

CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT

This Class Action Settlement and Release Agreement, including Exhibits A–F hereto (“**Settlement Agreement**”), is made and entered into by, between, and among Plaintiffs Napoleon Patacsil, Michael Childs, and Noe Gamboa (together, “**Settlement Class Representatives**”), on behalf of themselves and the “**Settlement Class**” (defined below), and Defendant Google LLC (“**Defendant**” or “**Google**”) (collectively, the “**Parties**”). The Parties enter into this Settlement Agreement to effect a full and final settlement and dismissal of *In re: Google Location History Litigation*, 5:18-cv-05062-EJD (N.D. Cal.) (the “**Consolidated Action**,” defined further below in ¶ 26.5).

This Settlement Agreement is conditioned upon and subject to approval of the Court as required by Rule 23 of the Federal Rules of Civil Procedure. The Parties hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Settlement Agreement, the Consolidated Action and all Released Claims (as defined below in ¶ 52) shall be finally and fully settled, compromised, and released, on the following terms and conditions:

I. RECITALS

1. WHEREAS, between August 17, 2018 and November 2, 2018, the following actions were filed in the Federal District Court for the Northern District of California alleging the same or similar operative facts: *Patacsil v. Google, Inc.*, Case No. 3:18-cv-05062; *Lombardo v. Google, Inc.*, Case No. 3:18-cv-05288-LB; *Ali v. Google Inc.*, Case No. 5:18-cv-06262-SVK; *Lee, et al. v. Google, Inc. et al.*, Case No. 5:18-cv-06416-NC; *Jack v. Google, Inc.*, Case No. 5:18-cv-06652-NC; *Kaufman v. Google LLC, et al.*, Case No. 5:18-cv-06685 (collectively, the “**Related Actions**”);
2. WHEREAS, on December 11, 2018, pursuant to a stipulation between the Parties in the Related Actions, the Court ordered the Related Actions consolidated into Case No. 5:18-cv-05062-EJD, which was recaptioned *In re: Google Location History Litigation*, and ordered the filing of a Consolidated Class Action Complaint (Dkt. 51);
3. WHEREAS, on April 1, 2019, the Court appointed Tina Wolfson of Ahdoot & Wolfson, PC and Michael W. Sobol of Lieff Cabraser Heimann & Bernstein, LLP as Interim Co-Lead Class Counsel (Dkt. 72);
4. WHEREAS, on April 29, 2019, the named plaintiffs in the Consolidated Action (“**Plaintiffs**”) filed a Consolidated Class Action Complaint against Defendant alleging claims for: (a) violation of the California Invasion of Privacy Act (“**CIPA**”), Cal. Pen. Code §§ 630, *et seq.*; (b) intrusion upon seclusion; and (c) violation of the California Constitution’s right to privacy, Art. 1, § 1 (Dkt. 80);
5. WHEREAS, on December 19, 2019, the Court granted Defendant’s motion to dismiss Plaintiffs’ Consolidated Class Action Complaint with prejudice as to the CIPA claim and without prejudice as to the claims for intrusion upon seclusion and violation of the California Constitution’s right to privacy (Dkt. 113);
6. WHEREAS, on April 15, 2020, the Court denied Plaintiffs’ motion to certify the Court’s December 19, 2019 dismissal order for interlocutory appeal pursuant to 28 U.S.C. § 1292(B) (Dkt. 126);

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7. WHEREAS, on June 3, 2020, the Court also denied Plaintiffs' motion for leave to file a motion for reconsideration of the Court's December 19, 2019 dismissal order (Dkt. 130);
8. WHEREAS, on July 6, 2020, Plaintiffs filed an Amended Consolidated Class Action Complaint alleging claims for: (a) intrusion upon seclusion; (b) violation of the California Constitution's right to privacy, Art. 1, § 1; and (c) quasi-contract or, alternatively breach of contract (Dkt. 131), which was deemed filed as of July 16, 2020 (Dkt. 136, 137);
9. WHEREAS, on January 25, 2021, the Court granted Defendant's motion to dismiss Plaintiffs' Amended Consolidated Class Action Complaint with prejudice as to the alternative breach of contract claim and denied the motion as to all other claims (Dkt. 162);
10. WHEREAS, on February 8, 2021, Defendant filed its answer to the Amended Consolidated Class Action Complaint (Dkt. 165);
11. WHEREAS, on May 18, 2021, Plaintiff Najat Oshana voluntarily dismissed all of her claims against Defendant with prejudice and Plaintiffs' counsel agreed not to seek "fees or costs incurred as part of pursuing [her] claims in this action" (Dkt. 172);
12. WHEREAS, the Parties have engaged in approximately 26 months of discovery, including: serving discovery requests and written responses; meeting and conferring; engaging in discovery motion practice, where necessary; and attending regular discovery conferences with Magistrate Judge Cousins;
13. WHEREAS, Defendant has produced, and Plaintiffs have reviewed (including while discovery was stayed), more than 500,000 pages of documents;
14. WHEREAS, on March 15, 2022, May 2, 2022, and May 24, 2022, the Parties attended three full-day mediation sessions with mediator Eric D. Green, Esq.;
15. WHEREAS, on January 19, 2023, the Parties attended a settlement conference with Magistrate Judge Spero;
16. WHEREAS, the Parties continued to negotiate a potential settlement of this matter between and after the mediation sessions and settlement conference;
17. WHEREAS, on April 27, 2023, the Parties fully executed a term sheet agreeing, subject to the Court's approval, to settle the dispute;
18. WHEREAS, the Parties agreed to file a motion for preliminary settlement approval;
19. WHEREAS, before entering into this Settlement Agreement, Settlement Class Representatives, through Interim Co-Lead Class Counsel, conducted a thorough examination, investigation, and evaluation of the relevant law, facts, and allegations to assess the merits of the claims and potential claims to determine the strength of liability, potential remedies, and all defenses thereto;
20. WHEREAS, Settlement Class Representatives believe that their claims are meritorious and that they would be successful at trial, but nevertheless agreed to resolve the Consolidated Action on the terms set forth in this Settlement Agreement in recognition of the uncertainties, burden, expense, and delay of further protracted litigation;

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21. WHEREAS, Defendant denies the allegations in the pleadings in these actions, denies that it has engaged in any wrongdoing, denies that the Settlement Class Representatives' allegations state valid claims, denies that Plaintiffs can maintain a class action for purposes of litigation, and vigorously disputes that Settlement Class Representatives and the Settlement Class are entitled to any relief whatsoever, but has nevertheless agreed to resolve the Consolidated Action on the terms set forth in this Settlement Agreement solely to eliminate the uncertainties, burden, expense, and delay of further protracted litigation;
22. WHEREAS, Defendant has agreed to class-action treatment of the claims alleged in the Consolidated Action solely for the purpose of compromising and settling those claims on a class-wide basis as set forth herein, and for no other purpose;
23. WHEREAS, the Parties intend for this Settlement Agreement fully and finally to compromise, resolve, discharge, and settle the Released Claims, as defined and on the terms set forth below, and to the full extent reflected herein, subject to approval of the Court; and
24. WHEREAS, the Parties have agreed to stay other non-settlement related proceedings in the Consolidated Action and Related Actions, including any further discovery or motion practice, pending final and binding approval from the Court;
25. NOW, THEREFORE, the Settlement Class Representatives (for themselves and on behalf of the Settlement Class) and Defendant have AGREED that, subject to the approval of the Court, this Consolidated Action shall be settled, compromised, and dismissed, on the merits and with prejudice, and the Released Claims shall be finally and fully compromised, settled, and dismissed as to the Released Parties, in the manner and upon the terms and conditions hereafter set forth in this Settlement Agreement.

