

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN  
MEINERS, and DANIEL UMPA, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

NATIONAL ASSOCIATION OF REALTORS,  
et al.,

Defendants.

Civil Action No. 4:23-cv-00788-SRB

[Consolidated with 4:23-cv-00945-SRB]

JURY TRIAL DEMANDED

**PLAINTIFFS' MOTION AND SUGGESTIONS IN SUPPORT OF  
MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENTS  
WITH DEFENDANTS NEXTHOME, KEYES, JOHN L. SCOTT, AND LOKATION;  
CERTIFICATION OF SETTLEMENT CLASSES; AND APPOINTMENT OF CLASS  
REPRESENTATIVES AND SETTLEMENT CLASS COUNSEL**

On April 30, 2024, the Court granted preliminary approval of Settlements in this case with five Defendants—Compass, Real Brokerage, RealtyOne, @properties, and Douglas Elliman. Doc. 163. Later, on July 15 and 16, 2024, the Court granted preliminary approval of Settlements with Redfin, Engel & Volkers, HomeSmart, and United Real Estate. Docs. 297 and 348. After several months of negotiations, Plaintiffs have now reached Settlements with four additional *Gibson* Defendant families:

- NextHome, Inc. (“NextHome”);
- The Keyes Company and Illustrated Properties, LLC (“Keyes”);
- John L. Scott Real Estate Affiliates, Inc., and John L. Scott, Inc. (“John L. Scott”); and

- The K Company Realty, LLC d/b/a LoKation (“LoKation”) (collectively the “Settling Defendants”).<sup>1</sup>

The Settlements with NextHome, Keyes, John L. Scott, and LoKation are substantially similar to those reached with the nine previous *Gibson* Settling Defendants, as well as those reached with *Burnett* settling Defendants Anywhere, RE/MAX, Keller Williams, and HomeServices. The NextHome, Keyes, John L. Scott, and LoKation Settlements were the result of lengthy arms-length negotiations, mediations, and consideration of the risk and cost of litigation. *See* Berman Decl. ¶¶ 8, 13-14. As with the previous *Gibson* Settlements, these Settlements were reached after a detailed investigation of each Defendant’s financial condition and ability to pay a judgment or settlement. *See* Berman Decl. ¶ 15. The Settlements are fair, reasonable, and adequate, and beneficial to the Settlement Classes. *See id.* ¶¶ 13, 15. Class counsel have discussed the Settlements with the Gibson Class Representatives, and they have approved them. *See id.* ¶ 16.

**Settlement Class:**

1. The proposed Settlements with *NextHome* and *LoKation* encompass the same Settlement Class that the Court preliminarily certified for settlement of claims against Compass, Douglas Elliman, HomeSmart, Real Brokerage, Realty ONE, and United Real Estate, as follows:

- a. All persons who sold a home that was listed on a multiple listing service<sup>2</sup> anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home in the following date range:
  - i. October 31, 2019 to date of Class Notice.

(*See*, NextHome and LoKation Settlement Agreements at ¶ 15)

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<sup>1</sup> The Settlement Agreements are attached as Exhibits A-D to the Declaration of Steve Berman, Ex. 1 (“Berman Decl.”).

<sup>2</sup> MLS includes non-NAR multiple listing services, including REBNY / RLS, as well as multiple listing services owned, operated, or governed by, or associated with the Florida Association of Realtors (or its regional and local associations).

2. The proposed Settlements with *Keyes* and *John L. Scott* encompass the same Settlement Class that the Court preliminarily certified for settlement of claims against Engel & Völkers and @properties, as follows:

- a. All persons who sold a home that was listed on a multiple listing service anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home in the following date ranges:
  - i. Homes in Arkansas, Kentucky, and Missouri: October 31, 2018 to date of Class Notice;
  - ii. Homes in Alabama, Georgia, Indiana, Maine, Michigan, Minnesota, New Jersey, Pennsylvania, Tennessee, Vermont, Wisconsin, and Wyoming: October 31, 2017 to date of Class Notice;
  - iii. For all other homes: October 31, 2019 to date of Class Notice.

(See, *Keyes* and *John L. Scott* Settlement Agreements at ¶ 15).

**Settlement Amount:**

The Settlements provide that the Settling Defendants will pay a total of \$4.925 million for the benefit of the Settlement Class, as follows:

- NextHome: \$600,000
- Keyes: \$2.4 million
- John L. Scott: \$1 million
- LoKation: \$925,000

(See Settlement Agreements at ¶ 18) Together with other Settlements in this action and the *Burnett* action, Plaintiffs have recovered over \$1 billion for the benefit of the Settlement Class. (See, e.g., Doc. 521 at 1) The non-monetary terms of these four Settlements are the same in all material respects as the terms of the previous nine *Gibson* Settlements, including the same Practice Changes (Settlement Agreements at ¶¶ 49-51), Cooperation (*id.* at ¶¶ 52-55), and Release provisions (*id.* at ¶¶ 28-30).

Because the Settlements constitute substantially similar relief as the Settlements the Court has already approved in *Burnett* (*Burnett* Doc. 1487), as well as the Settlements that the Court has preliminarily approved in this action (*Gibson* Docs. 163, 297, and 348), the Court should grant preliminary approval of the NextHome, Keyes, John L. Scott, and LoKation Settlements. In support, Plaintiffs incorporate herein their previous motions for preliminary approval (Docs. 161 and 294).

Plaintiffs anticipate reaching additional settlements with other Defendants in this case. To promote efficient use of settlement funds and class notice resources, and to avoid confusion to Class Members, Plaintiffs propose deferring the dissemination of Class Notice at this time to allow for the possibility of combining notice of the most recent four settlements with notice of additional settlements. *See* Berman Decl. ¶ 24. Plaintiffs further propose to file, at a later date, a separate motion for approval of the form and manner of Class notice that satisfies the requirements of due process and also takes into account the settlement notice that has already been provided in this case and in *Burnett*.

NextHome, Keyes, John L. Scott, and LoKation do not oppose this motion.

Wherefore, Plaintiffs respectfully request that the Court enter an order: (1) preliminarily approving the Settlements with NextHome, Keyes, John L. Scott, and LoKation; (2) certifying the Settlement Class as defined above for settlement purposes only; (3) appointing *Gibson* Plaintiffs as Settlement Class Representatives;<sup>3</sup> (4) appointing Settlement Class Counsel;<sup>4</sup> (5) appointing

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<sup>3</sup> *Gibson* Plaintiffs, and proposed Class Representatives, are Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa.

<sup>4</sup> Proposed Settlement Class Counsel are Ketchmark & McCreight P.C., Boulware Law LLC, Williams Dirks Dameron LLC, Hagens Berman Sobol Shapiro LLP, Cohen Milstein Sellers & Toll PLLC, and Susman Godfrey LLP. Doc. *See* Docs 163, 297, and 348 at ¶ 8.

JND as the notice administrator; and (6) directing Plaintiffs to file, at a later date, a motion seeking approval of the form and manner of class notice.

DATED: November 1, 2024

Respectfully submitted by:

**HAGENS BERMAN SOBOL SHAPIRO  
LLP**

/s/ Steve W. Berman

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***Attorneys for Plaintiffs and the Class***

# **EXHIBIT 1**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN  
MEINERS, and DANIEL UMPA, on behalf of  
themselves and all others similarly situated,

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THE NATIONAL ASSOCIATION OF  
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Defendants.

Civil Action No. 4:23-cv-00788-SRB

[Consolidated with 4:23-cv-00945-SRB]

JURY TRIAL DEMANDED

**DECLARATION OF STEVE W. BERMAN IN SUPPORT OF PRELIMINARY  
APPROVAL OF SETTLEMENTS WITH NEXTHOME, KEYES, JOHN L. SCOTT, AND  
LOKATION; CERTIFICATION OF SETTLEMENT CLASSES; AND APPOINTMENT  
OF CLASS REPRESENTATIVES AND SETTLEMENT CLASS COUNSEL**

I, Steve W. Berman, state under oath, as follows:

1. I am the Managing Partner of Hagens Berman Sobol Shapiro LLP (“Hagens Berman”). The Court in *Moehrl v. Nat’l Ass’n of Realtors*, Case No. 1:19-cv-01610-ARW (N.D. Ill.) (“*Moehrl*”) appointed my firm, together with Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”), and Susman Godfrey LLP (“Susman Godfrey”), as Co-Lead Class Counsel in the *Moehrl* litigation.

2. Hagens Berman, Cohen Milstein, and Susman Godfrey also served as co-counsel for Plaintiffs in *Umpa v. Nat’l Ass’n of Realtors*, Case No. 4:23-cv-00945-FJG (W.D. Mo.) until that case was consolidated with this case (“*Gibson*”) on April 23, 2024. (*Gibson* Doc. 145, *Umpa* Docs. 245–246). Our three firms, together with Ketchmark & McCreight, P.C. (“Ketchmark & McCreight”), Boulware Law LLC (“Boulware Law”) and Williams Dirks Dameron LLC



(“Williams Dirks Dameron”) now serve as co-counsel for Plaintiffs in the consolidated *Gibson* action. (*Gibson* Doc. 146). The Court appointed these six firms as Interim Co-Lead Class Counsel in this case, with responsibility “for any settlement negotiations with Defendants.” (*Gibson* Doc. 180). The Court also appointed the six firms as Co-Lead Counsel for the Settlement Classes in the first nine *Gibson* Settlements. (*See Gibson* Docs. 163, 297, and 348).

3. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Approval of Settlements with NextHome, Keyes, John L. Scott, and LoKation; Certification of Settlement Classes; and Appointment of Class Representatives and Settlement Class Counsel. Based on personal knowledge or discussions with counsel in my firm and co-counsel regarding the matters stated herein, if called upon, I could and would testify competently thereto.

4. I have served as lead or co-lead counsel in antitrust, securities, consumer, products liability, and employment class actions, and other complex litigation matters throughout the country. For example, I have represented thousands of plaintiffs in large antitrust cases and have achieved favorable results for them. I was the lead trial lawyer in *In re National Collegiate Athletic Association Athletic Grant-In-Aid Cap Antitrust Litig.*, MDL No. 2541 (N.D. Cal.) where the class obtained injunctive relief following a bench trial. As co-lead counsel in *In re Visa Check/Mastercard Antitrust Litig.*, No. 96-cv-05238 (E.D.N.Y.), I obtained the then largest antitrust settlement in history for consumers while challenging alleged anti-competitive agreements among U.S. banks, Visa, and Mastercard, regarding ATM fees. I also represented consumers in *In re Optical Disk Drive Products Antitrust Litig.*, No. 10-md-2143-RS (N.D. Cal.), *In re Electronic Books Antitrust Litig.*, No. 11-md-02293 (DLC) (S.D.N.Y.), and *In re Lithium Ion Batteries Antitrust Litig.*, No. 13-md-02430 (N.D. Cal.), obtaining court-approved settlements for class members in all three cases. I was approved as co-lead counsel to represent a certified class

of thousands of consumers in *In re Broiler Chicken Antitrust Litig.*, No. 1:16-cv-08637 (N.D. Ill. May 27, 2022), ECF No. 5644. I have negotiated numerous settlements in class and non-class cases during my decades of practice.

