of attorneys' fees and costs not to exceed two hundred twenty-five thousand dollars (\$225,000). After the Effective Date, Defendant will pay the Fee Award and Costs approved and awarded by the Court. The finality or effectiveness of the Settlement shall not depend on the amount or timing of any Fee Award and Costs approved and awarded by the Court or any appeal thereof.

47. **Service Award.** Settlement Class Counsel will seek no more than three thousand dollars (\$3,000) for a Service Award on behalf of each Plaintiff. After the Effective Date, Defendant will pay the Service Awards approved and awarded by the Court. The finality or effectiveness of the Settlement shall not depend on the amount or timing of any Service Award approved and awarded by the Court or any appeal thereof.

IV. CLAIMS PROCESS AND PAYMENTS

48. **Submission of Electronic and Hard Copy Claims.** Settlement Class Members may submit Claim Forms to the Settlement Administrator electronically via the Settlement Website or physically by mail. Claim Forms must be submitted electronically or postmarked during the Claims Period and on or before the Claims Deadline. The Settlement Administrator will maintain records of all Claim Forms submitted until the later of (a) one hundred and eighty (180) Days after the Effective Date or (b) the date all Claim Forms have been fully processed in accordance with the terms of this Agreement. Information submitted by Settlement Class Members in connection with Claim Forms shall be deemed confidential and protected as such.

49. **Claims Review Process.** The Settlement Administrator shall have the discretion and authority to determine whether and to what extent a Claim for Out-of-Pocket Losses, Credit Monitoring Services, or Cash Compensation is valid.

- a. The Settlement Administrator will verify that each person who submits a Claim Form is a Settlement Class Member.
- b. The Settlement Administrator will determine that each Claim Form submitted by a Settlement Class Member was submitted during the Claims Period and is timely.
- c. No decision of the Settlement Administrator shall be deemed to constitute a finding, admission, or waiver by Defendant as to any matter of fact, law, or evidence having any collateral effect on any proceedings in any forum or before any authority.
- d. To the extent the Settlement Administrator determines that a Claim Form is deficient, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and provide them with twenty-one (21) days to cure the deficiencies. If the Settlement Administrator subsequently determines that the Settlement Class Member has not cured the deficiencies, the Settlement Administrator will notify the Settlement Class member within ten (10) days of that determination. The Settlement Administrator may consult the Parties in making these determinations.
- e. If a Settlement Class Member receives notice that the Settlement Administrator has determined that the deficiencies it identified have not been cured, the Settlement Class Member may request an appeal in writing. The appeal must be submitted within twenty- one (21) days of the Settlement Administrator sending the notice. In the event of an appeal, the

Settlement Administrator shall provide the Parties with all relevant documentation regarding the appeal. The Parties will confer regarding the appeal. If they agree on a disposition of the appeal, that disposition shall apply. If they cannot agree on disposition of the appeal, the dispute will be submitted to a mutually agreed-upon third party neutral who will serve as the claims referee. If the Parties cannot agree on a claims referee, the Parties will submit proposals to the Court, and the Court shall have final, non-appealable authority to designate the claims referee. The decisions of the claims referee regarding the validity of claims shall apply.

- f. The Court may review any decision made by the Settlement Administrator and/or referee and has final say on any validity disputes.

50. **Payment.** After the Effective Date, and after final determinations have been made with respect to all claims submitted during the Claims Period pursuant to the Claims Review Process, the Settlement Administrator shall provide the Parties an accounting of all Approved Claims for Out-of-Pocket Losses, Credit Monitoring Services, and Cash Compensation prior to issuing any Settlement Payments.

51. **Timing.** Settlement Payments should be issued within forty-five (45) days after the Effective Date. Settlement Payments shall bear in the legend that they expire if not negotiated within one hundred eighty (180) days of their date of issue.

52. **Returned Checks.** For any Settlement Payments returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator shall make reasonable efforts to locate a valid address and resend the Settlement Payment within thirty (30) days after the check is returned to the Settlement Administrator as undeliverable. In attempting to locate a valid address, the Settlement Administrator is authorized to send an e-mail and/or place a telephone call to that Participating Settlement Class Member to obtain updated address information. Any replacement Settlement Payments issued to Participating Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of their issuance.