II. DEFINITIONS

26. In addition to the terms defined elsewhere in the Settlement Agreement, the following terms used in this Settlement Agreement shall have the meanings specified below:
- 26.1 “**Approved *Cy Pres* Recipient**” means an organization approved by the Court to receive *cy pres* funds from this Settlement, as described in ¶¶ 40–42, 48.4.
- 26.2 “**Attorneys’ Fees and Expenses Award**” means such funds as may be awarded by the Court to Lead Class Counsel to compensate Lead Class Counsel and any other counsel that represented Plaintiffs (*see* Dkt. 72 at 2) for their fees, costs, and expenses in connection with the Consolidated Action and the Settlement, as described in ¶¶ 58–63.
- 26.3 “**Class Notice**” means the Notice of Proposed Settlement of Class Action, substantially in the form attached as Exhibit A.
- 26.4 “**Class Period**” means the period from January 1, 2014 through the Notice Date, inclusive, as provided in the Settlement Class definition.
- 26.5 “**Consolidated Action**” means the consolidated class action lawsuit entitled *In re: Google Location History Litigation*, Case No. 5:18-cv-05062-EJD, pending in

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the United States District Court for the Northern District of California, and including each of the Related Actions consolidated with it (Dkt. 51).

- 26.6 **“Court”** means the United States District Court for the Northern District of California.
- 26.7 **“Defendant”** means Google LLC.
- 26.8 **“Defense Counsel”** means the law firm of Kecker, Van Nest & Peters LLP and all of Defendant’s attorneys of record in the Consolidated Action.
- 26.9 **“Effective Date”** means the date seven days after the Final Approval Order and Final Judgment have become Final.
- 26.10 **“Escrow Account”** shall have the definition provided in ¶ 33.
- 26.11 **“Final”** means, with respect to any judicial ruling or order, that: (a) if no appeal, motion for reconsideration, re-argument and/or rehearing, or petition for writ of certiorari has been filed, the time has expired to file such an appeal, motion, and/or petition; or (b) if an appeal, motion for reconsideration, re-argument and/or rehearing, or petition for a writ of certiorari has been filed, the judicial ruling or order has been affirmed with no further right of review, or such appeal, motion, and/or petition has been denied or dismissed with no further right of review.
- 26.12 **“Final Approval Hearing”** means the hearing that is to take place after the entry of the Preliminary Approval Order and after the Notice Date for purposes of: (a) entering a Final Approval Order and Final Judgment and dismissing the Consolidated Action and Related Actions with prejudice; (b) determining whether the Settlement should be approved as fair, reasonable, and adequate; (c) ruling upon an application for Service Awards by the Settlement Class Representatives; (d) ruling upon an application by Lead Class Counsel for an Attorneys’ Fees and Expenses Award; and (e) entering any final order providing for an Attorneys’ Fees and Expenses Award and Service Awards. The Parties shall request that the Court schedule the Final Approval Hearing for a date that is in compliance with the provisions of 28 U.S.C. § 1715(d).
- 26.13 **“Final Approval Motion Deadline”** means the date by which Lead Class Counsel shall file the motion seeking final approval of the Settlement. The Final Approval Motion Deadline shall be 21 days after the Request for Exclusion (Opt-Out) Deadline, such date being subject to approval or modification by the Court.
- 26.14 **“Final Approval Order and Final Judgment”** means the order finally approving the terms of this Settlement Agreement and a separate judgment to be entered by the Court, pursuant to Federal Rule of Civil Procedure 58(a), dismissing the Consolidated Action and Related Actions with prejudice.
- 26.15 **“Initial Deposit”** shall have the definition provided in ¶ 34.
- 26.16 **“Lead Class Counsel”** means Tina Wolfson of Ahdoot & Wolfson, PC and Michael W. Sobol of Lieff Cabraser Heimann & Bernstein, LLP, who were previously appointed by the Court to serve as “Interim Co-Lead Class Counsel” (Dkt. 72).

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- 26.17 **“Location Information”** means any data used to identify a user or device and a place in the world at a point in time by use of GPS coordinate monitoring technology, IP address, cell tower data, wireless internet access points (Wi-Fi data), or Bluetooth data.
- 26.18 **“Net Settlement Fund”** shall have the definition provided in ¶ 40.
- 26.19 **“Non-Monetary Terms”** means the terms contained in Exhibit C, as described in ¶ 43.
- 26.20 **“Notice Date”** means the first date upon which the Class Notice is disseminated, and shall be no later than 30 days after the Court’s entry of the Preliminary Approval Order.
- 26.21 **“Notice Plan”** means the plan described in this Agreement for disseminating Notice to the Settlement Class Members of the terms of this Agreement and the Final Approval Hearing.
- 26.22 **“Objection Deadline”** means the date identified in the Preliminary Approval Order and Class Notice by which a Settlement Class Member must serve written objections, if any, to the Settlement in accordance with § XI of this Settlement Agreement in order to qualify to be able to object to the Settlement. The Objection Deadline shall be 91 days after the Notice Date, such date being subject to approval or modification by the Court.
- 26.23 **“Request for Exclusion (Opt-Out) Deadline”** means the date identified in the Preliminary Approval Order and Class Notice by which a Request for Exclusion must be filed in writing with the Settlement Administrator in accordance with § X of this Settlement Agreement in order for a Settlement Class Member to be excluded from the Settlement. The Request for Exclusion (Opt-Out) Deadline shall be 91 days after the Notice Date, such date being subject to approval or modification by the Court.
- 26.24 **“Parties”** means (i) the Settlement Class Representatives, on behalf of themselves and the Settlement Class, and (ii) Defendant.
- 26.25 **“Periodic Payment(s)”** shall have the definition provided in ¶ 35.
- 26.26 **“Plaintiffs”** means the individuals named as Plaintiffs in the Consolidated Action.
- 26.27 **“Preliminary Approval Order”** means the order preliminarily approving the Settlement, providing for notice to the Settlement Class, and other related matters, without material variation from, Exhibit E.
- 26.28 **“Proposed *Cy Pres* Recipient”** means an organization proposed to receive *cy pres* funds from this Settlement, as described in ¶ 41 and including those organizations listed in Exhibit D.
- 26.29 **“Qualified Settlement Fund”** shall have the definition provided in ¶ 37.
- 26.30 **“Related Actions”** shall have the definition provided in ¶ 1.

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- 26.31 **“Releases,” “Released Parties,” “Releasing Parties,” and “Released Claims”** shall have the meanings as set forth in § VI of this Settlement Agreement.
- 26.32 **“Request for Exclusion”** means a written request from a potential Settlement Class Member that seeks to exclude themselves from the Settlement Class and complies with all requirements in § X of this Settlement Agreement.
- 26.33 **“Service Award(s)”** means the incentive/service awards for the Settlement Class Representatives as approved by the Court, as set forth in ¶ 61.
- 26.34 **“Settlement” or “Agreement” or “Settlement Agreement”** means the settlement embodied in this Class Action Settlement and Release Agreement, including all attached Exhibits (which are an integral part of this Agreement and are incorporated in their entirety by reference).
- 26.35 **“Settlement Amount”** means \$62,000,000 in United States currency.
- 26.36 **“Settlement Administrator”** means the firm Epiq, subject to the approval of the Court, which shall provide settlement notice and administration services pursuant to the terms of the Settlement Agreement. Lead Class Counsel and Defendant may, by agreement, substitute a different Settlement Administrator, subject to Court approval.
- 26.37 **“Settlement Class”** shall have the definition provided in ¶ 28.
- 26.38 **“Settlement Class Member”** shall have the definition provided in ¶ 29.
- 26.39 **“Settlement Class Representatives”** means Plaintiffs Napoleon Patacsil, Michael Childs, and Noe Gamboa.
- 26.40 **“Settlement Fund”** shall have the definition provided in ¶ 32.
- 26.41 **“Settlement Website”** means the Internet website, with the following URL address, www.googlelocationhistorysettlement.com, to be created, launched, and maintained by the Settlement Administrator, and which provides access to relevant case documents such as the operative complaint filed in the Consolidated Action, the Settlement Agreement, the Preliminary Approval Order, any application for the Attorneys’ Fees and Expenses Award or Service Awards, any brief filed by the Parties in support of the Settlement, and, once issued, the Final Approval Order and Final Judgment.
- 26.42 **“Taxes”** shall mean all federal, state, or local taxes of any kind on any income earned by the Settlement Fund and the expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, interest, penalties and the reasonable expenses of tax attorneys and accountants). All (a) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Parties or their counsel with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes, and (b) expenses and costs incurred in connection with the operation and implementation of this Agreement (including, without limitation, expenses of tax attorneys and/or accountants and mailing and

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distribution costs and expenses relating to filing (or failing to file) the returns described in this Agreement (“**Tax Expenses**”), shall be paid out of the Settlement Fund. Further, Taxes and Tax Expenses shall be treated as, and considered to be, an administration expense and shall be timely paid by the Settlement Administrator, out of the Settlement Fund, without prior order from the Court and the Settlement Administrator shall be authorized (notwithstanding anything herein to the contrary) to withhold from distribution to *cy pres* recipients any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treasury Regulation § 1.468B-2(1)(2)). The Parties hereto agree to cooperate with the Settlement Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Agreement. For the purpose of Section 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the Settlement Administrator shall be the “administrator.” The Settlement Administrator shall timely and properly file or cause to be filed all informational and other tax returns necessary or advisable with respect to the Settlement Fund and the escrow account (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)). Such returns (as well as the election described in this Agreement) shall be consistent with this Section and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in this Agreement.