5. Proposed Settlement Class Counsel are the following law firms:

- Ketchmark & McCreight, P.C.,
- Boulware Law LLC,
- Williams Dirks Dameron LLC,
- Cohen Milstein Sellers & Toll PLLC,
- Hagens Berman Sobol Shapiro LLP, and
- Susman Godfrey LLP.

6. Proposed Settlement Class Counsel are highly experienced in the areas of antitrust and class action litigation. They have tried antitrust class actions to verdict and prosecuted and settled numerous others. Hagens Berman, Cohen Milstein, and Susman Godfrey—Co-Lead Class Counsel in *Moehrl*—each have extensive antitrust class action experience and have successfully prosecuted some of the most complex private antitrust cases in the last two decades. Each has a history of winning landmark verdicts and negotiating favorable settlements for their clients. Their collective and individual litigation experience—discussed in the memorandum of law and exhibits filed in Support of Plaintiffs’ Motion for Appointment of Interim Co-Lead Class Counsel—amply demonstrates that all six firms have extensive knowledge of the relevant law, as well as the resources for effective representation of Settlement Class Plaintiffs, and the proven ability to reach superior results for parties injured by anticompetitive practices. (*Gibson* Doc. 156).

7. On behalf of Plaintiffs, other Co-Lead Counsel and I personally participated in intensive settlement negotiations with opposing counsel and/or analysis and deliberation among the Plaintiffs’ legal team regarding settlement terms with: (a) NextHome, Inc. (“NextHome”); (b) The Keyes Company and Illustrated Properties, LLC (collectively, “Keyes”); (c) John L. Scott

Real Estate Affiliates, Inc., and John L. Scott, Inc. (collectively, “John L. Scott”); and The K Company Realty, LLC d/b/a LoKation (“LoKation”) (collectively “Settling Defendants”).

8. Each Settlement was achieved through extensive negotiations. To reach a settlement with NextHome, the parties engaged in multiple settlement discussions over phone and Zoom spanning several months. To achieve a settlement with Keyes, the parties had an all-day mediation, attended by lead counsel for each party, facilitated by Judge Jay Daugherty, who has served as a mediator on multiple mediations in this case. To reach a settlement with John L. Scott, the parties engaged in direct settlement discussions over a period of several months. For settlement with LoKation, the parties engaged in settlement discussions, including a mediation facilitated by Judge Victor Howard. For each settlement, the parties reached agreement only after numerous hours of negotiation.

9. Plaintiffs and NextHome entered into a Settlement Agreement on September 30, 2024. Attached as Exhibit A is a true and accurate copy of the Settlement Agreement between Plaintiffs and NextHome.

10. Plaintiffs and Keyes entered into a Settlement Agreement on October 3, 2024. Attached as Exhibit B is a true and accurate copy of the Settlement Agreement between Plaintiffs and Keyes.

11. Plaintiffs and John L. Scott likewise entered into a Settlement Agreement on October 22, 2024. Attached as Exhibit C is a true and accurate copy of the Settlement Agreement between Plaintiffs and John L. Scott.

12. Plaintiffs and LoKation likewise entered into a Settlement Agreement on October 28, 2024. Attached as Exhibit D is a true and accurate copy of the Settlement Agreement between Plaintiffs and LoKation.

13. In my opinion, and in that of highly experienced Co-Lead Counsel, the proposed Settlement Agreements are fair, reasonable, and adequate. They provide substantial monetary and non-monetary benefits to the Settlement Classes, and they avoid the risks, costs, and delay of continuing protracted litigation against Settling Defendants. Details of the agreed monetary relief, changes to the Settling Defendants' business practices, and cooperation in Plaintiffs' ongoing litigation against the non-settling defendants are set forth in the Settlement Agreements attached as Exhibits A-D.

14. Plaintiffs and Class Counsel reached the Settlement Agreements after arms-length negotiations and considering the risk and cost of litigation. Plaintiffs and Class Counsel believe the claims asserted are meritorious and that the evidence developed to date supports the claims, but also recognize the risk and delay of further proceedings in a complex case like this, and believe that the Settlements confer substantial benefits upon the Settlement Class Members.

15. In my opinion, the Settlements are fair and reasonable in light of the financial condition of NextHome, Keyes, John L. Scott, and LoKation, and the limited resources available to each to satisfy a judgment as compared to the size of the potential damages. Pursuant to FRE 408, Plaintiffs received and carefully reviewed detailed financial records from each of the Defendants, including analysis by one of Plaintiffs' counsel, a certified public accountant with training in financial forensics. Counsel assessed whether Settling Defendants could withstand a greater amount. The monetary settlements were reached with due consideration for the Defendants' ability to pay a judgment or settlement.

16. Class Counsel have discussed the Settlement Agreements with the Class Representatives, and they have approved them.

17. There was no collusion among counsel for the parties at any time during these settlement negotiations. To the contrary, the negotiations were contentious, hard fought, and fully informed. Plaintiffs sought to obtain the largest possible monetary recovery, as well as the most impactful changes to the Settling Defendants' business practices, to avert anticompetitive conduct going forward. Plaintiffs further sought the most helpful cooperation possible from Settling Defendants.

18. When the Settlement Agreements were executed with NextHome, Keyes, John L. Scott, and LoKation in this action, Co-Lead Counsel were fully aware of the strengths and weaknesses of each side's positions. Extensive litigation and settlement negotiations in the related actions *Moehrl* and *Burnett v. Nat'l Ass'n of Realtors*, Case No. 1:19-cv-00332-SRB (W.D. Missouri) ("*Burnett*"), as well as litigation and negotiations with other settling defendants in this action, laid the foundation for expeditiously achieving favorable settlements with NextHome, Keyes, John L. Scott, and LoKation in this action. The parties in *Burnett* and *Moehrl* completed over five years of extensive fact and expert discovery, including propounding and responding to multiple sets of interrogatories and requests for production, followed by the production of well over 5 million pages of documents from the parties and dozens of non-parties across both actions. Plaintiffs briefed numerous discovery motions and disputed items in order to obtain important evidence to support their claims. The parties conducted over 100 depositions in the *Moehrl* action and over 80 depositions in the *Burnett* action. *Moehrl* Plaintiffs engaged six experts and *Burnett* Plaintiffs engaged five experts to support their claims and to rebut claims from the nine experts retained by Defendants in each case. Most experts in the case were deposed after the submission of 24 expert reports in *Moehrl* and 19 expert reports in *Burnett*. The Plaintiffs in both cases have

also briefed summary judgment, and the Plaintiffs in *Burnett* prevailed at trial, including against NAR, and briefed post-trial motions.

19. Discovery in *Burnett* and *Moehrl* focused on the nationwide rules and practices of NAR and its members. Class Counsel and experts in *Burnett* and *Moehrl* analyzed rules, policies, practices, and transaction data, including on a nationwide basis. They also evaluated whether those policies and practices differed among MLSs across the country. Class Counsel obtained and analyzed information regarding the entire industry, and not just the MLSs and Defendants at issue in *Burnett* and *Moehrl*.

20. During the course of the *Burnett* and *Moehrl* litigation, Plaintiffs' counsel engaged in extensive arm's-length settlement negotiations with various defendants in those cases that lasted nearly four years, including several in-person and telephonic mediations with a nationally recognized and highly experienced mediator, mediations with a retired federal court judge and a federal magistrate judge, and dozens of one-on-one calls and direct communications. This work resulted in Settlement Agreements in those actions that required NAR and several of the largest real estate brokerage firms to abolish the challenged rules, provide cooperation in litigation against non-settling defendants, and pay the following amounts:

- a. Anywhere Real Estate, Inc. (f/k/a Realty Holdings Corp.) ("Anywhere"): \$83.5 million,
- b. RE/MAX LLC ("RE/MAX"): \$55 million,
- c. Keller Williams Realty, Inc. ("Keller Williams"): \$70 million,
- d. HomeServices of America, Inc., BHH Affiliates, LLC, Long & Foster Companies, Inc., and HSF Affiliates, LLC ("HomeServices"): \$250 million, and
- e. The National Association of Realtors ("NAR"): at least \$418 million.

21. Proposed Settlement Class Counsel for the settlements with NextHome, Keyes, John L. Scott, and LoKation, are the same attorneys who successfully represented home sellers in the *Burnett* and *Moehrl* actions—prevailing at trial in *Burnett*, and achieving favorable settlements on behalf of home sellers. Proposed Settlement Class Counsel were able to capitalize on their work in those actions. Plaintiffs filed the *Gibson* and *Umpa* actions alleging a nationwide class against additional Defendants. Based on their extensive investigative and analytical efforts in *Burnett* and *Moehrl*, as well as in this action, Co-Lead Counsel were well informed of the value and consequences of the Settlement Agreements.

22. Proposed Settlement Class Counsel have worked diligently to advance the litigation in *Gibson* and *Umpa*. They worked with Plaintiffs to file detailed complaints against the Defendants and have diligently prosecuted the case to date. Plaintiffs' counsel have worked cooperatively, including moving to consolidate the *Gibson* and *Umpa* complaints for purposes of efficiency. Plaintiffs' counsel also handled the early stages in this case, including negotiating a scheduling order, preparing ESI and protective orders, serving and responding to discovery requests, and briefing dismissal motions. Proposed Settlement Class Counsel further successfully negotiated settlements in this action with Defendants Compass, Real Brokerage, Realty ONE, @properties, Douglas Elliman, Redfin, Engel & Völkers, HomeSmart, and United Real Estate, for which the Court granted preliminary approval. (*Gibson* Docs. 163, 297, and 348).

23. In my opinion, Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa are ably representing the interests of the proposed class. They approved each settlement. They also approved the filing of the *Gibson* and *Umpa* complaints and are prepared to represent the consolidated class as litigation continues against the remaining Defendants.

24. Given the considerable cost of issuing class notice in a case of this size, and the total Settlement Amount provided by these four Settlements, I believe it would serve the best interest of the Class to temporarily defer commencement of a notice program to allow time for additional settlements to be reached. A potentially combined notice program would enable the Parties to make more efficient use of settlement funds.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed November 1, 2024.

/s/ Steve W. Berman  
STEVE W. BERMAN



# **EXHIBIT A**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN MEINERS, and  
DANIEL UMPA, individually and on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, et. al.