53. **Voided Checks.** In the event a Settlement Payment becomes void, the Settlement Class Member to whom that Settlement Payment was made payable will forfeit the right to payment and will not be entitled to payment under the Settlement, and the Agreement will in all other respects be fully enforceable against the Settlement Class Member. No later than one hundred and ninety (190) days after the issuance of the last Settlement Payment, the Settlement Administrator shall take all steps necessary to stop payment on any Settlement Payments that remain uncashed. The Parties agree that any unclaimed funds shall be distributed *cy pres* to Electronic Frontier Foundation to further the purposes of the underlying class action or causes of action pursuant to CCP § 384(a). The Parties, Settlement Class Counsel and Defendant's Counsel represent that they have no interest or relationship, financial or otherwise, with the intended *cy pres* recipient. After the Settlement Administrator stops payment on all uncashed Settlement Payments, the Parties will return to the Court seeking approval as to the disposition of these funds pursuant to CCP § 384(b). The funds distributed pursuant to the *cy pres* provision set forth in this paragraph shall not be considered unclaimed property under any law. Thus, the settlement is non-reversionary, and no amount shall revert to Defendant.

54. **Deceased Settlement Class Members.** If the Settlement Administrator is notified that a Participating Settlement Class Member is deceased, the Settlement Administrator is authorized to reissue the Settlement Check to the Participating Settlement Class Member's estate upon receiving proof the Participating Settlement Class Member is deceased and after consultation with Settlement Class Counsel and Defendant's Counsel.

V. SETTLEMENT CLASS NOTICE

55. **Timing of Notice.** Within ten (10) days after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Class List to the Settlement Administrator subject to the Settlement Administrator signing any Business Associate Agreement requested by Defendant. Within thirty (30) days after entry of the Preliminary Approval Order, the Settlement Administrator shall disseminate the Email Notice to Settlement Class Members for whom it has a valid email address and Postcard Notice to those for whom it does not have a valid email address. The Settlement Administrator shall make the Long Form Notice and Claim Form available to Settlement Class Members on the Settlement Website.

56. **Form of Notice.** Notice shall be disseminated via email to Settlement Class Members on the Settlement Class List for whom a valid email address exists. For those Settlement Class Members for whom a valid email address does not exist, Notice shall be disseminated by postcard through First Class U.S. mail. The Settlement Administrator shall utilize the USPS Change of Address service before mailing notices. Any notices returned to the Settlement Administrator with a forwarding address shall be mailed to the forwarding address provided within 5 business days of receipt of the returned mail. For any notices returned to the Settlement Administrator without a forwarding address, the Settlement Administrator shall conduct a skip trace to determine if a valid mailing or electronic address can be determined for that Settlement Class Member, and notice shall be forwarded accordingly. For Notices sent via email that bounce back as undeliverable, the Settlement Administrator shall send a postcard notice through First Class U.S. Mail to the Settlement Class Member, to the extent a valid mailing address exists. Notice shall also be provided on the Settlement Website. The Notice mailed or emailed to Settlement Class Members will consist of either a Postcard Notice or Email Notice, as applicable, in a form substantially similar to that attached hereto as **Exhibits B & C**. The Settlement Administrator shall have discretion to format the Notices in a reasonable manner to minimize mailing and administrative costs. Before Notices are mailed or emailed, Settlement Class Counsel and Defendant's Counsel shall first be provided with a proof copy (reflecting what the items will look like in their final form) and shall have the right to inspect the same for compliance with the Settlement Agreement and any orders of the Court. In addition, the Long Form Notice and Claim Form approved by the Court may be adjusted by the Settlement Administrator in consultation and agreement with the Parties, as may be reasonable and necessary and not inconsistent with such approval. Any Class Member who receives a remailed notice shall have at least thirty (30) days from the date of the remailed notice to object to the Settlement, opt-out of the Settlement, or file a claim.

57. **Settlement Website.** The Settlement Administrator will establish the Settlement Website as soon as practicable following entry of the Preliminary Approval Order, but prior to dissemination of the Notice. The Settlement Website shall contain relevant documents, including, but not limited to, the Long Form Notice, the Claim Form, an Objection form, a

Request for Exclusion form, this Agreement, Plaintiff's motion for preliminary approval of the Settlement, the Preliminary Approval Order, Plaintiff's motion for final approval and award of attorneys' fees, costs and expenses, and/or service awards, and the operative complaint in the Action. The Settlement Website shall also include a toll-free telephone number, e-mail address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly. The Settlement Website shall not include any advertising and shall remain operational until at least sixty (60) days after all Settlement Payments have been distributed.