26.43 “**Termination Notice**” shall have the definition provided in ¶ 92.

III. SETTLEMENT CLASS CERTIFICATION

27. For purposes of settlement only, the Parties agree to seek provisional certification of the Settlement Class, pursuant to Federal Rule of Civil Procedure 23(b)(3). Nothing in this Settlement Agreement may be used to argue that a class can or should be certified outside of the limited context of the contemplated Settlement Agreement.

28. The “**Settlement Class**” shall be defined as follows:

all natural persons residing in the United States who used one or more mobile devices and whose Location Information was stored by Google while “Location History” was disabled at any time during the Class Period (January 1, 2014 through the Notice Date).

29. “**Settlement Class Member**” shall be defined as any person who qualifies under the definition of the Settlement Class, excluding: (a) all persons who are directors, officers, employees, or agents of Defendant or its subsidiaries and affiliated companies; (b) the Court, the Court’s immediate family, and Court staff, as well as any appellate court to which this matter is ever assigned, and its immediate family and staff; and (c) eligible persons who submit a timely and valid Request for Exclusion from the Settlement Class as provided in § X of this Settlement Agreement.

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30. Defendant does not consent to certification of the Settlement Class (or to the propriety of class treatment) for any purpose other than to effectuate the settlement of this Consolidated Action and the Related Actions. Defendant's agreement to provisional certification does not constitute an admission of wrongdoing, fault, liability, or damage of any kind to the Settlement Class Representatives or any of the provisional Settlement Class Members. Defendant denies that it engaged in any wrongdoing of any kind, or violated any law or regulation, or breached any duty, obligation, or promise to the Settlement Class Representatives or any of the provisional Settlement Class Members. Nothing in this Settlement should be deemed an admission of wrongdoing or liability.
31. If this Settlement Agreement is terminated pursuant to its terms, disapproved by any court (including any appellate court), and/or not consummated for any reason, or the Effective Date does not occur for any reason, the order certifying the Settlement Class for purposes of effectuating the Settlement, and all preliminary and/or final findings regarding that class certification order, shall be automatically vacated upon notice of the same to the Court, the Consolidated Action and Related Actions shall proceed as though the Settlement Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, and the Consolidated Action and Related Actions shall return to the procedural posture that existed prior to the execution of this Settlement Agreement. No Party or counsel shall refer to or invoke this Settlement Agreement, the vacated findings, and/or any order relating to class settlement or this Settlement Agreement if this Settlement Agreement is not consummated and the Consolidated Action or Related Action(s) are later litigated and contested by Defendant, including under Rule 23 of the Federal Rules of Civil Procedure.

IV. SETTLEMENT CONSIDERATION**A. Settlement Fund**

32. In consideration for the dismissal of the Consolidated Action and Related Actions with prejudice and the Releases provided in this Settlement Agreement, Defendant agrees to deposit the Settlement Amount to create a non-reversionary "**Settlement Fund**." After the Effective Date, Defendant shall not have any right to the return or reversion of the Settlement Fund, or any portion thereof.
33. The Settlement Fund will be held in an interest-bearing bank escrow account established and administered by the Settlement Administrator (the "**Escrow Account**").
34. Within 30 days of the later of: (a) the Preliminary Approval Order or (b) the date upon which the Settlement Administrator causes the necessary W9 and payment information to be available to Defendant, Defendant shall pay \$589,211 (the "**Initial Deposit**") into the Escrow Account for the notice and administration expenses that will be incurred to provide notice to Settlement Class Members. This amount will be credited towards the amount Defendant must pay into the Settlement Fund. This deadline may be extended by mutual consent of the Parties.
35. Following entry of the Preliminary Approval Order, and after payment of the Initial Deposit, Defendant will pay subsequent amounts invoiced by the Settlement Administrator for notice and administration expenses and approved by Defendant and

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- Lead Class Counsel (the “**Periodic Payment(s)**”). Any Periodic Payment(s) will be credited towards the amount Defendant must pay into the Settlement Fund.
36. Defendant will pay the outstanding Settlement Amount (minus any Initial Deposit or Periodic Payments) into the Escrow Account within 30 days of the Effective Date.
37. The funds in the Escrow Account shall be held in a “**Qualified Settlement Fund**” within the meaning of Treasury Regulation § 1.468B-1 at all times after the creation of the Escrow Account. All Taxes shall be paid out of the Escrow Account. Defendant, Defense Counsel, Plaintiffs, and Lead Class Counsel shall have no liability or responsibility for any of the Taxes. The Escrow Account shall indemnify and hold the Parties, Defense Counsel, and Lead Class Counsel harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification). For the purpose of the Internal Revenue Code and the Treasury regulations thereunder, the Settlement Administrator shall be designated as the “administrator” of the Settlement Fund. The Settlement Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)). Such returns (as well as the election described in this paragraph) shall be consistent with this paragraph and in all events shall reflect that all taxes (including the Taxes, any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any accrued interest and payments made, upon request of any Party.
38. Defendant represents that the Settlement Amount is in addition to Defendant’s charitable donations and that, but for this Settlement, Defendant would not have expended these funds for charitable purposes.
39. Defendant’s deposit of the Settlement Amount into the Settlement Fund represents the total extent of Defendant’s monetary obligations under this Agreement. The Settlement Amount is understood to be an “all in” payment that includes attorneys’ fees and expenses, any service awards to Settlement Class Representatives, costs of the Notice Plan, the Settlement Administrator’s fees and costs and any other class administration costs or expenses, any Taxes or other Tax Expenses, and any other fees or costs associated with settlement of the Consolidated Action and Related Actions. In no event shall Defendant’s monetary obligation with respect to this Agreement exceed the Settlement Amount.

B. Cy Pres Relief

40. The “**Net Settlement Fund**” shall be defined as the Settlement Fund, plus any interest accrued in the Escrow Account for the Settlement Fund, less (a) the cost of settlement notice and administration, (b) the Attorneys’ Fees and Expenses Award, (c) Service Awards, and (d) Taxes.
41. The Net Settlement Fund shall be distributed to one or more Approved *Cy Pres* Recipients according to the following procedure:

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- 41.1 The Parties have mutually agreed on Proposed *Cy Pres* Recipients to nominate for the Court to designate as Approved *Cy Pres* Recipients. *See* Exhibit D. The Parties may also mutually agree on additional Proposed *Cy Pres* Recipients to nominate for the Court at the time of the motion for preliminary approval.
- 41.2 The Approved *Cy Pres* Recipients shall be independent 501(c)(3) organizations with a track record of addressing privacy concerns on the Internet (either directly or through grants) and, as a condition of becoming Approved *Cy Pres* Recipients and receiving any portion of the Settlement Fund, they shall provide a specific proposal demonstrating and committing that they shall use the funds to promote the protection of internet privacy.
- 41.3 At the time of the motion for final approval—after specific proposals are received from Proposed *Cy Pres* Recipients—the Parties will identify for the Court a proposed percentage of the Net Settlement Fund to be distributed to each Approved *Cy Pres* Recipient. To the extent some or all of the Proposed *Cy Pres* Recipients do not become Approved *Cy Pres* Recipients, the Parties may mutually agree to nominate additional Proposed *Cy Pres* Recipients, if so requested or directed by the Court. In the event the Parties are unable to agree on additional Proposed *Cy Pres* Recipients to propose after meeting and conferring in good faith, each Party may submit Proposed *Cy Pres* Recipients unilaterally.
- 41.4 As a condition of receiving any portion of the Settlement Amount, each Approved *Cy Pres* Recipient shall agree to provide a report to the Court and the Parties every six months informing the Court and the Parties of how any portion of the Settlement Fund allocated to the recipient has been used and how remaining funds are intended to be used. Lead Class Counsel shall be responsible for ensuring that such reports are posted on the Settlement Website.
- 41.5 No Party may exercise any control or influence over any Approved *Cy Pres* Recipient’s expenditure of any portion of the Settlement Fund.
- 41.6 The Parties will identify, to each other and to the Court, any relationship they or their counsel have with the Proposed *Cy Pres* Recipients.
42. The Settlement Administrator shall distribute proceeds of the Net Settlement Fund to Approved *Cy Pres* Recipients under the terms of this Settlement Agreement or as ordered by the Court within 60 days of the Effective Date.