Defendants.

Case No. 4:23-cv-00788-SRB

[Consolidated with  
4:23-cv-00945-SRB]

Hon. Stephen R. Bough

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Settlement Agreement”) is made and entered into as of the 30th day of September, 2024 (the “Execution Date”), by and between Defendant NextHome, Inc. (“NextHome”) and Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa, who filed suit in the above captioned actions (now consolidated) both individually and as a representative of the Settlement Class, as defined below.

WHEREAS, in the Actions Plaintiffs allege that NextHome participated in a conspiracy to raise, fix, maintain, or stabilize real estate commissions in violation of Section 1 of the Sherman Act;

WHEREAS, NextHome denies Plaintiffs’ allegations in the Actions and has asserted defenses to Plaintiffs’ claims;

WHEREAS, extensive arm’s-length settlement negotiations have taken place between Plaintiffs’ Co-Lead Counsel and counsel for NextHome leading to this Settlement Agreement;

WHEREAS, the Actions will continue against the Non-NextHome Defendants unless Plaintiffs separately settle with any of the Non-NextHome Defendants;

WHEREAS, Plaintiffs have conducted an extensive investigation into the facts and the law regarding the claims asserted in the Actions, and have concluded that a settlement with NextHome according to the terms set forth below is fair, reasonable, and adequate and in the best interest of Plaintiffs and the Settlement Class;

WHEREAS, NextHome believes that it is not liable for the claims asserted and that it has good defenses to Plaintiffs’ claims and meritorious pre-trial and post-trial motions, but nevertheless has decided to enter into this Settlement Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, to obtain the nationwide releases, orders, and judgment contemplated by this Settlement Agreement, and to put to rest with finality all claims that Plaintiffs and Settlement Class Members have or could have asserted against the Released Parties, as defined below; and

WHEREAS, NextHome, in addition to the settlement payments set forth below, has agreed to cooperate with Plaintiffs and to implement certain practice changes, each as set forth in this Settlement Agreement.

NOW, THEREFORE, in consideration of the agreements and releases set forth herein and other good and valuable consideration, and intending to be legally bound, it is agreed by and between NextHome and the Plaintiffs that the Actions be settled, compromised, and dismissed with prejudice as to NextHome only, without costs to Plaintiffs, the Settlement Class or NextHome except as provided for herein, subject to the approval of the Court, on the following terms and conditions:

**A. Definitions**

The following terms, as used in this Settlement Agreement, have the following meanings:

1. “Actions” means Gibson v. NAR, (W.D. Mo. Case No. 4:23-cv-00788-SRB) and Umpa v. NAR, (W.D. Mo. Case No. 4:23-cv-945-SRB)
2. “Corporate Defendants” means any defendant aside from the National Association of Realtors named in Umpa, Gibson v. NAR, (W.D. Mo. Case No. 4:23-cv-00788-SRB), Burnett v. NAR, (W.D. Mo. Case No. 19-cv-00332-SRB), or Moehrl v. NAR, (N.D. Ill. Case No. 1:19-cv-01610).
3. “Co-Lead Counsel” means the following law firms:
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11161 Overbrook Road, Suite 210  
Leawood, KS 66211
  - BOULWARE LAW LLC  
1600 Genessee, Suite 416  
Kansas City, MO 64102
  - WILLIAMS DIRKS DAMERON LLC  
1100 Main Street, Suite 2600  
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  - HAGENS BERMAN SOBOL SHAPIRO LLP

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1201 Third Avenue, Suite 3800  
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4. “Court” means the U.S. District Court for the Western District of Missouri.
5. “Defendants” means NextHome, Inc., and all defendants named in either Gibson and Umpa.
6. “Effective” means that all conditions set forth below in the definition of “Effective Date” have occurred.
7. “Effective Date” means the date when: (a) the Court has entered a final judgment order approving the Settlement set forth in this Settlement Agreement under Rule 23(e) of the Federal Rules of Civil Procedure and a final judgment dismissing the Actions against NextHome with prejudice has been entered; and (b) the time for appeal or to seek permission to appeal from the Court’s approval of the Settlement and the entry of a final judgment has expired or, if appealed, approval of the Settlement and the final judgment have been affirmed in their entirety by the Court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review; excluding, however, any appeal or other proceedings unrelated to this Settlement Agreement initiated by any Non-NextHome Defendant or any person or entity related to the Non-NextHome Defendant, and any such appeal or other proceedings shall not delay the Settlement Agreement from becoming final and shall not apply to this section; nor shall this section be construed as an admission that such parties have standing or other rights of objection or appeal with respect to this Settlement. It is agreed that neither the provisions of Federal Rule of Civil Procedure

60 nor the All Writs Act, 28 U.S.C. § 1651, shall be considered in determining the above-stated times.

8. “Gibson” means Western District of Missouri Case No. 4:23-cv-00788, which is currently pending and which has been consolidated with Umpa, Case No. 4:23-cv-00945.

9. “Opt-Out Sellers” means members of the Settlement Class who have timely exercised their rights to be excluded from the Settlement Class or have otherwise obtained Court approval to exercise such rights.

10. “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity, and such individual’s or entity’s spouse, heirs, predecessors, successors, representatives, affiliates and assignees. For the avoidance of doubt, Persons include all real estate brokerages.

11. “Released Claims” means any and all manner of federal and state claims regardless of the cause of Actions arising from or relating to conduct that was alleged or could have been alleged in the Actions based on any or all of the same factual predicates for the claims alleged in the Actions, including but not limited to commissions negotiated, offered, obtained, or paid to brokerages in connection with the sale of any residential home.

12. “Released Parties” means NextHome and all of its respective past, present and future, direct and indirect corporate parents (including holding companies), subsidiaries, related entities and affiliates, associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), predecessors, and successors, and all of their respective franchisees, sub-franchisors, officers, directors, managing directors, employees, agents, contractors, independent contractors, attorneys, legal or other representatives, accountants, auditors, experts, trustees, trusts, heirs, beneficiaries, estates, executors, administrators, insurers, and assigns, and all of the

franchisees' and sub-franchisors' officers, directors, managing directors, employees, agents, and independent contractors. Notwithstanding this definition, "Released Parties" shall not include the Non-NextHome Corporate Defendants, or their past, present and future, direct and indirect corporate parents (including holding companies), subsidiaries, related entities and affiliates, associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), predecessors, and successors, and all of their respective franchisees, officers, directors, managing directors, employees, agents, contractors, independent contractors, attorneys, legal or other representatives, accountants, auditors, experts, trustees, trusts, heirs, beneficiaries, estates, executors, administrators, insurers, and assigns. For the avoidance of doubt, individuals who were members of the National Association of Realtors are not thereby excluded from being Released Parties, and entities and individuals that were sometimes associated with the NextHome entities and other times associated with a different Corporate Defendant are included as Released Parties for the periods of time they were associated with NextHome and excluded for the periods of time they were associated with a different Corporate Defendant. For the avoidance of doubt, the foregoing release is not intended to and does not release NextHome or any other Person for any claims based on the conduct of any real estate brokerage acquired by NextHome or any other Person affiliated with such an acquired brokerage that becomes affiliated with NextHome after the Execution Date for conduct which took place before the Execution Date.

13. "Releasing Parties" means Plaintiffs and any Settlement Class Members (including any of their immediate family members, heirs, representatives, administrators, executors, devisees, legatees, and estates, acting in their capacity as such; and for entities including any of their past, present or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors and assigns, acting

in their capacity as such solely with respect to the claims based on or derived from claims of the Plaintiffs or Settlement Class Members).

14. “Settlement” means the settlement of the Actions contemplated by this Settlement Agreement.

15. “Settlement Class” means the class of persons that will be certified by the Court for settlement purposes only, namely, all persons who sold a home that was listed on a multiple listing service anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home between October 31, 2019 and date of Class Notice. For avoidance of doubt, Plaintiffs and NextHome intend this Settlement Agreement to provide for a nationwide settlement class with a nationwide settlement and release.

16. “Settlement Class Member” means a member of the Settlement Class who does not file a valid request for exclusion from the Settlement Class.

17. “Settling Parties” means Plaintiffs and NextHome.

18. “Total Monetary Settlement Amount” means \$600,000 (Six Hundred Thousand Dollars) in United States currency. All costs of settlement, including all payments to class members, all attorneys’ fees and costs, all service awards to current and former class representatives, and all costs of notice and administration, will be paid out of the Total Monetary Settlement Amount, and NextHome will pay nothing apart from the Total Monetary Settlement Amount.

19. “Umpa” means Western District of Missouri Case No. 4:23-cv-00945, which is currently pending, and which has now been consolidated with Gibson.

**B. Stipulation to Class Certification**

20. The Settling Parties hereby stipulate for purposes of this Settlement only that the requirements of Federal Rules of Civil Procedure 23(a), 23(b)(2), and 23(b)(3) are satisfied and, subject to Court approval, the Settlement Class shall be certified for settlement purposes as to



NextHome. The Settling Parties stipulate and agree to the conditional certification of the Settlement Class for purposes of this Settlement only. Should, for whatever reason, the Settlement not become Effective, the Settling Parties' stipulation to class certification as part of the Settlement shall become null and void.

21. Neither this Settlement Agreement, nor any statement, transaction, or proceeding in connection with the negotiation, execution, or implementation of this Settlement Agreement should be intended to be, construed as, or deemed to be evidence of an admission or concession by NextHome that a class should be or should have been certified for any purposes other than settlement, and none of them shall be admissible in evidence for any such purpose in any proceeding.

**C. Approval of this Settlement Agreement and Dismissal of the Actions**

22. The Settling Parties agree to make reasonable best efforts to effectuate this Settlement Agreement, including, but not limited to, seeking the Court's approval of procedures (including the giving of class notice under Federal Rules of Civil Procedure 23(c) and (e); scheduling a final fairness hearing) to obtain final approval of the Settlement and the final dismissal with prejudice of the Actions as to NextHome; and NextHome's cooperation by providing information reflecting its ability to pay limitations and, if requested by Co-Lead Counsel, a declaration describing and attesting to those limitations. The Parties will notify the Court of the Settlement and stipulate to immediately stay the Actions as to NextHome, subject to the approval of the Court, pending a final decision on settlement approval. NextHome will keep this Settlement Agreement, and its terms, confidential until Plaintiffs seek preliminary approval of the Settlement.