58. **Cost of Notice and Administration.** Defendant will pay the entirety of the Notice and Administrative Expenses, including the cost of Notice.

59. The Parties, Settlement Class Counsel, and Defendant's Counsel shall not have any liability whatsoever with respect to (1) any act, omission or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (2) the determination, administration, calculation or payment of any claims; or (3) the payment or withholding of any taxes and tax-related expenses.

VI. OPT-OUTS AND OBJECTIONS

60. **Opt-Outs.** The Notice shall explain the procedure for Settlement Class Members to exclude themselves or "opt out" of the Settlement by submitting a Request for Exclusion to the Settlement Administrator postmarked or submitted online no later than ninety (90) days after the Notice Deadline. The Notice also must state that any Settlement Class Member who does not file a timely Request for Exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

- a. The Request for Exclusion must include the name of the proceeding, the individual's full name, personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication. A form that may be used by Class Members will be posted on the Settlement Website and is attached hereto as **Exhibit G**.
- b. No person shall purport to exercise any exclusion rights of any other person, or purport (a) to opt out Settlement Class Members as a group, in the aggregate, or as a class involving more than one Settlement Class Member; or (b) to opt out more than one Settlement Class Member on a single paper, or as an agent or representative. Any such purported Requests for Exclusion shall be void, and the Settlement Class Member(s) who is or are the subject of such purported Requests for Exclusion shall be treated as a Settlement Class Member and be bound by this Settlement Agreement, including the Release contained herein, and judgment entered thereon, unless he or she submits a valid and timely Request for Exclusion.
- c. Within seven (7) days after the Opt-Out Deadline, the Settlement Administrator shall provide the Parties with a complete and final list of all Opt-Outs who have submitted a Request for Exclusion and have timely and validly excluded themselves from the Settlement Class and, upon request, copies of all Requests for Exclusion received. In the

event that there are more than one hundred and five (105) Opt-Outs, Defendant may, by notifying Settlement Class Counsel in writing, void this Agreement as set forth in Paragraph 69 below.

- d. All persons who opt out shall not receive any benefits or be bound by the terms of this Agreement. All persons falling within the definition of the Settlement Class who do not opt out shall be bound by the terms of this Agreement and the Final Approval Order and Judgment.

61. **Objections.** The Notice shall explain the procedure for Settlement Class Members to object to the Settlement by submitting written objections to the Settlement Administrator by mail or on the Settlement Website no later than the Objection Deadline. The written objection must include:

- a. The name of the proceedings;
- b. The Settlement Class Member's full name, current mailing address, and telephone number;
- c. A statement that states with specificity the grounds for the objection, as well as any documents supporting the objection;
- d. A statement as to whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class;
- e. The identity of any attorneys representing the objector;
- f. A statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing;
- g. A list of all other matters in which the objecting Settlement Class Member and/or his/her attorney has lodged an objection to a class action settlement; and
- h. The signature of the Settlement Class Member or the Settlement Class Member's attorney.

A form that may be used by Class Members will be posted on the Settlement Website and is attached hereto as **Exhibit H**. A Class Member may also appear at the hearing to object to the settlement without being required to submit a written objection. Within seven (7) days after the Objection Deadline, the Settlement Administrator shall provide the Parties with all the objections submitted. Settlement Class Counsel shall file a single packet of all objections with the Court.

VII. DUTIES OF THE SETTLEMENT ADMINISTRATOR

62. **Duties of Settlement Administrator.** The Settlement Administrator shall perform the functions and duties necessary to effectuate the Settlement and as specified in this Agreement, including, but not limited to, the following:

- a. Obtaining the Settlement Class List for the purpose of disseminating Notice to Settlement Class Members;
- b. Causing the Notice program to be effectuated in accordance with the terms of this

Settlement Agreement and any orders of the Court;