C. Non-Monetary Relief

43. Without admitting any liability or that it is required to do so by law, in further consideration for the dismissal of the Consolidated Action and Related Actions with prejudice and the Releases provided in this Settlement Agreement, Defendant agrees to the “**Non-Monetary Terms**” set forth in Exhibit C. To avoid any doubt, Defendant is permitted to implement the terms in Exhibit C prior to any deadlines set forth in this Agreement or in Exhibit C, and if Defendant does so, any time periods measured in terms of years from or after the Effective Date will instead run from or after the date of implementation.

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44. Nothing described in Exhibit C will inhibit, prevent, or limit Defendant from making product changes, changes to its Terms of Service or Privacy Policy, changes to product names or other terminology, or other changes, from time to time, as it deems appropriate in the conduct of its business, provided that such changes are consistent with the terms described in Exhibit C or necessary to comply with the law.

V. SUBMISSION OF SETTLEMENT AGREEMENT TO COURT FOR REVIEW AND APPROVAL

45. The Parties agree and stipulate that Lead Class Counsel shall prepare and submit to the Court a motion for preliminary approval of the Settlement together with the Preliminary Approval Order (Exhibit E). Defendant will provide a declaration supporting Plaintiffs' settlement approval motions with respect to the non-feasibility of identifying or distributing funds to all potential Settlement Class Members. The Parties shall cooperate with each other in preparing all papers supporting settlement approval.
46. Among other things, Lead Class Counsel will seek a Preliminary Approval Order that shall:
- 46.1 Approve the Class Notice, substantially in the form set forth at Exhibit A, to be disseminated as set forth in Exhibit B, the Declaration of Cameron Azari;
 - 46.2 Find that the requirements for provisional certification of the Settlement Class have been satisfied, appoint the Settlement Class Representatives as the representatives of the provisional Settlement Class and Lead Class Counsel as counsel for the provisional Settlement Class, and preliminarily approve the Settlement as being within the range of reasonableness such that the Class Notice should be provided pursuant to this Settlement Agreement;
 - 46.3 Find that the CAFA notice sent by the Settlement Administrator on behalf of Defendant complies with 28 U.S.C. § 1715 and all other provisions of the Class Action Fairness Act of 2005;
 - 46.4 Determine that the Notice Plan, as set forth in this Settlement Agreement, complies with all legal requirements, including but not limited to the Due Process Clause of the United States Constitution;
 - 46.5 Appoint the Settlement Administrator;
 - 46.6 Direct that Class Notice be given to the Class as provided in ¶¶ 64–68 of this Settlement Agreement;
 - 46.7 Provide that any objections by any Settlement Class Member to the certification of the Settlement Class and the proposed Settlement contained in this Settlement Agreement, and/or the entry of the Final Approval Order and Final Judgment, shall be heard and any papers submitted in support of said objections shall be considered by the Court at the Final Approval Hearing only if, on or before the Objection Deadline, such objector files with the Court a written objection and notice regarding the objector's intention to appear, and otherwise complies with the requirements in ¶¶ 86–91 of this Settlement Agreement;

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- 46.8 Establish dates by which the Parties shall file and serve all papers in support of the application for final approval of the Settlement and/or in response to any valid and timely objections;
- 46.9 Schedule the Final Approval Hearing on a date ordered by the Court, and in compliance with applicable law, to determine whether the Settlement should be approved as fair, reasonable, and adequate, and to determine whether a Final Approval Order and Final Judgment should be entered dismissing the Consolidated Action and Related Actions with prejudice except as to such Settlement Class Members who timely submit valid Requests for Exclusion in accordance with this Settlement Agreement and the Class Notice;
- 46.10 Provide that all Settlement Class Members will be bound by the Final Approval Order and Final Judgment dismissing the Consolidated Action and Related Actions with prejudice, except Settlement Class Members who timely submit valid Requests for Exclusion in accordance with this Settlement Agreement and the Class Notice; and
- 46.11 Pending the Final Approval Hearing, stay all proceedings in the Consolidated Action, other than the proceedings necessary to carry out or enforce the terms and conditions of this Settlement Agreement and the Preliminary Approval Order.
- 47. Following the entry of the Preliminary Approval Order, the Class Notice shall be given and published in the manner set forth in § VIII of the Settlement Agreement and approved by the Court.
- 48. By the Final Approval Motion Deadline, Lead Class Counsel shall prepare and submit a motion seeking final approval of the Settlement, a draft of which Lead Class Counsel shall provide in advance to Defense Counsel for review. Unless otherwise agreed by the Parties, Lead Class Counsel shall request entry of a Final Approval Order and Final Judgment that shall, among other things:
 - 48.1 Find that the Court has personal jurisdiction over all Settlement Class Members, that the Court has subject-matter jurisdiction over the claims asserted in the Consolidated Action and Related Actions, and that the venue is proper;
 - 48.2 Finally approve this Settlement Agreement and the Settlement pursuant to Rule 23 of the Federal Rules of Civil Procedure;
 - 48.3 Certify the Settlement Class under Federal Rule of Civil Procedure 23(b)(3) for purposes of settlement only;
 - 48.4 Determine which Proposed *Cy Pres* Recipients shall be Approved *Cy Pres* Recipients, find that the proposed distribution to the Approved *Cy Pres* Recipients provides a benefit to the Settlement Class, and determine what percentage of the Net Settlement Fund is to be distributed to each Approved *Cy Pres* Recipient.
 - 48.5 Find that the Class Notice complied with all laws, including, but not limited to, the Due Process Clause of the United States Constitution;
 - 48.6 Incorporate the Releases set forth in this Settlement Agreement and make the Releases effective as of the Effective Date;

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- 48.7 Authorize the Parties to implement the terms of the Settlement;
 - 48.8 Authorize the Settlement Administrator to be paid its final fees and costs from the Settlement Fund, in an amount to be specified at Final Approval.
 - 48.9 Dismiss the Consolidated Action and Related Actions with prejudice and enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure;
 - 48.10 Determine that the Settlement Agreement and the Settlement provided for herein, and any proceedings taken pursuant thereto, are not, and should not in any event be offered, received, or construed as evidence, a presumption, a concession, or an admission by any Party of liability or nonliability or of the certifiability or non-certifiability of a litigation class, or of any misrepresentation or omission in any statement or written document approved or made by any Party; provided, however, that reference may be made to this Settlement Agreement and the Settlement provided for herein in such proceedings as may be necessary to effectuate the provisions of this Settlement Agreement, as further set forth in this Settlement Agreement; and
 - 48.11 Retain jurisdiction relating to the administration, consummation, enforcement, and interpretation of this Settlement Agreement, the Final Approval Order and Final Judgment, any final order approving the Attorneys' Fees and Expenses Award and Service Awards, and for any other necessary purpose.
49. The Parties agree that the Notice Plan contemplated by this Settlement Agreement is valid and effective, that if effectuated, it would provide reasonable notice to the Settlement Class, and that it represents the best practicable notice under the circumstances.