23. Plaintiffs will submit to the Court at a time of their choosing, subject to direction by the Court, a motion requesting that the Court preliminarily approve the Settlement (the "Motion"). The Motion shall include a proposed form of order preliminarily approving the Settlement and enjoining Releasing Parties from prosecuting any Released Claims in any forum until the Effective

Date of this Settlement. The proposed form of the preliminary approval order shall be acceptable to NextHome provided that it is substantially in the form of the orders proposed in connection with the Compass settlement. At least 48 hours before submission to the Court, the papers in support of the Motion for preliminary approval shall be provided by Co-Lead Counsel to NextHome for its review. To the extent that NextHome objects to any aspect of the Motion, it shall communicate such objection to Co-Lead Counsel and the Settling Parties shall meet and confer to resolve any such objection. The Settling Parties shall take all reasonable actions as may be necessary to obtain preliminary approval of the Settlement. To the extent the Court finds that the Settlement does not meet the standard for preliminary approval, the Settling Parties will negotiate in good faith to modify the Settlement Agreement directly or with the assistance of mediator Greg Lindstrom or another agreed mediator and will endeavor to resolve any issues to the satisfaction of the Court.

24. The Settling Parties agree that Plaintiffs may at their sole discretion: (i) seek to include notice of this Settlement to the Settlement Class and for claim administration along with the settlement of any other Defendant or (ii) seek approval of a separate plan for providing class notice of this Settlement in a manner that meets that meet the requirements of due process and Federal Rule of Civil Procedure 23. The Settling Parties agree that the form of notice shall not be subject to NextHome's review or approval so long as it is substantially in the form of the Court-approved notice of the Compass settlement. To the extent Plaintiffs seek to vary the form of notice, NextHome must provide any edits or objections within 24 hours, and the Settling Parties shall promptly meet and confer to resolve any such objection. The Settling Parties agree to the use JND as a claims and notice administrator. The timing of any request to disseminate notice to the Settlement Class will be at the discretion of Co-Lead Counsel.

25. Within ten (10) calendar days after the filing with the Court of this Settlement Agreement and the accompanying motion papers seeking its preliminary approval, JND, the notice

administrator, shall at NextHome's expense to be credited against the Total Monetary Settlement Amount cause notice of the Settlement Agreement to be served upon appropriate State and Federal officials as provided in the Class Actions Fairness Act, 28 U.S.C. § 1715.

26. If the Settlement is preliminarily approved by the Court, Plaintiffs shall timely seek final approval of the Settlement and entry of a final judgment order as to NextHome:

(a) certifying the Settlement Class under Federal Rule of Civil Procedure 23(b), solely for purposes of this Settlement;

(b) granting final approval of the Settlement as fair, reasonable, and adequate within the meaning of Federal Rule of Civil Procedure 23(e) and directing the consummation of the Settlement according to its terms;

(c) directing that, as to NextHome only, the Actions be dismissed with prejudice and, except as provided for herein, without costs;

(d) reserving exclusive jurisdiction over the Settlement and this Settlement Agreement, including reserving exclusive jurisdiction over the administration and consummation of this Settlement to the United States District Court for the Western District of Missouri; and

(e) determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing entry of final judgment as to NextHome.

27. This Settlement Agreement will become Effective only after the occurrence of all conditions set forth above in the definition of the Effective Date.

**D. Releases, Discharge, and Covenant Not to Sue**

28. Upon the occurrence of the Effective Date, the Releasing Parties expressly and irrevocably waive, and fully, finally, and forever settle, discharge, and release the Released Parties from, any and all manner of claims, demands, actions, suits, and causes of Actions, whether

individual, class, representative, or otherwise in nature, for damages, restitution, disgorgement, interest, costs, expenses, attorneys' fees, fines, civil or other penalties, or other payment of money, or for injunctive, declaratory, or other equitable relief, whenever incurred, whether directly, indirectly, derivatively, or otherwise, whether known or unknown, suspected or unsuspected, in law or in equity, that any Releasing Party ever had, now has, or hereafter can, shall, or may have and that have accrued as of the date of preliminary approval of the Settlement arising from or related to the Released Claims. The Released Claims include but are not limited to the antitrust and consumer protection claims brought in the Actions and similar state and federal statutes. In connection therewith, upon the Effective Date of Settlement, each of the Releasing Parties (i) shall forever be enjoined from prosecuting in any forum any Released Claims against any of the Released Parties that accrued from the beginning of time through the date of preliminary approval of the Settlement; and (ii) agrees and covenants not to sue any of the Released Parties with respect to any Released Claims. For avoidance of doubt, this release extends to, but only to, the fullest extent permitted by law.

29. The Releasing Parties may hereafter discover facts other than or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims. Nevertheless, the Releasing Parties expressly, fully, finally, and forever settle and release, and, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal shall have, fully, finally, and forever settled and released, any and all Released Claims, without regard to the subsequent discovery or existence of such other, different, or additional facts, as well as any and all rights and benefits existing under (i) Cal. Civ. 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.

or any equivalent, similar or comparable present or future law or principle of law of any jurisdiction, including but not limited to Section 20-7-11 of the South Dakota Codified Laws, which provides that “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR;” or (ii) any law or principle of law of any jurisdiction that would limit or restrict the effect or scope of the provisions of the release set forth above, without regard to the subsequent discovery or existence of such other, different, or additional facts. The Releasing Parties acknowledge that the inclusion of unknown claims in the definition of Released Claims was separately bargained for and was a material element of the Agreement.

30. The Releasing Parties intend by this Settlement Agreement to settle with and release only the Released Parties, and the Settling Parties do not intend this Settlement Agreement, or any part hereof, or any other aspect of the proposed Settlement or release, to release or otherwise affect in any way any claims concerning product liability, breach of warranty, breach of contract or tort of any kind (other than a breach of contract or tort based on any factual predicate in this Actions), a claim arising out of violation of the Uniform Commercial Code, or personal or bodily injury. The release does not extend to any individual claims that a class member may have against his or her own broker or agent based on a breach of contract, breach of fiduciary duty, malpractice, negligence or other tort claim, other than a claim that a class member paid an excessive commission or home price

due to the claims at issue in this Actions.

**E. Payment of the Settlement Amount**

31. Plaintiffs will open a special interest-bearing settlement escrow account or accounts, established for that purpose as a qualified settlement fund as defined in Section 1.468B-1(a) of the U.S. Treasury Regulations (the “Escrow Account”). By October 14, 2024, NextHome will deposit \$120,000 into the qualified settlement fund. By September 30, 2025, NextHome will deposit an additional \$120,000 into the qualified settlement fund. By September 30, 2026, NextHome will deposit an additional \$120,000 into the qualified settlement fund. By September 30, 2027, NextHome will deposit an additional \$120,000 into the qualified settlement fund. By May 30, 2028, NextHome will deposit the final \$120,000 into the qualified settlement fund. All accrued interest shall be for the benefit of the plaintiff classes unless the Settlement is not approved, in which case the interest shall be for the benefit of NextHome.

**F. The Settlement Fund**

32. The Total Monetary Settlement Amount and any interest earned thereon shall be held in the Escrow Account and constitute the “Settlement Fund.” The full and complete cost of the settlement notice, claims administration, Settlement Class Members’ compensation, current and former class representatives’ incentive awards, attorneys’ fees and reimbursement of all actual expenses of the Actions, any other litigation costs of Plaintiffs (all as approved by the Court), and all applicable taxes, if any, assessable on the Settlement Fund or any portion thereof, will be paid out of the Settlement Fund. In no event will NextHome’s monetary liability with respect to the Settlement exceed the Total Monetary Settlement Amount.

33. The Settling Parties and their counsel will not have any responsibility, financial obligation, or liability for any fees, costs, or expenses related to providing notice to the Settlement Class or administering the settlement except as provided in Paragraph 52. Such fees, costs, or

expenses shall be paid solely from the Settlement Fund with Court approval. The balance of the Settlement Fund shall be disbursed to Settlement Class Members as provided in a Plan of Allocation (as defined below) approved by the Court. The Settling Parties shall have the right to audit amounts paid from the Settlement Fund.

34. After preliminary approval of the Settlement and approval of a class notice plan, Co-Lead Counsel may utilize a portion of the Settlement Fund to provide notice of the Settlement to potential members of the Settlement Class. NextHome will not object to Plaintiffs' counsel withdrawing from the Settlement Fund, subject to any necessary Court approval, up to \$200,000 to pay the costs for notice. If Plaintiffs settle with one (or more) Non-NextHome Corporate Defendants and notice of one or more other settlements is included in the notice of the NextHome settlement, then the cost of such notice will be apportioned equitably between (or among) the NextHome Settlement Fund and the other settling Defendant(s)' settlement funds. The amount spent or accrued for notice and notice administration costs is not refundable to NextHome in the event the Settlement Agreement is disapproved, rescinded, or otherwise fails to become Effective.

35. Subject to Co-Lead Counsel's sole discretion as to timing, except that the timing must be consistent with rules requiring that Settlement Class Members be given the opportunity to review fee applications, Co-Lead Counsel may apply to the Court for a fee award, plus expenses, and costs incurred, and current and former class representative service awards to be paid out of the Settlement Fund. Within 14 business days after any order by the Court awarding attorneys' fees, expenses, or class representative incentive awards, the escrow agent for the Settlement Fund shall pay any approved attorneys' fees, expenses, costs, and class representative service award by wire transfer as directed by Co-Lead Counsel in accordance with and attaching the Court's Order, provided that each Co-Lead Counsel receiving payment signs an assurance, in the form attached hereto as Appendix A,

attesting that they will repay all awarded amounts if this Settlement Agreement does not become Effective.

36. The Settlement Fund will be invested in United States Government Treasury obligations or United States Treasury money market funds.

37. NextHome will not have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, use, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such investment, distribution, use or administration except as expressly otherwise provided in this Settlement Agreement. NextHome's only payment obligation is to pay the Total Monetary Settlement Amount.

38. There will be no reduction of the Total Monetary Settlement Amount based on Opt-Out Sellers. The Settlement will be non-reversionary except as set forth below in Section H. If the Settlement becomes Effective, no proceeds from the Settlement will revert to NextHome regardless of the claims that are made.

39. No disbursements shall be made from the Settlement Fund prior to the Effective Date of this Settlement Agreement except as described in Paragraphs 34 and 35 above and 42 below.

40. The distribution of the Settlement Fund shall be administered pursuant to a plan of allocation (the "Plan of Allocation") proposed by Co-Lead Counsel in their sole and absolute discretion and subject to the approval of the Court. NextHome will have no participatory or approval rights with respect to the Plan of Allocation. It is understood and agreed by the Settling Parties that any proposed Plan of Allocation, including, but not limited to, any adjustments to an authorized claimant's claim, is completely independent of and is not a part of this Settlement Agreement and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement. The Settlement Class, Plaintiffs, and NextHome shall be bound by the terms of the Settlement Agreement, irrespective of whether the



Court or any other court, including on any appeal, disapproves or modifies the Plan of Allocation, and any modification or rejection of the Plan of Allocation shall not affect the validity or enforceability of this Settlement Agreement or otherwise operate to terminate, modify, or cancel that Agreement.