- c. Performing National Change of Address searches and/or skip tracing on the Settlement Class List;
- d. Providing Notice to Settlement Class Members via U.S. mail and/or e-mail;
- e. Establishing and maintaining the Settlement Website;
- f. Establishing and maintaining a toll-free telephone line with interactive voice response for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries in a timely fashion;
- g. Responding to any mailed or emailed Settlement Class Member inquiries in a timely fashion;
- h. Reviewing, determining the validity of, and processing all Claims submitted consistent with the terms of this Agreement;
- i. Receiving and reviewing Requests for Exclusion and objections from Settlement Class Members. If the Settlement Administrator receives any Requests for Exclusion, objections, or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Settlement Administrator shall promptly provide copies thereof to Settlement Class Counsel and Defendant's Counsel;
- j. Working with the provider of Credit Monitoring Services to receive and send activation codes after the Effective Date to Settlement Class Members who submitted valid Claims for Credit Monitoring Services;
- k. After the Effective Date, processing and transmitting Settlement Payments to Settlement Class Members;
- l. Providing weekly or other periodic reports to Settlement Class Counsel and Defendant's Counsel that include information regarding the number of Settlement Checks mailed and delivered or checks sent via electronic means, Settlement Checks cashed, undeliverable information, and any other requested information relating to Settlement Payments or Notice;
- m. In advance of the Final Approval Hearing, preparing an affidavit to submit to the Court that:
(i) attests to implementation of Notice in accordance with the Preliminary Approval Order; and
(ii) identifies each Settlement Class Member who timely and properly submitted a Request for Exclusion; and
- n. Performing any function related to settlement administration as provided for in this Agreement or at the agreed-upon instruction of Settlement Class Counsel or Defendant's Counsel, including, but not limited to, verifying that Settlement Payments have been distributed.

63. The Settlement Administrator shall administer the Settlement in accordance with the terms of this Agreement and, without limiting the foregoing, shall treat any and all documents,

communications, and other information and materials received in connection with the administration of the Settlement as confidential and shall not disclose any or all such documents, communications, or other information to any person or entity except as provided for in this Agreement or by court order.

VIII. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

64. **Certification of the Settlement Class.** For purposes of this Settlement only, and in the context of this Agreement only, the Parties stipulate to the certification of the Settlement Class and California Subclass, which is contingent upon the Court entering the Final Approval Order and Judgment of this Settlement and the occurrence of the Effective Date. Excluded from the Settlement Class are (i) Defendant, their officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) any judges assigned to this case and their staff and family; and (iv) any other person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Cybersecurity Incident or who pleads nolo contendere to any such charge. Should: (1) the Settlement not receive final approval from the Court, (2) the Effective Date not occur, or (3) the Agreement is otherwise terminated, the certification of the Settlement Class shall be void, and neither the Agreement nor any order or other action relating to the agreement shall be offered by any person as evidence or cited in support of a motion to certify a class for any purpose other than this Settlement. Defendant reserves the right to contest class certification for all other purposes. The Parties further stipulate to designate the Class Representatives as the representatives for the Settlement Class and California Subclass.

65. **Preliminary Approval.** Following execution of this Agreement, Settlement Class Counsel shall file a motion for preliminary approval of this Settlement with the Court. Settlement Class Counsel shall provide Defendant's Counsel with a draft of the motion for preliminary approval within a reasonable time frame prior to filing same to ensure that any requested revisions from Defendant are addressed. The proposed Preliminary Approval Order shall be substantially in the form attached as **Exhibit E**.

66. **Final Approval.** Settlement Class Counsel shall move the Court for a Final Approval Order and Judgment of this Settlement, to be issued following the Final Approval Hearing, substantially in the form set forth in **Exhibit A**. Counsel for the Parties shall request that the Court set a date for the Final Approval Hearing that is no earlier than 120 days after entry of the Preliminary Approval Order. Settlement Class Counsel shall provide Defendant's Counsel with a draft of the motion for final approval within a reasonable time frame prior to filing same to ensure that any requested revisions from Defendant are addressed.

67. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement,

the Settlement Administrator consents to the jurisdiction of the Court for this purpose. The Court's jurisdiction shall continue until all settlement administration matters have been resolved. The Court's continuing jurisdiction is pursuant to California Code of Civil Procedure section 664.6 and California Rules of Court, rule 3.769(h).

IX. MODIFICATION AND TERMINATION

68. **Modification.** The terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that, after entry of the Preliminary Approval Order, the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including all exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Settlement Class Members under this Agreement.