VI. RELEASES AND DISMISSAL OF ACTION

- 50. **"Releases"** mean the releases and waivers set forth in this Settlement Agreement and in the Final Approval Order and Final Judgment.
- 51. **"Released Parties"** means Defendant (Google LLC), Alphabet Inc., and XXVI Holdings Inc., and their current and former directors, officers, members, administrators, agents, insurers, beneficiaries, trustees, employee benefit plans, representatives, servants, employees, attorneys, affiliates, parents, subsidiaries, divisions, branches, units, shareholders, investors, successors, predecessors, and assigns, and all other individuals and entities acting on their behalf.
- 52. Upon the Effective Date of the Settlement Agreement, the Settlement Class Representatives and all Settlement Class Members (and each of their heirs, estates, trustees, principals, beneficiaries, parents, guardians, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns and/or anyone claiming through them or acting or purporting to act for them or on their behalf) (**"Releasing Parties"**) shall be deemed to have, and by operation of the Final Approval Order and Final Judgment in this Consolidated Action and Related Actions shall have, fully, finally and forever released, relinquished, and discharged any and all claims, demands, rights, damages, arbitrations, liabilities, obligations, suits, debts, liens, and causes of action pursuant to any theory of recovery (including, but not limited

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to, those based in contract or tort, common law or equity, federal, state, or local law, statute, ordinance, or regulation) of every nature and description whatsoever, including without limitation claims that were or could have been asserted by a parent or guardian on behalf of a minor child or ward, ascertained or unascertained, suspected or unsuspected, existing or claimed to exist, including unknown claims as of the Notice Date by all of the Releasing Parties that are based on, or arise from, one or more of the same factual predicates or theories of liability as alleged in the Consolidated Action or the Related Actions during the Class Period, including but not limited to the collection, use, or disclosure of data identifying, comprising, approximating, estimating, inferring, revealing, or relating to the Releasing Parties' location(s) (collectively, the "**Released Claims**") against the Released Parties.

53. The Released Claims shall be construed and interpreted to effect complete finality over the Consolidated Action and Related Actions.
54. The Released Claims may include known and unknown claims relating to the Consolidated Action and Related Actions, and this Settlement Agreement is expressly intended to cover and include all such injuries or damages, including all rights of action thereunder. Upon the Effective Date, the Releasing Parties will expressly, knowingly, and voluntarily waive any and all provisions, rights, and benefits conferred by California Civil Code Section 1542 and any statute, rule, and legal doctrine similar, comparable, or equivalent to California Civil Code Section 1542, 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.

55. In connection with such waiver and relinquishment, the Releasing Parties hereby acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe exist with respect to the Released Claims, but that it is their intention to hereby fully, finally, and forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, that they or a parent or guardian acting on their behalf have against the Released Parties.
56. In furtherance of such intention, the Releases herein given to the Released Parties shall be and remain in effect as a full and complete release of the Released Claims notwithstanding the discovery or existence of any such additional different claims or facts.
57. Upon the Effective Date: (a) the Settlement Agreement shall be the exclusive remedy for any and all Released Claims of Settlement Class Representatives and Settlement Class Members; and (b) Settlement Class Representatives stipulate to and Settlement Class Members shall be permanently barred by Court order from initiating, asserting, or prosecuting against the Released Parties in any federal or state court or tribunal any and all Released Claims.

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VII. MOTION FOR ATTORNEYS' FEES AND EXPENSES AND SERVICE AWARDS

58. Lead Class Counsel may apply to the Court for an Order approving the payment of reasonable attorneys' fees and costs for Lead Class Counsel and for any other counsel that represented Plaintiffs (*see* Dkt. 72 at 2). Lead Class Counsel shall file any such motion for an Attorneys' Fees and Expenses Award 35 days before the Objection Deadline, and such motion shall be made available on the Settlement Website. Additionally, the maximum amount of attorneys' fees, costs, and expenses sought by Lead Class Counsel shall be disclosed in the Class Notice.
59. Counsel's fees and costs approved by the Court pursuant to Lead Class Counsel's request will be paid from the Settlement Amount within 35 days after the Effective Date pursuant to Lead Class Counsel's joint instructions to the Settlement Administrator.
60. Lead Class Counsel shall have the sole and absolute discretion to allocate the Attorneys' Fees and Expenses Award among Lead Class Counsel and any other counsel that represented Plaintiffs in the Consolidated Action or the Related Actions. Defendant shall have no liability or other responsibility for allocation of any such Attorneys' Fees and Expenses Award.
61. The Parties agree that Lead Class Counsel may apply on behalf of the Settlement Class Representatives to the Court for a "**Service Award**" to each of them for their services as Settlement Class Representatives, to be paid from the Settlement Fund within 35 days after the Effective Date. Lead Class Counsel shall file any such motion for Service Awards 35 days before the Objection Deadline. Such motion shall be made available on the Settlement Website and the amount of Service Awards sought shall be disclosed in the Class Notice.
62. It is not a condition of this Settlement Agreement that any particular amount of attorneys' fees, costs, or expenses, or Service Awards be approved by the Court, or that such fees, costs, expenses, or awards be approved at all. Any order or proceeding relating to the amount of any award of attorneys' fees, costs, or expenses or Service Awards, or any appeal from any order relating thereto, or reversal or modification thereof, shall not operate to modify, terminate, or cancel this Settlement Agreement.
63. The settlement was reached following multiple mediation sessions conducted before third-party neutral, Eric D. Green, Esq.; following a Court-ordered settlement conference with Magistrate Judge Spero; and as a result of direct inter-party negotiations that followed. The Parties did not discuss service award payments or attorneys' fees and expenses at any of those sessions or conferences or while negotiating the material terms of the Settlement Agreement, and they have made no agreements in connection with the Settlement Class Representatives' requests for service award payments or Lead Class Counsel's attorneys' fees and expenses. Defendant expressly reserves the right to contest the amount of any requests for an Attorneys' Fees and Expenses Award or Service Awards.

VIII. NOTICE PLAN

64. Notice of Proposed Settlement of Class Action. The Class Notice, or Notice of Proposed Settlement of Class Action, shall be in a form substantially similar to the document

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attached as Exhibit A hereto. The Class Notice shall (a) contain a description of the nature of the Consolidated Action and Related Actions and the proposed Settlement, including information on the definition of the Settlement Class, how the proposed Settlement would provide relief to Settlement Class Members, and other relevant information; (b) contain a description of what claims are released under the proposed Settlement; (c) advise the Settlement Class that those members of the Settlement Class who do not file valid and timely exclusion requests will be releasing their claims under those actions; (d) inform members of the Settlement Class of their right to opt out of the proposed Settlement and provide the deadlines and procedures for exercising this right; (e) inform the Settlement Class of their right to object to the proposed Settlement, Attorneys' Fees and Expenses Award, and/or Service Awards and to appear at the Final Approval Hearing, and provide the deadlines and procedures for exercising these rights; (f) inform the Settlement Class that fees and expenses related to the Settlement Administrator will be deducted from the Settlement Fund, and set forth the maximum Attorneys' Fees and Expenses Award and Service Awards to be sought; and (g) inform the Settlement Class about *Cy Pres* Recipients. The Notice will make clear that this Agreement shall be binding on all Settlement Class Members, *i.e.*, those who do not timely and properly submit Requests for Exclusion from the Settlement Class.

65. Forms of Notice. Notice shall be presented in multiple forms and presented through multiple media, as set forth below.
- 65.1 Targeted Media Publication Notice. Beginning on the Notice Date, the Settlement Administrator shall arrange for a digital media campaign as set forth in Exhibit B. The Settlement Administrator must confirm, through both Lead Class Counsel and Defense Counsel, that all parties have reviewed and approved the content of any text, audio, or video ads prior to publication, and no ads may be published without such approval.
- 65.2 Settlement Website. Prior to the dissemination of any Notice, the Settlement Administrator will complete the set-up of the Settlement Website and ensure that it is publicly accessible and operational in all respects, including but not limited to compliance with the Americans with Disabilities Act (42 U.S.C. § 12101). The website will be active until at least 90 days after the Effective Date, or until such time as the Settlement is fully administered, whichever is later. The Settlement Website shall also include a toll-free telephone number, email address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly.
- 65.3 Toll-Free Number. Prior to the Notice Date, the Settlement Administrator shall establish a toll-free telephone number, which will be staffed by the Settlement Administrator, to assist in answering questions from Settlement Class Members. The toll-free number shall provide a voice response unit with message and interactive voice response capabilities. Any scripts, FAQs or other materials for such purpose shall be made available for review and approval by Defense Counsel and Lead Class Counsel prior to their use.
- 65.4 Inquiries from the Settlement Class. The Settlement Administrator will establish an email account and P.O. Box to which Settlement Class Members may submit

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questions regarding the Settlement. The Settlement Administrator will monitor the email account and P.O. Box and respond promptly to inquiries received from Settlement Class Members. The Settlement Administrator will also establish and maintain a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries and to answer the questions of Settlement Class Members who call with or otherwise communicate such inquiries.