41. The Releasing Parties will look solely to the Settlement Fund for settlement and satisfaction against the Released Parties of all Released Claims and shall have no other recovery against NextHome or the Released Parties.

**G. Taxes**

42. Co-Lead Counsel is solely responsible for filing all informational and other tax returns necessary to report any net taxable income earned by the Settlement Fund and shall file all informational and other tax returns necessary to report any income earned by the Settlement Fund and shall be solely responsible for taking out of the Settlement Fund, as and when legally required, any tax payments, including interest and penalties due on income earned by the Settlement Fund. All taxes (including any interest and penalties) due with respect to the income earned by the Settlement Fund shall be paid from the Settlement Fund. NextHome has no responsibility to make any filings relating to the Settlement Fund and will have no responsibility to pay tax on any income earned by the Settlement Fund or to pay any taxes on the Settlement Fund unless the Settlement does not become Effective and the Settlement Fund is returned to NextHome. In the event the Settlement does not become Effective and any funds including interest or other income are returned to NextHome, NextHome will be responsible for the payment of all taxes (including any interest or penalties), if any, on said interest or other income. NextHome makes no representations regarding, and will not be responsible for, the tax consequences of any payments made pursuant to this Settlement Agreement to Co-Lead Counsel or to any Settlement Class Member.

**H. Rescission**

43. If the Court does not certify the Settlement Class as defined in this Settlement Agreement, or if the Court does not approve this Settlement Agreement in all material respects, or if such approval is modified in or set aside on appeal in any material respects, or if the Court does not enter final approval, or if any judgment approving this Settlement Agreement is materially modified or set aside on appeal, or if all of the conditions for the Effective Date do not occur, then this Settlement Agreement may be rescinded by NextHome or by Plaintiffs on behalf of the Settlement Class by written notice to the Court and to counsel for the other Settling Party filed and served within 10 business days of the entry of an order not granting court approval or having the effect of disapproving or materially modifying the terms of this Settlement Agreement. A modification or reversal on appeal of any amount of the Settlement Fund that the Court authorizes to be used to pay Plaintiffs' fees or litigation expenses shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or such final judgment order.

44. If the Settlement or Settlement Agreement is rescinded for any reason, then the balance of the Total Monetary Settlement Amount in the Settlement Fund will be returned to NextHome. In the event that the Settlement Agreement is rescinded, the funds already expended from the Settlement Fund for the costs of notice and administration will not be returned to NextHome. Funds to cover notice and administration expenses that have been incurred but not yet paid from the Settlement Fund will also not be returned to NextHome.

45. If the Settlement or Settlement Agreement is rescinded for any valid reason before payment of claims to Settlement Class Members, then the Settling Parties will be restored to their respective positions in the Actions as of September 1, 2024. Plaintiffs and NextHome agree that any rulings or judgments that occur in the Actions on or after September 1, 2024 and before this Settlement Agreement is rescinded will not bind Plaintiffs, NextHome or any of the Released Parties. Plaintiffs and NextHome agree to waive any argument of claim or issue preclusion against Plaintiffs

or NextHome arising from such rulings or judgments. In the event of rescission, the Actions will proceed as if this Settlement Agreement had never been executed and this Settlement Agreement, and representations made in conjunction with this Settlement Agreement, may not be used in the Actions or otherwise for any purpose. NextHome and Plaintiffs expressly reserve all rights if the Settlement Agreement does not become Effective or if it is rescinded by NextHome or the Plaintiffs. The Settling Parties agree that pending deadlines for motions not yet filed, and all deadlines (whether pending or past) for motions that will be withdrawn pursuant to this Settlement Agreement, shall be tolled for the period from September 1, 2024, until the date this Settlement or Settlement Agreement is rescinded, and no Settling Party shall contend that filing or renewal of such motions was rendered untimely by or was waived by the operation of this Settlement Agreement.

46. NextHome warrants and represents that it is not “insolvent” within the meaning of applicable bankruptcy laws as of the Execution Date, and, will warrant and represent, that it is not “insolvent” within the meaning of applicable bankruptcy laws at the time that payments of the Settlement Amount are actually transferred or made. In the event of a final order of a court of competent jurisdiction, not subject to any further proceedings, determining the transfer of the Settlement Amount, or any portion thereof, by or on behalf of NextHome to be a preference, voidable transfer, fraudulent transfer or similar transaction under Title 11 of the U.S. Code (Bankruptcy) or applicable state law and any portion thereof is required to be refunded and such amount is not promptly deposited in the Escrow Account by or on behalf of NextHome, then, at the election of Plaintiff counsel, the settlement may be terminated and the releases given and the judgment entered pursuant to the Settlement shall be null and void.

47. The Settling Parties’ rights to terminate this Settlement Agreement and withdraw from this Settlement Agreement are a material term of this Settlement Agreement.

48. NextHome reserves all of its legal rights and defenses with respect to any claims brought by potential Opt-Out Sellers.

### **I. Practice Changes**

49. As soon as practicable, and in no event later than six months after the Effective Date, NextHome (defined for purposes of this paragraph to include present and future, direct and indirect corporate subsidiaries, related entities and affiliates, predecessors, and successors but not franchisees) will implement, or, to the extent already implemented, will maintain the following practice changes:

- i. advise and periodically remind NextHome's company-owned brokerages, franchisees (if any), and their agents that there is no NextHome requirement that they must make offers to or must accept offers of compensation from buyer brokers or other buyer representatives or that, if made, such offers must be blanket, unconditional, or unilateral;
- ii. require that any NextHome company-owned brokerages and their agents (and recommend and encourage that any NextHome franchisees and their agents) disclose to prospective home sellers and buyers and state in conspicuous language that broker commissions are not set by law and are fully negotiable (i) in their listing agreement if it is not a government or MLS-specified form, (ii) in their buyer representation agreement if there is one and it is not a government or MLS-specified form, and (iii) in pre-closing disclosure documents if there are any and they are not government or MLS-specified forms. In the event that the listing agreement, buyer representation agreement, or pre-closing disclosure documents is a government or MLS-specified form, then NextHome will require that any company-owned brokerages and their agents (and recommend and encourage that

- any NextHome franchisees and their agents) include a disclosure with conspicuous language expressly stating that broker commissions are not set by law and are fully negotiable;
- iii. prohibit all NextHome company-owned brokerages and their agents acting as buyer representatives (and recommend and encourage that NextHome franchisees and their agents acting as buyer representatives refrain) from advertising or otherwise representing that their services are free;
  - iv. require that NextHome owned brokerages and their agents disclose to their clients at the earliest moment possible any offer of compensation made in connection with each home marketed to prospective buyers in any format;
  - v. prohibit NextHome owned brokerages and their agents (and recommend and encourage that any NextHome franchisees and their agents refrain) from utilizing any technology or taking manual actions to filter out or restrict listings that are searchable by and displayed to consumers based on the level of compensation offered to any cooperating broker, unless directed to do so by the client (and eliminate any internal systems or technological processes that may currently facilitate such practices);
  - vi. advise and periodically remind NextHome company owned brokerages and their agents of their obligation to (and recommend and encourage that any NextHome franchisees and their agents) show properties regardless of the existence or amount of compensation offered to buyer brokers or other buyer representatives provided that each such property meets the buyer's articulated purchasing priorities;
  - vii. for each of the above points, for company owned brokerages, franchisees, and

their agents, develop training materials consistent with the above relief and eliminate any contrary training materials currently used.

50. If not automatically terminated earlier by their own terms, the obligations set forth in Paragraph 49 will sunset 5 years after the Effective Date.

51. NextHome acknowledges that the practice changes set forth here are a material component of this Settlement Agreement and agrees to use its best efforts to implement, or, to the extent already implemented, to maintain the practices specified in this Section.

**J. Cooperation**

52. NextHome (defined for purposes of this paragraph to include present and future, direct and indirect corporate subsidiaries, related entities and affiliates, predecessors, and successors but not franchisees) will provide valuable cooperation to Plaintiffs as follows in the Actions, including to the extent that it is consolidated in an MDL, including but not limited to the following. Any disputes regarding the scope of these provisions or compliance with these provisions can be referred to Greg Lindstrom or another mediator, mutually chosen by the parties, for binding resolution.

- i. NextHome will use reasonable best efforts to produce relevant summary-level, companywide transactional data limited to the class period. This data will be aggregated on a quarterly basis and will provide transactional volume, transactional value, and commissions paid on a state by state basis. The data will be sufficient to show volume of commerce and the average commission percentage. The data will be produced at a similar time to when other Defendants produce transactional data in *Gibson* and *Umpa*.
- ii. NextHome will produce documents sufficient to show its and its officers, employees, and agents' membership and participation in NAR, that it was subject to, and whether NextHome complied with the challenged NAR rules during the

class period, including whether and how NextHome accepted, adopted and implemented the challenged NAR rules.

- iii. NextHome will provide up to seven hours of 30(b)(6) testimony and up to seven hours of 30(b)(1) testimony across no more than two 30(b)(1) witnesses. The time only includes Plaintiff questioning and does not include questioning by any other party. NextHome will make one, mutually agreed upon, witness available at trial, as necessary, and provide access via counsel to that witness prior to trial testimony for up to two (2) hours.
- iv. NextHome will use reasonable best efforts to authenticate documents and/or things produced by it in the Actions where the facts indicate that the documents and/or things at issue are authentic, by declarations or affidavits if possible, or at hearings or trial if necessary;
- v. NextHome will use reasonable best efforts to provide the facts, assuming they are true, necessary to establish that documents and/or things produced by it in the Actions are “business records,” a present sense impression, an excited utterance, a recorded recollection, or are otherwise admissible under the Federal Rules of Evidence, by declarations or affidavits if possible, or at hearings or trial if necessary;
- vi. NextHome will use reasonable best efforts at its expense to provide relevant class member and listing data and answer questions about that data to support the provision of class notice, administration of any settlements, or the litigation of the Actions;

- vii. if another Defendant includes a witness on a witness list who is then a current officer or employee of NextHome or its subsidiaries, NextHome will cooperate in providing access via counsel to that witness prior to trial testimony;
- viii. NextHome agrees not to provide greater assistance in discovery or trial to any defendant than to the Plaintiffs, unless required by subpoena or other compulsory process.

53. NextHome's cooperation obligations, as set forth in Paragraph 52, shall not require the production of information, testimony, and/or documents that are protected from disclosure by the attorney-client privilege, work product doctrine, joint defense privilege, or any other applicable privilege or doctrine.