69. **Termination.** Settlement Class Counsel (on behalf of the Settlement Class Members) and Defendant shall have the right to terminate this Agreement by providing written notice of their or its election to do so ("Termination Notice"): (1) within seven (7) days of either of the following: (a) the Court's refusal to grant preliminary approval of the Settlement in any material respect; or (b) Defendant's receipt of the opt-out list from the Settlement Administrator that includes more than one hundred and five (105) Opt-Outs, which right may be exercised solely by Defendant; or (2) within fourteen (14) days of either of the following: (a) the Court's refusal to enter the Final Approval Order and Judgment in any material respect, or (b) the date upon which the Final Approval Order and Judgment is modified or reversed in any material respect by any appellate or other court. This Agreement shall terminate five (5) days after such written notice is provided.

70. **Effect of Termination.** In the event of a termination as provided in Paragraph 69, this Agreement shall be considered null and void, all of the Parties' obligations under the Agreement shall cease to be of any force and effect, and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved. Any Court orders preliminarily or finally approving certification of the Settlement Class and any other orders entered pursuant to the Agreement shall be deemed null and void and vacated. If Defendant voids the Settlement Agreement, Defendant will be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of Settlement Class Counsel and the Service Awards to the Settlement Class Representatives and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation.

X. RELEASES

71. **The Release.** Upon Defendant's full payment of the settlement funds to the Settlement Administrator as provided in paragraph 41, and in consideration of the Settlement benefits described herein, each Releasing Party shall be deemed to have completely, fully, finally, irrevocably and unconditionally released, acquitted, and forever discharged Defendant and each of the Released Parties from any and all Released Claims, suspected or unsuspected,

contingent or non-contingent. The release does not constitute a California Civil Code § 1542 waiver by absent Participating Class Members.

72. **Bar to Future Suits.** Upon entry of the Final Approval Order and Judgment, the Settlement Class Representatives and Participating Settlement Class Members shall be enjoined from initiating, asserting, or prosecuting any and all Released Claims, in any proceeding against any of the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order and Judgment. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this Section.

XI. SERVICE AWARD PAYMENTS

73. **Service Award Payment.** Settlement Class Counsel will seek service award payments for the Settlement Class Representatives in recognition for their contributions to this Action, to be paid by Defendant. Defendant agrees not to oppose Settlement Class Counsel's request for service awards not to exceed three thousand dollars (\$3,000) for each Settlement Class Representative. To the extent more than three thousand dollars (\$3,000) is sought, Defendant reserves all rights to object and oppose such a request. Within fifteen (15) business days after the Effective Date Defendant shall pay the service awards directly to the Settlement Class Representatives. Defendant's obligations with respect to the Court-approved service awards shall be fully satisfied upon receipt of the funds by the Settlement Class Representatives. Defendant shall have no responsibility for, interest in, or liability whatsoever with respect to any distribution or allocation of service awards. Nor shall Defendant be responsible for any tax obligations or payments associated with the amount paid directly to the Settlement Class Representatives. To the extent the Effective Date does not occur, Defendant shall have no obligation to pay any service awards. This amount was negotiated after the primary terms of the settlement were negotiated and will be paid by Defendant separate and apart from any other sums agreed to under this Settlement Agreement.

74. **No Effect on Agreement.** The finality or effectiveness of the Settlement shall not depend on the amount or timing of service awards approved and awarded by the Court or any appeal thereof. The amount and timing of service awards is intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the service awards shall constitute grounds for termination of this Agreement.

XII. ATTORNEYS' FEES, COSTS, EXPENSES

75. **Attorneys' Fees and Costs and Expenses.** Settlement Class Counsel will seek an award of attorneys' fees and Litigation Costs and Expenses in an amount not to exceed two hundred twenty five thousand dollars (\$225,000), to be paid by Defendant. Defendant agrees not to oppose Settlement Class Counsel's request for an award of attorneys' fees and reimbursement of costs and expenses in an amount not to exceed two hundred twenty five thousand dollars (\$225,000). If Settlement Class Counsel seek more than two hundred twenty five thousand dollars (\$225,000), Defendant reserve all rights to object and oppose such requests. Within fifteen (15) business days after the Effective Date, Defendant shall pay the