66. All costs associated with providing all forms of notice, responding to inquiries from the Settlement Class, and performing all other of the Settlement Administrator's duties under this Agreement shall be paid out of the Settlement Fund.
67. No later than seven days prior to the Final Approval Hearing, Lead Class Counsel and Defense Counsel shall cause to be filed with the Court an appropriate affidavit or declaration from the Settlement Administrator with respect to complying with the Court-approved Notice Plan set forth in § VIII.
68. Notwithstanding all the foregoing, in no event shall the Settlement Administrator disseminate notice in any manner materially different from that set forth in Exhibits A–B, unless the Parties agree in writing to authorize such forms of notice and they are approved by the Court.

IX. SETTLEMENT ADMINISTRATION

69. The Settlement Administrator's fees and costs, including the costs of notice, will be paid from the Settlement Fund as described in ¶¶ 32–40, 66 and this paragraph.
70. The Settlement Administrator has executed an agreement to be bound by the Joint Stipulated Protective Order (Dkt. 112) and will take all reasonable steps to ensure that any information provided to it by Defendant and Settlement Class Members will be used solely for the purpose of effecting this Settlement, including by complying with Defendant's requirements for cybersecurity and protection of customer information. The Settlement Administrator will not use the information provided by Defendant or Lead Class Counsel in connection with the Settlement or this Notice Plan for any purposes other than providing notice or conducting claims administration and will not share Settlement Class Member information with any third parties without advance consent from the Parties.
71. In fulfilling its responsibilities to provide notice to the Settlement Class Members, the Settlement Administrator shall be responsible for, without limitation, consulting on and designing the notice to the Settlement Class via various forms of media, including implementing the publication-based notice program set forth in the Notice Plan. The Parties shall confer on the form and content of the notice contemplated in the Notice Plan, which must be substantially consistent with the Class Notice. The Parties shall confer and approve the proposed Notice Plan by the Settlement Administrator prior to submitting the Notice Plan to the Court for approval.
72. The Settlement Administrator shall accurately and objectively describe the terms of the Settlement Agreement in communications with Settlement Class Members, including by training its employees and agents accordingly.

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73. Other than as set forth herein, the Parties and their counsel shall not have any responsibility for or liability whatsoever with respect to (a) any act, omission or determination of the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (b) the management, investment, or distribution of the Settlement Fund; (c) the formulation, design, or terms of the disbursement of the Settlement Fund; (d) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (e) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (f) the payment or withholding of any Taxes, expenses, or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns. The Settlement Administrator shall indemnify and hold Defendant, Defense Counsel, Lead Class Counsel, the Settlement Class, and Settlement Class Representatives harmless for (a)–(f) in this paragraph.
74. A copy of this Settlement Agreement and exhibits hereto, the motions for preliminary approval, Attorneys’ Fees and Expenses Award, Final Approval, and related papers, and Court orders pertaining to the Settlement, shall be posted once available for download on the Settlement Website maintained by the Settlement Administrator. The information shall remain available on the Settlement Website until after the Effective Date and distribution of all settlement benefits.
75. The Class Notice shall set forth the procedure detailed in § X of the Settlement Agreement whereby members of the Settlement Class may exclude themselves from the Settlement by submitting a Request for Exclusion to the Settlement Administrator. Requests for Exclusion must be submitted by the Request for Exclusion (Opt Out) Deadline. Any member of the Settlement Class who does not timely and validly Request for Exclusion shall be bound by the terms of this Settlement. As soon as practicable after the Request for Exclusion (Opt Out) Deadline, the Settlement Administrator shall provide the Court with a list of the individuals who timely and validly requested to exclude themselves from the Settlement. Any member of the Settlement Class who submits a timely Request for Exclusion may not file an objection to the Settlement and shall be deemed to have waived any and all rights and benefits under this Settlement. Upon request, the Settlement Administrator will serve copies of all Requests for Exclusion on Lead Class Counsel and Defense Counsel.
76. The Class Notice shall set forth the procedure detailed in § XI of the Agreement whereby Settlement Class Members may object to the Settlement.
77. The Settlement Administrator will provide Lead Class Counsel and Defense Counsel with weekly reports on objections and Requests for Exclusion.

X. REQUESTS FOR EXCLUSION (OPT-OUTS)

78. The Parties agree that the decision to opt out of the Settlement is to be left to individual Settlement Class Members. If contacted by a Settlement Class Member, Lead Class Counsel may provide advice or assistance as such Settlement Class Member requests. By signing this Settlement Agreement, Settlement Class Representatives each represent and agree that they support the Settlement and believe it is in the best interests of the Class, and Settlement Class Representatives, Lead Class Counsel, and Defendant represent and

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- agree that they shall not seek to encourage, counsel, or represent others to exclude themselves from the Settlement.
79. Any Settlement Class Member (other than Settlement Class Representatives) who wishes to exclude themselves from the Settlement must submit a written Request for Exclusion, which must be signed with a physical signature by the person requesting exclusion.
80. Requests for Exclusion may be delivered to the Settlement Administrator by postal mail. Requests may also be emailed to the Settlement Administrator as attachments to an email (a request for exclusion in the body of the email shall not be considered valid due to the lack of physical signature).
81. Requests for Exclusion must include:
- 81.1 The case name and number of the Consolidated Action;
 - 81.2 The requestor's name, address, and email address;
 - 81.3 The email address(es) associated with the Google account(s) (if any) of the individual seeking exclusion;
 - 81.4 The requestor's physical signature;
 - 81.5 A statement that clearly indicates the individual's intent to be excluded from the Settlement Class for purposes of this Settlement; and
 - 81.6 A statement that the individual seeking exclusion is a natural person residing in the United States who used one or more mobile devices while "Location History" was disabled at any time during the Class Period (January 1, 2014 through the Notice Date).
82. Requests for Exclusion must be postmarked by or emailed by the Exclusion Deadline. Each Request for Exclusion can request exclusion only for that one individual.
83. Any individual who submits a valid and timely Request for Exclusion in the manner described herein shall not: (a) be bound by any orders or judgments entered in connection with the Settlement; (b) be entitled to any relief under, or be affected by, the Agreement; (c) gain any rights by virtue of the Settlement Agreement; or (d) be entitled to object to any aspect of the Settlement.
84. Any individual in the Settlement Class who does not submit a valid and timely Request for Exclusion in the manner described herein shall be deemed to be a Settlement Class Member upon expiration of the Request for Exclusion (Opt Out) Deadline, and shall be bound by all subsequent proceedings, orders, and judgments applicable to the Settlement Class.
85. Defendant may, in its sole discretion, terminate this Settlement Agreement if the number of unique valid and timely Requests for Exclusion exceeds a number agreed to by the Parties, and set out in Exhibit F, which shall be filed confidentially with the Court under seal. If Defendant elects to terminate the Settlement pursuant to this provision of the Settlement Agreement, it shall provide written notice within 14 days following the date the Settlement Administrator informs Defendant of the qualifying number of Settlement Class Members who have requested to exclude themselves from the Settlement pursuant to the provisions set forth above. If Defendant rescinds the Settlement Agreement

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pursuant to this provision of the Agreement, it shall have no further obligations to pay the Settlement Fund and shall be responsible for only the fees and expenses actually incurred by the Settlement Administrator, for which the Settlement Class Representatives and Lead Class Counsel are not liable.