54. NextHome's obligation to cooperate will not be affected by the release set forth in this Settlement Agreement or the final judgment orders with respect to NextHome. Unless this Settlement Agreement is rescinded, disapproved, or otherwise fails to become Effective, the obligation to cooperate as set forth here will continue until the date that final judgment has been entered in the Actions against the non-NextHome Defendants and the time for appeal or to seek permission to appeal from the entry of a final judgment has expired or, if appealed, any final judgment has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review.

55. NextHome acknowledges that the cooperation set forth here is a material component of this Settlement Agreement and agrees to use its reasonable best efforts to provide the cooperation specified in this Section.

**K. Miscellaneous**

56. This Settlement Agreement and any Actions taken to carry out the Settlement are not intended to be, nor may they be deemed or construed to be, an admission or concession of liability,



or of the validity of any claim, defense, or point of fact or law on the part of any party. NextHome denies the material allegations of the complaints in the Actions. Neither this Settlement Agreement, nor the fact of Settlement, nor settlement proceedings, nor the settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by NextHome, or be offered in evidence as an admission, concession, presumption, or inference of any wrongdoing by NextHome in any proceeding.

57. This Settlement Agreement was reached with the assistance of counsel after arm's-length negotiations. The Settling Parties reached the Settlement Agreement after considering the risks and costs of litigation. The Settling Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. The terms of the settlement must be kept strictly confidential until a motion for preliminary approval is filed—except as necessary for NextHome to meet its financial reporting obligations and as required by law.

58. Any disputes relating to this Settlement Agreement will be governed by Missouri law without regard to conflicts of law provisions.

59. This Settlement Agreement does not settle or compromise any claim by Plaintiffs or any other Settlement Class Member against (a) any Non-NextHome Defendant or (b) any alleged co-conspirator or other person or entity other than the Released Parties. All rights of any Settlement Class Member against any Non-NextHome Defendant or an alleged co-conspirator or other person or entity other than the Released Parties are specifically reserved by Plaintiffs and the other Settlement Class Members.

60. This Settlement Agreement constitutes the entire agreement among Plaintiffs and NextHome pertaining to the Settlement of the Actions against NextHome. This Settlement Agreement may be modified or amended only by a writing executed by Plaintiffs and NextHome.

61. This Settlement Agreement may be executed in counterparts by Plaintiffs and NextHome, and a facsimile or pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

62. Neither Plaintiffs nor NextHome shall be considered the drafter of this Settlement Agreement or any of its provisions for the purpose of any statute, the common law, or rule of interpretation that would or might cause any provision of this Settlement Agreement to be construed against the drafter.

63. The provisions of this Settlement Agreement shall, where possible, be interpreted in a manner to sustain their legality and enforceability.

64. The Court shall retain jurisdiction over the implementation and enforcement of this Settlement Agreement and the Settlement.

65. The terms of the Settlement Agreement are and shall be binding upon and inure to the benefit of, to the fullest extent possible, each of the Releasing Parties and the Released Parties, and upon all other Persons claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, Released Parties, and any Settlement Class Members.

66. Any disputes between NextHome and Co-Lead Counsel concerning this Settlement Agreement shall, if they cannot be resolved by the Settling Parties, be presented to Greg Lindstrom or another mediator agreed to by the Parties for assistance in mediating a resolution.

67. Each Settling Party acknowledges that he, she or it has been and is being fully advised by competent legal counsel of such Settling Party's own choice and fully understands the terms and conditions of this Settlement Agreement, and the meaning and import thereof, and that such Settling Party's execution of this Settlement Agreement is with the advice of such Settling Party's counsel and of such Settling Party's own free will. Each Settling Party represents and warrants that it has sufficient information regarding the transaction and the other parties to reach an informed decision

and has, independently and without relying upon the other parties, and based on such information as it has deemed appropriate, made its own decision to enter into this Settlement Agreement and was not fraudulently or otherwise wrongfully induced to enter into this Settlement Agreement.

68. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.

CO-LEAD COUNSEL



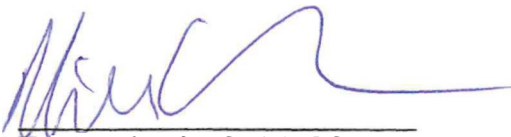
Hagens Berman Sobol Shapiro LLP



Cohen Milstein Sellers & Toll PLLC



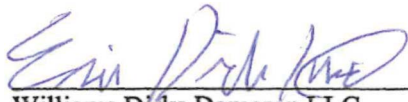
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Ketchmark & McCreight PC

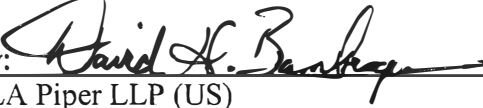


Boulware Law LLC



Williams Dirks Dameron LLC

NextHome Inc.

By:   
DLA Piper LLP (US)

**APPENDIX A**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN MEINERS, and  
DANIEL UMPA, individually and on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, et. al.

Defendants.

Case No. 4:23-CV-788-SRB

[Consolidated with  
4:23-cv-00945-SRB]

Hon. Stephen R. Bough

Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa (“Plaintiffs”) and Defendant NextHome, Inc. (“NextHome”) (collectively, “the Parties”), by and through and including their undersigned counsel, stipulate and agree as follows:

WHEREAS, each firm defined in the Settlement Agreement as Co-Lead Counsel desires to give an undertaking (the “Undertaking”) for repayment of the award of attorneys’ fees, costs, and expenses approved by the Court, and

WHEREAS, the Parties agree that this Undertaking is in the interests of all Parties and in service of judicial economy and efficiency.

NOW, THEREFORE, the undersigned counsel, individually and as agent for his/her law firm, hereby submits both to the jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, Co-Lead Counsel and their shareholders, members, and/or partners submit to the jurisdiction of the United States District Court for the Western District of Missouri for the enforcement of and any and all disputes relating to or arising out of the reimbursement obligation set forth herein and the Settlement Agreement.

In the event that the Settlement Agreement does not receive final approval or any part of the final approval is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, Co-Lead Counsel shall, within thirty (30) days repay to NextHome, based upon written instructions provided by NextHome, the full amount of the attorneys' fees and costs paid to Co-Lead Counsel from the Settlement Fund, including any accrued interest.

In the event the Settlement Agreement becomes Effective, but the attorneys' fees, costs, and expenses awarded by the Court or any part of them are vacated, overturned, modified, reversed, or rendered void as a result of an appeal, Co-Lead Counsel shall within thirty (30) days repay to the Settlement Fund, based upon written instructions provided by the settlement administrator, the attorneys' fees and costs paid to Co-Lead Counsel from the Settlement Fund in the amount vacated or modified, including any accrued interest.

This Undertaking and all obligations set forth herein shall expire upon finality of all appeals of the final settlement order and judgment pertaining to attorneys' fees, such that the finality of those fees no longer remains in doubt.

In the event Co-Lead Counsel fails to repay to NextHome any of attorneys' fees and costs that are owed to it pursuant to this Undertaking, the Court shall, upon application of NextHome, and

notice to Co-Lead Counsel, summarily issue orders, including but not limited to judgments and attachment orders against Co-Lead Counsel.

The undersigned stipulate, warrant, and represent that they have both actual and apparent authority to enter into this stipulation, agreement, and undertaking on behalf of each firm identified as Co-Lead Counsel. This agreement will only be effective upon its execution by each firm identified in the Settlement Agreement as Co-Lead Counsel.


Co-Lead Counsel acknowledge that this Undertaking is a material component of the Settlement Agreement and agree to use its reasonable efforts to timely effect the terms specified in this Undertaking. Each undersigned warrants and represents that it is not “insolvent” within the meaning of applicable bankruptcy laws as of the time this Undertaking is executed.

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

Signatures by facsimile shall be as effective as original signatures.

The undersigned declare under penalty of perjury under the laws of the United States and the State of Missouri that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:



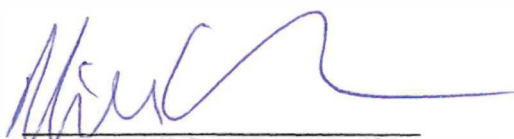
Hagens Berman Sobol Shapiro LLP



Cohen Milstein Sellers & Toll PLLC



Susman Godfrey LLP



Ketchmark & McCreight PC



Boulware Law LLC



Williams Dirks Dameron LLC



DLA Piper LLP (US)



# **EXHIBIT B**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN MEINERS, and  
DANIEL UMPA, individually and on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, et. al.

Defendants.

Case No. 23-CV-788-SRB

[Consolidated with  
4:23-cv-00945-SRB]

Hon. Stephen R. Bough

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Settlement Agreement”) is made and entered into this 25th day of September, 2024 (the “Execution Date”), by and between Defendants The Keyes Company and Illustrated Properties, LLC (collectively, “Keyes”), and Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa, (collectively “Plaintiffs”), who filed suit in the above captioned actions (now consolidated) both individually and as representatives of one or more classes of home sellers. Plaintiffs enter this Settlement Agreement both individually and on behalf of the Settlement Class, as defined below.

WHEREAS, in the Actions Plaintiffs allege that Keyes participated in a conspiracy to raise, fix, maintain, or stabilize real estate commissions in violation of Section 1 of the Sherman Act and corresponding state laws;

WHEREAS, Keyes denies Plaintiffs’ allegations in the Actions and has asserted defenses to Plaintiffs’ claims;

WHEREAS, extensive arm’s-length settlement negotiations have taken place between Plaintiffs’ Co-Lead Counsel and counsel for Keyes, including mediation with a nationally recognized and highly experienced mediator, leading to this Settlement Agreement;

WHEREAS, the Actions will continue against the Non-Keyes Defendants unless Plaintiffs separately settle with any of the Non-Keyes Defendants;

WHEREAS, Plaintiffs have conducted an extensive investigation into the facts and the law regarding the claims asserted in the Actions, and have concluded that a settlement with Keyes according to the terms set forth below is fair, reasonable, and adequate and in the best interest of Plaintiffs and the Settlement Class;

WHEREAS, Keyes believes that it is not liable for the claims asserted and has good defenses to Plaintiffs’ claims and meritorious pre-trial and post-trial motions, but nevertheless has

decided to enter into this Settlement Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, to obtain the nationwide releases, orders, and judgment contemplated by this Settlement Agreement, and to put to rest with finality all claims that Plaintiffs and Settlement Class Members have or could have asserted against the Released Parties, as defined below; and

WHEREAS, Keyes, in addition to any settlement payments set forth below, has agreed to cooperate with Plaintiffs and to implement certain practice changes, each as set forth in this Settlement Agreement.