attorneys' fees and expenses to an account or accounts established by Settlement Class Counsel. The attorneys' fees and expenses will be allocated by Settlement Class Counsel. Defendant's obligations with respect to the Court-approved attorneys' fees and expenses shall be fully satisfied upon receipt of the funds into the account(s) established by Settlement Class Counsel. Defendant shall have no responsibility for, interest in, or liability whatsoever with respect to any distribution or allocation of attorneys' fees or expenses. Nor shall Defendant be responsible for any tax obligations or payments associated with the amount paid into the account(s) established by Settlement Class Counsel. To the extent the Effective Date does not occur, Defendant shall have no obligation to pay any attorneys' fees or expenses. The amount of attorneys' fees and expenses was negotiated after the primary terms of the Settlement were negotiated and will be paid by Defendant separate and apart from any other sums agreed to under this Settlement Agreement.

76. **No Effect on Agreement.** The finality or effectiveness of the Parties' Settlement shall not depend on the amount or timing of attorneys' fees and expenses approved and awarded by the Court or any appeal thereof. The amount and timing of attorneys' fees and expenses are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount or timing of attorneys' fees or expenses shall constitute grounds for termination of this Agreement.

XIII. NO ADMISSION OF LIABILITY

77. **No Admission of Liability.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made or that could have been made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

78. **No Use of Agreement.** Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiffs; or (ii) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault, liability, wrongdoing, or omission by the Released Parties in the Action or in any proceeding in any court, administrative agency or other tribunal. This provision shall be binding in all current and future proceedings, including but not limited to any civil, criminal, administrative, or regulatory proceedings.

XIV. MISCELLANEOUS

79. **Entire Agreement.** This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications and understandings among the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties or their successors in interest. The Parties contemplate that, subject to Court approval or without such approval where legally permissible, the exhibits to this Agreement

may be modified by subsequent Agreement of counsel for the Parties prior to dissemination of the Notice to the Settlement Class.

80. **Resolution.** The Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Action. The Parties each agree that the Settlement and this Agreement were negotiated in good faith and at arm's-length and reflects a Settlement that was reached voluntarily after consultation with legal counsel of their choice.

81. **Other Litigation.** Plaintiffs and Settlement Class Counsel will not cooperate with or encourage any action or filing of claims against Defendant or any Released Parties related to any of the allegations or claims alleged in the Action.

82. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to "days" in this agreement shall refer to calendar days unless otherwise specified.

83. **Singular and Plurals.** As used in this Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.

84. **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

85. **Construction.** For the purpose of construing or interpreting this Agreement, the Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

86. **Cooperation of Parties.** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

87. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted in good faith.

88. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

89. **Governing Law.** The Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law.

90. **Jurisdiction.** The Parties and each Settlement Class Member submit to the exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of the Agreement and its exhibits, but for no other purpose whatsoever.

91. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same

instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically, by facsimile, or through e-mail of an Adobe PDF shall be deemed an original.

92. **Notices.** All notices to Settlement Class Counsel provided for herein, shall be sent by email to:

Joshua B. Swigart
SWIGART LAW GROUP, APC
2221 Camino Del Rio S., Suite 308 San
Diego, CA 92108
josh@swigartlawgroup.com

All notices to Defendant provided for herein, shall be sent by email to:

James Monagle
Mullen Coughlin LLC
500 Capitol Mall, Suite 2350
Sacramento, CA 95814
jmonagle@mullen.law

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of the dates set forth below.

PLAINTIFFS

Dated: _____

Jaime Dempsey

Dated: _____

Jane Doe on behalf of her minor child, J.D.

Dated: _____

Kaitlyn Vargas

DEFENDANT LA JOLLA GROUP, INC.

Dated: 6/15/2026 _____

Signed by:
Daniel Neukomm
8D28173DD289452...

Daniel Neukomm

APPROVED AS TO FORM

SWIGART LAW GROUP APC

Dated: _____

By: _____
Joshua Swigart
Attorney for Plaintiffs

BEN TRAVIS LAW, APC

Dated: _____

By: _____
Ben Travis
Attorney for Plaintiffs

STRAUSS BORRELLI PLLC

Dated: _____

By: _____
Cassandra Miller
Attorney for Plaintiffs

MULLEN COUGHLIN LLC

Dated: _____

By: _____
James Monagle
Attorney for Defendant

ClassAction.org

This complaint is part of ClassAction.org's searchable [class action lawsuit database](#)