XI. OBJECTIONS

86. The Parties agree that the decision to object to the Settlement is to be left to individual Settlement Class Members. By signing this Settlement Agreement, Settlement Class Representatives each represent and agree that they have no objection to this Settlement, and Settlement Class Representatives, Lead Class Counsel, and Defendant represent and agree that they shall not seek to encourage, counsel, or represent others to object to the Settlement.
87. Any Settlement Class Member (other than Settlement Class Representatives) who wishes to object to the fairness, reasonableness, or adequacy of the Settlement, or to Lead Class Counsel's requested Attorneys' Fees and Expenses Award or any requested Service Awards for the Settlement Class Representatives must follow the procedures in this Section.
88. Objections must be in writing and must be signed by the objector. Objections must (a) be submitted only to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113, or by filing them electronically or in person at any location of the United States District Court for the Northern District of California, and (b) be filed or postmarked on or before Objection Deadline.
89. The written objection must include:
 - 89.1 The case name and number of the Consolidated Action;
 - 89.2 The name, address, and email address of the objector;
 - 89.3 The email address(es) associated with the Google account(s) (if any) of the objector;
 - 89.4 The objector's physical signature;
 - 89.5 A statement that the objector is a natural person who resided in the United States who used one or more mobile devices while "Location History" was disabled at any time during the Class Period (January 1, 2014 through the Notice Date);
 - 89.6 A statement regarding whether the objection applies only to the objector, a subset of the Settlement Class, or the entire Settlement Class;
 - 89.7 A statement of the specific grounds for the objection, including any legal and factual support and any evidence in support of the objection; and
 - 89.8 A statement of whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, and if so, whether personally or through counsel.
90. Any Settlement Class Member who fails to object to the Settlement in the manner described in this Settlement Agreement and in the notice provided pursuant to the Notice Plan, or who fails to do so by the Objection Deadline, shall be deemed to have waived

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any such objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be precluded from seeking any review of the Settlement or the terms of this Settlement Agreement by appeal or any other means, unless otherwise agreed by the Parties.

91. Settlement Class Members cannot both object to and exclude themselves from this Settlement Agreement. Any Settlement Class Member who attempts to do so will be deemed to have excluded themselves and will have forfeited the right to object to this Agreement or any of its terms. In other words, Settlement Class Members who submit a valid and timely Objection, but also submit a valid and timely Request for Exclusion, will be deemed to have opted out of the Settlement and their Objection will be void and invalid.

XII. MODIFICATION OR TERMINATION OF SETTLEMENT AND RESERVATION OF RIGHTS

92. Right to Terminate Due to Material Orders. Subject to this Section, Defendant shall have the right to terminate this Agreement by providing written notice of the election to do so (“**Termination Notice**”) to all other Parties hereto within 21 days of any of the following events occurring: (a) the Court’s refusal to grant Preliminary Approval of this Agreement in any material respect or a ruling conditionally approving this Agreement subject to proposed changes to, or additions of, material terms (including, but not limited to, changes or additions to the Non-Monetary Relief set forth in Exhibit C, the notice provisions of § VIII, the definition of Settlement Class, or the definition of Released Claims); (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 Approval Order and Final Judgment in any material respect; or (d) the modification or reversal, in any material respect, of the Final Approval Order and Final Judgment by the Court of Appeals or the Supreme Court.
93. Action Status if Settlement Not Approved or Otherwise Terminated. This Settlement Agreement is being entered into for settlement purposes only. If the Court conditions its approval of either the Preliminary Approval Order or the Final Approval Order and Final Judgment on any modifications of this Settlement Agreement that are not acceptable to any Party, or if the Court does not approve the Settlement or enter the Final Approval Order and Final Judgment, or if this Settlement Agreement is terminated under ¶ 92 above, or if the Effective Date cannot occur for any reason, then this Settlement Agreement will be deemed null and void *ab initio* (except for ¶¶ 26.42, 27, 30–31, 37, 70, 73, 85, 93, 104, 105, 109, and 115 of this Agreement). In that event: (a) to the extent applicable, the Preliminary Approval Order, the Final Approval Order and Final Judgment, and all of its or their provisions will be vacated by its or their own terms, including, but not limited to, vacating any and all rulings regarding class certification for settlement purposes, including conditional certification of the Settlement Class, conditional appointment of class representatives, and conditional appointment of Lead Class Counsel; (b) the Settlement Agreement will be deemed null and void *ab initio* (except for ¶¶ 26.42, 27, 30–31, 37, 70, 73, 85, 93, 104, 105, 109, and 115 of this Agreement), and the Consolidated Action will revert to the status that existed before the Settlement Agreement’s execution date; and (c)(i) no term or draft of this Settlement Agreement, (ii) nor any part of the Parties’ settlement discussions, negotiations, or

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documentation (including any declaration or brief filed in support of the motion for preliminary approval or motion for final approval), (iii) nor any rulings regarding class certification for settlement purposes (including the Preliminary Approval Order and, if applicable, the Final Approval Order and Final Judgment), will have any effect or be admissible into evidence for any purpose in the Consolidated Action, any Related Actions, or any other proceeding. If the Court does not approve the Settlement or enter the Final Approval Order and Final Judgment for any reason, or if the Effective Date cannot occur for any reason, the Parties shall retain all their respective rights, including, for example, Defendant's right to object to the maintenance of the Consolidated Action as a class action, to move for summary judgment, and to assert defenses at trial, and nothing in this Settlement Agreement or other papers or proceedings related to the Settlement shall be used as evidence or argument by any Party concerning whether the Consolidated Action may properly be maintained as a class action, or for any other purpose.

94. Treatment of Settlement Fund if Settlement Terminated. Unless otherwise ordered by the Court, in the event the Settlement Agreement is terminated for any reason, then within 14 days after the Termination Notice is provided to the Court, the Settlement Administrator shall return the Settlement Fund (including accrued interest), less Settlement Administrator's fees and costs (including the costs of notice), expenses and any costs which have either been disbursed or incurred (including Taxes), to Defendant pursuant to written instructions from Defense Counsel. At the request of Defense Counsel, the Settlement Administrator or its designee shall apply for any tax refund owed on the Settlement Fund and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund, to Defendant.
95. This Settlement 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 and approval of the Court.
96. The Parties agree that the effectiveness of this Settlement Agreement is not contingent upon the Court's approval of the payment of any Attorneys' Fees and Expenses Award or any Service Awards. If the Court declines to approve, in whole or in part, a request for Attorneys' Fees or Expenses or Service Awards, all remaining provisions in this Settlement Agreement shall remain in full force and effect.

XIII. CAFA NOTICE PURSUANT TO 28 U.S.C. § 1715

97. No later than 10 days after the filing of this Settlement Agreement with the Court, the Settlement Administrator shall notify the appropriate state and federal officials of this Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715. Within 15 days after providing that notice to the appropriate state and federal officials, the Settlement Administrator shall provide declarations to the Court, with a copy to Lead Class Counsel and Defendant, attesting to the measures undertaken to provide notice as directed by CAFA.

XIV. ADDITIONAL PROVISIONS

98. Final and Complete Resolution. The Parties intend the Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Consolidated Action (and any Related Actions).
99. Exhibits. All of the Exhibits to this Settlement Agreement are an integral part of the Settlement and are incorporated by reference as though fully set forth herein. Any inconsistency between this Settlement Agreement and the attached exhibits will be resolved in favor of this Settlement Agreement.
100. Recitals. The Parties agree that the Recitals are contractual in nature and form a material part of this Settlement Agreement.
101. Parol Evidence. No extrinsic evidence or parol evidence shall be used to interpret, explain, construe, contradict, or clarify this Settlement Agreement, its terms, the intent of the Parties or their counsel, or the circumstances under which this Settlement Agreement was made or executed. This Settlement Agreement supersedes all prior negotiations and agreements. The Parties expressly agree that the terms and conditions of this Settlement Agreement will control over any other written or oral agreements.
102. Days. Unless otherwise noted, all references to “days” in this Settlement Agreement shall be to calendar days. In the event any date or deadline set forth in this Settlement Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
103. Change of Time Periods. All time periods and dates described in this Settlement Agreement are subject to the Court’s approval. These time periods and dates may be changed by the Court or by the Parties’ written agreement without notice to the Settlement Class. The Parties reserve the right, subject to the Court’s approval, to agree to reasonable extensions of time that might be necessary to carry out any provisions of this Agreement.
104. Inadmissibility. The Settlement Agreement, the Settlement, all documents, orders, and other evidence relating to the Settlement, the fact of their existence, any of their terms, any press release or other statement or report by the Parties or by others concerning the Settlement Agreement, the Settlement, their existence, or their terms, any negotiations, proceedings, acts performed, or documents drafted or executed pursuant to or in furtherance of the Settlement Agreement or the Settlement shall not be offered or received as evidence, nor shall they be deemed to be, used as, construed as, or constitute a presumption, concession, admission, or evidence of (a) the validity of any Released Claims or of any liability, culpability, negligence, or wrongdoing on the part of the Released Parties; (b) any fact alleged, any defense asserted, or any fault, misrepresentation, or omission by the Released Parties; (c) the propriety of certifying a litigation class or any decision by any court regarding the certification of a class, and/or (d) whether the consideration to be given in this Settlement Agreement represents the relief that could or would have been obtained through trial in the Consolidated Action and Related Actions, in any trial, civil, criminal, administrative, or other proceeding of the Consolidated Action and Related Actions or any other action or proceeding in any court, administrative agency, or other tribunal.