NOW, THEREFORE, in consideration of the agreements and releases set forth herein and other good and valuable consideration, and intending to be legally bound, it is agreed by and between Keyes and the Plaintiffs that the Actions be settled, compromised, and dismissed with prejudice as to Keyes only, without costs to Plaintiffs, the Settlement Class or Keyes except as provided for herein, subject to the approval of the Court, on the following terms and conditions:

**A. Definitions**

The following terms, as used in this Settlement Agreement, have the following meanings:

1. “Actions” means Gibson v. NAR, (W.D. Mo. Case No. 23-CV-788-SRB) and Umpa v. NAR, (W.D. Mo. Case No. 23-CV-945-SRB), which have been consolidated.
2. “Corporate Defendants” means any defendant aside from the National Association of Realtors (“NAR”) named in Gibson, Umpa, Burnett v. NAR, (W.D. Mo. Case No. 19-CV-0332-SRB) (“Burnett”), or Moehrl v. NAR, (N.D. Ill. Case No. 1:19-cv-01610).
3. “Co-Lead Counsel” means the following law firms:

KETCHMARK AND MCCREIGHT P.C.  
11161 Overbrook Road, Suite 210  
Leawood, KS 66211

BOULWARE LAW LLC  
1600 Genessee, Suite 416  
Kansas City, MO 64102

WILLIAMS DIRKS DAMERON LLC  
1100 Main Street, Suite 2600  
Kansas City, MO 64105

HAGENS BERMAN SOBOL SHAPIRO LLP  
1301 Second Avenue, Suite 2000  
Seattle, WA 98101

COHEN MILSTEIN SELLERS & TOLL PLLC  
1100 New York Ave. NW, Fifth Floor  
Washington, DC 20005

SUSMAN GODFREY LLP  
1201 Third Avenue, Suite 3800  
Seattle, Washington 98101

4. “Court” means the U.S. District Court for the Western District of Missouri.
5. “Defendants” means all defendants named in either Gibson and Umpa.
6. “Effective” means that all conditions set forth below in the definition of “Effective Date” have occurred.
7. “Effective Date” means the date when: (a) the Court has entered a final judgment order approving the Settlement set forth in this Settlement Agreement under Rule 23(e) of the Federal Rules of Civil Procedure and a final judgment dismissing the Actions against Keyes with prejudice has been entered; and (b) the time for appeal or to seek permission to appeal from the Court’s approval of the Settlement and the entry of a final judgment has expired or, if appealed, approval of the Settlement and the final judgment have been affirmed in their entirety by the Court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review; excluding, however, any appeal or other proceedings unrelated to this Settlement Agreement initiated by any Non-Keyes Defendant or any person or entity related to the Non-Keyes Defendant, and any such appeal or other proceedings shall not delay the Settlement

Agreement from becoming final and shall not apply to this section; nor shall this section be construed as an admission that such parties have standing or other rights of objection or appeal with respect to this Settlement. It is agreed that neither the provisions of Federal Rule of Civil Procedure 60 nor the All Writs Act, 28 U.S.C. § 1651, shall be considered in determining the above-stated times.

8. “Gibson” means the now consolidated Western District of Missouri Case No. 23-cv-788-SRB, which is currently pending.

9. “Opt-Out Sellers” means members of the Settlement Class who have timely exercised their rights to be excluded from the Settlement Class or have otherwise obtained Court approval to exercise such rights.

10. “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity, and such individual’s or entity’s spouse, heirs, predecessors, successors, representatives, affiliates and assignees. For the avoidance of doubt, Persons include all real estate brokerages.

11. “Released Claims” means any and all manner of federal and state claims regardless of the cause of action arising from or relating to conduct that was alleged or could have been alleged in the Actions based on any or all of the same factual predicates for the claims alleged in the Actions, including but not limited to commissions negotiated, offered, obtained, or paid to brokerages in connection with the sale of any residential home.

12. “Released Parties” means Keyes and all of its respective past, present and future, direct and indirect corporate parents (including holding companies), individual owners, subsidiaries, related entities and affiliates, associates (all as defined in SEC Rule 12b-2

promulgated pursuant to the Securities Exchange Act of 1934), predecessors, and successors, and all of their respective franchisees, franchisors, sub-franchisors, officers, directors, managing directors, members, managers, employees, agents, brokers, contractors, independent contractors, attorneys, legal or other representatives, accountants, auditors, experts, trustees, trusts, heirs, beneficiaries, estates, executors, administrators, insurers, and assigns, and all of the franchisees' and sub-franchisors' officers, directors, managing directors, members, managers, employees, agents, and independent contractors. Notwithstanding this definition, "Released Parties" shall not include the Non-Keyes Corporate Defendants not included within the preceding definition, or their past, present and future, direct and indirect corporate parents (including holding companies), subsidiaries, related entities and affiliates, associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), predecessors, and successors, and all of their respective franchisees, officers, directors, managing directors, members, managers, employees, agents, contractors, independent contractors, attorneys, legal or other representatives, accountants, auditors, experts, trustees, trusts, heirs, beneficiaries, estates, executors, administrators, insurers, and assigns. For the avoidance of doubt, individuals who were members of the National Association of Realtors are not thereby excluded from being Released Parties, and entities and individuals that were sometimes associated with the Released Parties and other times associated with a different Corporate Defendant are included as Released Parties for the periods of time they were associated with the Released Parties and excluded for the periods of time they were associated with a different Corporate Defendant. For the avoidance of doubt, the foregoing release is not intended to and does not release Keyes or any other Person for any claims based on the conduct of any real estate brokerage acquired by Keyes or any other Person that becomes

affiliated with Keyes after the Execution Date for conduct which took place before the Execution Date.

13. “Releasing Parties” means Plaintiffs and any Settlement Class Members (including any of their immediate family members, heirs, representatives, administrators, executors, devisees, legatees, and estates, acting in their capacity as such; and for entities including any of their past, present or future officers, directors, insurers, general or limited partners, members, managers, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors and assigns, acting in their capacity as such solely with respect to the claims based on or derived from claims of the Plaintiffs or Settlement Class Members).

14. “Settlement” means the settlement of the Actions contemplated by this Settlement Agreement.

15. “Settlement Class” means the class of persons that will be certified by the Court for settlement purposes only, namely, all persons who sold a home that was listed on a multiple listing service anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home in the following date ranges: (i) homes in Arkansas, Kentucky, and Missouri: October 31, 2018 to the date of class notice; (ii) homes in Alabama, Georgia, Indiana, Maine, Michigan, Minnesota, New Jersey, Pennsylvania, Tennessee, Vermont, Wisconsin, and Wyoming: October 31, 2017 to the date of class notice; and (iii) for all other homes: October 31, 2019 to the date of Class Notice. For the avoidance of doubt, Plaintiffs and Keyes intend this Settlement Agreement to provide for and the Settlement Class Definition to encompass a nationwide class with a nationwide settlement and release, including, but not limited to, all persons who sold a home nationwide that was listed on any and all non-NAR multiple listing



services, which shall include, but are not limited to, transactions listed on any multiple listing service owned, operated, or governed by, or affiliated with, the Florida Association of Realtors (or its regional and local associations), and transactions associated with the Real Estate Board of New York (“REBNY”) and/or on the REBNY Residential Listing Service (“RLS”). Such release is intended to apply to all related cases in which a Keyes entity is a party defendant or may be a party defendant.

16. “Settlement Class Member” means a member of the Settlement Class who does not file a valid request for exclusion from the Settlement Class.

17. “Settling Parties” means Plaintiffs and Keyes.

18. “Total Monetary Settlement Amount” means payment of \$2.4 million (Two Million Four Hundred Thousand Dollars) in United States currency. All costs of settlement, including all payments to class members, all attorneys’ fees and costs, all service awards to current and former class representatives, and all costs of notice and administration, will be paid out of the Total Monetary Settlement Amount, and Keyes will pay nothing apart from the Total Monetary Settlement Amount.

19. “Umpa” means Western District of Missouri Case No. 23-cv-00945, which has now been consolidated with Gibson.

**B. Stipulation to Class Certification**

20. The Settling Parties hereby stipulate for purposes of this Settlement only that the requirements of Federal Rules of Civil Procedure 23(a), 23(b)(2), and 23(b)(3) are satisfied and, subject to Court approval, the Settlement Class shall be certified for settlement purposes as to Keyes. The Settling Parties stipulate and agree to the conditional certification of the Settlement Class for purposes of this Settlement only. Should, for whatever reason, the Settlement not become

Effective, the Settling Parties' stipulation to class certification as part of the Settlement shall become null and void.

21. Neither this Settlement Agreement, nor any statement, transaction, or proceeding in connection with the negotiation, execution, or implementation of this Settlement Agreement should be intended to be, construed as, or deemed to be evidence of an admission or concession by Keyes that a class should be or should have been certified for any purposes other than settlement, and none of them shall be admissible in evidence for any such purpose in any proceeding.

**C. Approval of this Settlement Agreement and Dismissal of the Actions**

22. The Settling Parties agree to make reasonable best efforts to effectuate this Settlement Agreement, including, but not limited to, seeking the Court's approval of procedures (including the giving of class notice under Federal Rules of Civil Procedure 23(c) and (e)); scheduling a final fairness hearing to obtain final approval of the Settlement and the final dismissal with prejudice of the Actions as to Keyes; and Keyes's cooperation by providing information reflecting its ability to pay limitations and, if requested by Co-Lead Counsel, a declaration describing and attesting to those limitations.

23. Plaintiffs will submit to the Court a motion requesting that the Court preliminarily approve the Settlement (the "Motion"). Plaintiffs shall file the Motion within 30 days of the Execution Date, and endeavor to timely seek a hearing on the Motion for preliminary approval no later than November 1, 2024. The Motion shall include a proposed form of order preliminarily approving the Settlement and enjoining Releasing Parties from prosecuting any Released Claims in any forum until the Effective Date of this Settlement. The proposed form of the preliminary approval order shall be acceptable to Keyes provided that it is substantially in the form of the orders proposed in connection with the Compass and Douglas Elliman settlements in Gibson. At

least 48 hours before submission to the Court, the papers in support of the Motion for preliminary approval shall be provided by Co-Lead Counsel to Keyes for its review. To the extent that Keyes objects to any aspect of the Motion, it shall communicate such objection to Co-Lead Counsel and the Settling Parties shall meet and confer to resolve any such objection. The Settling Parties shall take all reasonable actions as may be necessary to obtain preliminary approval of the Settlement. To the extent the Court finds that the Settlement does not meet the standard for preliminary approval, the Settling Parties will negotiate in good faith to modify the Settlement Agreement directly or with the assistance of mediator Jay Daugherty and will endeavor to resolve any issues to the satisfaction of the Court.