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105. Denial of Wrongdoing. Defendant denies, and will continue to deny, that it engaged in any wrongdoing of any kind, or violated any law or regulation, or breached any duty, obligation, or promise to the Settlement Class Representatives or any individual in the Settlement Class.
106. Preclusion in Future Proceedings. Defendant or any other Released Parties shall have the right to file the Settlement Agreement and/or the Final Approval Order and Final Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar, reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.
107. Good Faith. The Parties agree that the consideration provided to the Settlement Class and the other terms of the Settlement Agreement were negotiated at arm's length and in good faith by the Parties, and reflect a settlement that was reached voluntarily, after consultation with competent legal counsel, and with the assistance of an independent, neutral mediator. The Parties further agree that there was no discussion of attorneys' fees while the Parties negotiated this settlement, and that there have been no commitments between the Parties beyond what is reflected in this Settlement Agreement.
108. Beneficial and Fair. The Settlement Class Representatives and Lead Class Counsel have concluded that the Settlement set forth herein is beneficial and fair to the Settlement Class. Defendant likewise agrees that the Settlement set forth herein is beneficial to the Settlement Class.
109. Confidentiality. To the extent permitted by law, all agreements made and orders entered during the course of the Consolidated Action relating to the confidentiality of information shall survive this Settlement Agreement. The provision of the confidentiality agreement entered into with respect to the mediation process concerning this matter is waived for the limited purpose of permitting the Parties to confirm that they participated in the mediation and that the mediation process was successful.
110. Waiver. The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.
111. Counterparts. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Signatures submitted electronically or by facsimile shall also be considered originals. The date of execution shall be the latest date on which any Party signs this Settlement Agreement.
112. Best Efforts. The Parties hereto and their respective counsel agree that they will use their best efforts to obtain all necessary approvals of the Court required by this Settlement Agreement, including to obtain a Final Approval Order and Final Judgment approving the Settlement.
113. Successors and Assigns. This Settlement Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto, including any and all Released Parties and any corporation, partnership, or other entity into or with which

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- any Party hereto may merge, consolidate, or reorganize, each of which is entitled to enforce this Settlement Agreement.
114. Joint Drafting. This Settlement Agreement was jointly drafted by the Parties. Settlement Class Representatives, Settlement Class Members, and Defendant shall not be deemed to be the drafters of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter or otherwise resort to the *contra proferentem* canon of construction. Accordingly, this Settlement Agreement should not be construed in favor of or against one Party as the drafter, and the Parties agree that the provisions of California Civil Code § 1654 and common law principles of construing ambiguities against the drafter shall have no application.
115. Governing Law. This Settlement Agreement shall be governed by and construed and interpreted in accordance with the substantive laws of the State of California without giving effect to any choice-of-law or conflict-of-law provision or rule that would cause the application of the substantive law of any jurisdiction other than California.
116. Headings. The headings used in this Settlement Agreement are inserted merely for the convenience of the reader, and shall not affect the meaning or interpretation of this Settlement Agreement.
117. Singular and Plural. In construing this Settlement Agreement, the use of the singular includes the plural (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).
118. Consultation with Counsel. All Parties warrant and represent that they are agreeing to the terms of this Settlement Agreement based upon the legal advice of their respective attorneys, that they have been afforded the opportunity to discuss the contents of this Settlement Agreement with their attorneys, and that the terms and conditions of this document are fully understood and voluntarily accepted without duress or undue influence. The Settlement Class Representatives further acknowledge, agree, and understand that: (a) each has read and understands the terms of this Settlement Agreement; (b) each has been advised in writing to consult with an attorney before executing this Settlement Agreement; and (c) each has obtained and considered such legal counsel as he deems necessary.
119. Entire Agreement. This Settlement Agreement and any Exhibits attached hereto constitute the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties, and covenants covered and memorialized in such documents.
120. Full Authority. Each counsel or other person executing this Settlement Agreement or any of its Exhibits on behalf of any Party hereby warrants that such person has the full authority to do so. Each Party warrants and represents that there are no liens or claims of lien or assignments, in law or equity, against any of the claims or causes of action released by this Settlement Agreement. Lead Class Counsel, on behalf of the Settlement Class, is expressly authorized by the Settlement Class Representatives to take all appropriate action required or permitted to be taken by the Settlement Class pursuant to this Settlement Agreement to effectuate its terms, and is expressly authorized to enter into

FINAL EXECUTION VERSION

any modifications or amendments to this Settlement Agreement on behalf of the Settlement Class that Lead Class Counsel and the Settlement Class Representatives deem appropriate.

121. Execution Date. The execution date shall be the last date when all signatories have signed the Agreement.
122. IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have duly executed this Settlement Agreement as of the date set forth below.

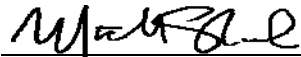
Agreed and Accepted:

ON BEHALF OF THE NAMED PLAINTIFFS AND THE SETTLEMENT CLASS:

Dated: 08/23/2023

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

By:



MICHAEL W. SOBOL
*Interim Co-Lead and Settlement
Class Counsel*

Dated:

AHDOOT & WOLFSON, PC

By:

TINA WOLFSON
*Interim Co-Lead and Settlement
Class Counsel*

FINAL EXECUTION VERSION

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MICHAEL W. SOBOL
*Interim Co-Lead and Settlement
Class Counsel*

Dated: 8/23/2023

AHDOOT & WOLFSON, PC

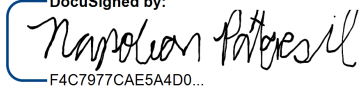
By:



TINA WOLFSON
*Interim Co-Lead and Settlement
Class Counsel*

FINAL EXECUTION VERSION

Dated: 08/23/23 | 11:52 AM PDT

By: 
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NAPOLEAN PATACSIL
Plaintiff and Settlement Class
Representative

Dated:

By: _____
MICHAEL CHILDS
Plaintiff and Settlement Class
Representative

Dated:

By: _____
NOE GAMBOA
Plaintiff and Settlement Class
Representative

ON BEHALF OF GOOGLE LLC:

Dated:

By: _____
NORA PUCKETT
Director, Litigation
GOOGLE LLC

FINAL EXECUTION VERSION

Dated:

By:

NAPOLEAN PATACSIL
Plaintiff and Settlement Class
Representative

Dated: Aug 23, 2023

By:

 (Aug 23, 2023 20:42 EDT)

MICHAEL CHILDS
Plaintiff and Settlement Class
Representative

Dated:

By:

NOE GAMBOA
Plaintiff and Settlement Class
Representative

ON BEHALF OF GOOGLE LLC:

Dated:

By:

NORA PUCKETT
Director, Litigation
GOOGLE LLC

FINAL EXECUTION VERSION

Dated:

By:

NAPOLEAN PATACSIL
Plaintiff and Settlement Class
Representative

Dated:

By:

MICHAEL CHILDS
Plaintiff and Settlement Class
Representative

Dated: Aug 23, 2023

By:


Noe Gamboa (Aug 23, 2023 22:05 CDT)

NOE GAMBOA
Plaintiff and Settlement Class
Representative

ON BEHALF OF GOOGLE LLC:

Dated:

By:

NORA PUCKETT
Director, Litigation
GOOGLE LLC

FINAL EXECUTION VERSION

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By:

NAPOLEAN PATACSIL
Plaintiff and Settlement Class
Representative

Dated:

By:

MICHAEL CHILDS
Plaintiff and Settlement Class
Representative

Dated:

By:

NOE GAMBOA
Plaintiff and Settlement Class
Representative

ON BEHALF OF GOOGLE LLC:

Dated:

8/22/2023

By:

DocuSigned by:
Nora Puckett
DB45A1943EAE4F1...

NORA PUCKETT
Director, Litigation
GOOGLE LLC