24. The Settling Parties agree that Plaintiffs may at their sole discretion: (i) seek to include notice of this Settlement to the Settlement Class and for claim administration along with the settlement with the National Association of Realtors or any other Defendant or (ii) seek approval of a separate plan for providing class notice of this Settlement in a manner that meets the requirements of due process and Federal Rule of Civil Procedure 23 (“Class Notice”). Plaintiffs will provide Keyes with the form of notice that they decide upon. To the extent that Keyes has any comments, it should provide them within 24 hours of receiving the form of notice. The Settling Parties agree to the use of JND as a claims and notice administrator. The timing of any request to disseminate Class Notice to the Settlement Class will be at the discretion of Co-Lead Counsel.

25. Within ten (10) calendar days after the filing with the Court of this Settlement Agreement and the accompanying motion papers seeking its preliminary approval, JND, the notice administrator, shall at Keyes’s expense to be credited against and not to exceed \$200,000 cause notice of the Settlement Agreement to be served upon appropriate State and Federal officials as provided in the Class Action Fairness Act, 28 U.S.C. § 1715.

26. If the Settlement is preliminarily approved by the Court, Plaintiffs shall timely seek final approval of the Settlement and entry of a final judgment order as to Keyes:

(a) certifying the Settlement Class under Federal Rule of Civil Procedure 23(b), solely for purposes of this Settlement;

(b) granting final approval of the Settlement as fair, reasonable, and adequate within the meaning of Federal Rule of Civil Procedure 23(e) and directing the consummation of the Settlement according to its terms;

(c) directing that, as to Keyes only, the Actions be dismissed with prejudice and, except as provided for herein, without costs;

(d) reserving exclusive jurisdiction over the Settlement and this Settlement Agreement, including reserving exclusive jurisdiction over the administration and consummation of this Settlement to the United States District Court for the Western District of Missouri; and

(e) determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing entry of final judgment as to Keyes.

27. This Settlement Agreement will become Effective only after the occurrence of all conditions set forth above in the definition of the Effective Date.

**D. Releases, Discharge, and Covenant Not to Sue**

28. Upon the occurrence of the Effective Date, the Releasing Parties expressly and irrevocably waive, and fully, finally, and forever settle, discharge, and release the Released Parties from, any and all manner of claims, demands, actions, suits, and causes of action, whether individual, class, representative, or otherwise in nature, for damages, restitution, disgorgement, interest, costs, expenses, attorneys' fees, fines, civil or other penalties, or other payment of money, or for injunctive, declaratory, or other equitable relief, whenever incurred, whether directly,

indirectly, derivatively, or otherwise, whether known or unknown, suspected or unsuspected, in law or in equity, that any Releasing Party ever had, now has, or hereafter can, shall, or may have and that have accrued as of the date of preliminary approval of the Settlement arising from or related to the Released Claims. The Released Claims include but are not limited to the antitrust and consumer protection claims brought in the Actions. For the avoidance of doubt, this includes claims arising from the same factual predicate that could be brought under similar state and federal statutes. In connection therewith, upon the Effective Date of Settlement, each of the Releasing Parties: (i) shall forever be enjoined from prosecuting in any forum any Released Claims against any of the Released Parties that accrued from the beginning of time through the date of preliminary approval of the Settlement; and (ii) agrees and covenants not to sue any of the Released Parties with respect to any Released Claims. For avoidance of doubt, this release extends to, but only to, the fullest extent permitted by law.

29. The Releasing Parties may hereafter discover facts other than or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims. Nevertheless, the Releasing Parties expressly, fully, finally, and forever settle and release, and, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal with Prejudice in the Actions shall have, fully, finally, and forever settled and released, any and all Released Claims, without regard to the subsequent discovery or existence of such other, different, or additional facts, as well as any and all rights and benefits existing under (i) Cal. Civ. 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.

or any equivalent, similar or comparable present or future law or principle of law of any jurisdiction, including but not limited to Section 20-7-11 of the South Dakota Codified Laws, which provides that “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR;” or (ii) any law or principle of law of any jurisdiction that would limit or restrict the effect or scope of the provisions of the release set forth above, without regard to the subsequent discovery or existence of such other, different, or additional facts. The Releasing Parties acknowledge that the inclusion of unknown claims in the definition of Released Claims was separately bargained for and was a material element of this Settlement Agreement.

30. The Releasing Parties intend by this Settlement Agreement to settle with and release only the Released Parties, and the Settling Parties do not intend this Settlement Agreement, or any part hereof, or any other aspect of the proposed Settlement or release, to release or otherwise affect in any way any claims concerning product liability, breach of warranty, breach of contract or tort of any kind (other than a breach of contract or tort based on any factual predicate in this Action), a claim arising out of violation of the Uniform Commercial Code, or personal or bodily injury. The release does not extend to any individual claims that a class member may have against his or her own broker or agent based on a breach of contract, breach of fiduciary duty, malpractice, negligence or other tort claim, other than a claim that a class member paid an excessive commission or home price due to the claims at issue in these Actions.

**E. Payment of the Settlement Amount**

31. Plaintiffs will open a special interest-bearing settlement escrow account or accounts, established for that purpose as a qualified settlement fund as defined in Section 1.468B-1(a) of the U.S. Treasury Regulations (the “Escrow Account”). Within 30 business days after preliminary approval of the Settlement by the Court, Keyes will deposit \$300,000 into the Escrow Account. Keyes will pay an additional \$400,000 into the Escrow Account on or before December 31, 2025. Keyes will pay an additional \$500,000 into the Escrow Account on or before December 31, 2026. Keyes will pay an additional \$1,200,000 into the Escrow Account on or before March 15, 2028. All accrued interest from Keyes’s payments into the Escrow Account shall be for the benefit of the plaintiff class unless the Settlement is not approved, or is rescinded, in which case the interest shall be for the benefit of Keyes.

**F. The Settlement Fund**

32. The Total Monetary Settlement Amount and any interest earned thereon shall be held in the Escrow Account and constitute the “Settlement Fund.” The full and complete cost of the settlement notice, claims administration, Settlement Class Members’ compensation, current and former class representatives’ incentive awards, attorneys’ fees and reimbursement of all actual expenses of the Actions, any other litigation costs of Plaintiffs (all as approved by the Court), and all applicable taxes, if any, assessable on the Settlement Fund or any portion thereof, will be paid out of the Settlement Fund. In no event will Keyes’s monetary liability with respect to the Settlement exceed the Total Monetary Settlement Amount.

33. The Settling Parties and their counsel will not have any responsibility, financial obligation, or liability for any fees, costs, or expenses related to providing notice to the Settlement Class or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund with Court approval. The balance of the Settlement Fund shall be disbursed to

Settlement Class Members as provided in a Plan of Allocation (as defined below) approved by the Court. The Settling Parties shall have the right to audit amounts paid from the Settlement Fund.

34. After preliminary approval of the Settlement and approval of a class notice plan, Co-Lead Counsel may utilize a portion of the Settlement Fund to provide notice of the Settlement to potential members of the Settlement Class. Keyes will not object to Plaintiffs' counsel withdrawing from the Settlement Fund, subject to any necessary Court approval, up to \$200,000 to pay the costs for notice. If notice of one or more other settlements is included in the notice of the Keyes settlement, then the cost of such notice will be apportioned equitably between (or among) the Keyes Settlement Fund and the other settling Defendant(s)' settlement funds. The amount spent or accrued for notice and notice administration costs is not refundable to Keyes in the event the Settlement Agreement is disapproved, rescinded, or otherwise fails to become Effective.

35. Subject to Co-Lead Counsel's sole discretion as to timing, except that the timing must be consistent with rules requiring that Settlement Class Members be given the opportunity to review fee applications, Co-Lead Counsel may apply to the Court for a fee award, plus expenses, and costs incurred, and current and former class representative service awards to be paid out of the Settlement Fund. Within 14 business days after any order by the Court awarding attorneys' fees, expenses, or class representative incentive awards, the escrow agent for the Settlement Fund shall pay any approved attorneys' fees, expenses, costs, and class representative service award up to the amount specified in Paragraph 18 above for such fees, expenses, costs, and class representative service award by wire transfer as directed by Co-Lead Counsel in accordance with and attaching the Court's Order, provided that each Co-Lead Counsel receiving payment signs an assurance, in



the form attached hereto as Appendix A, attesting that they will repay all awarded amounts if this Settlement Agreement does not become Effective.

36. The Settlement Fund will be invested in United States Government Treasury obligations or United States Treasury money market funds.

37. Keyes will not have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, use, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such investment, distribution, use or administration except as expressly otherwise provided in this Settlement Agreement. Keyes's only payment obligation is to pay the Total Monetary Settlement Amount.

38. There will be no reduction of the Total Monetary Settlement Amount based on Opt-Out Sellers. The Settlement will be non-reversionary except as set forth below in Section H. If the Settlement becomes Effective, no proceeds from the Settlement will revert to Keyes regardless of the claims that are made.

39. No disbursements shall be made from the Settlement Fund prior to the Effective Date of this Settlement Agreement except as described in Paragraphs 34 and 35 above and 42 below.

40. The distribution of the Settlement Fund shall be administered pursuant to a plan of allocation (the "Plan of Allocation") proposed by Co-Lead Counsel in their sole and absolute discretion and subject to the approval of the Court. Keyes will have no participatory or approval rights with respect to the Plan of Allocation. It is understood and agreed by the Settling Parties that any proposed Plan of Allocation, including, but not limited to, any adjustments to an authorized claimant's claim, is completely independent of and is not a part of this Settlement Agreement and is to be considered by the Court separately from the Court's consideration of the

fairness, reasonableness, and adequacy of the Settlement Agreement. The Settlement Class, Plaintiffs, and Keyes shall be bound by the terms of the Settlement Agreement, irrespective of whether the Court or any other court, including on any appeal, disapproves or modifies the Plan of Allocation, and any modification or rejection of the Plan of Allocation shall not affect the validity or enforceability of this Settlement Agreement or otherwise operate to terminate, modify, or cancel that Agreement.

41. The Releasing Parties will look solely to the Settlement Fund for settlement and satisfaction against the Released Parties of all Released Claims and shall have no other recovery against Keyes or the Released Parties.

**G. Taxes**

42. Co-Lead Counsel is solely responsible for filing all informational and other tax returns necessary to report any net taxable income earned by the Settlement Fund and shall file all informational and other tax returns necessary to report any income earned by the Settlement Fund and shall be solely responsible for taking out of the Settlement Fund, as and when legally required, any tax payments, including interest and penalties due on income earned by the Settlement Fund. All taxes (including any interest and penalties) due with respect to the income earned by the Settlement Fund shall be paid from the Settlement Fund. Keyes has no responsibility to make any filings relating to the Settlement Fund and will have no responsibility to pay tax on any income earned by the Settlement Fund or to pay any taxes on the Settlement Fund unless the Settlement does not become Effective and the Settlement Fund is returned to Keyes. In the event the Settlement does not become Effective and any funds including interest or other income are returned to Keyes, Keyes will be responsible for the payment of all taxes (including any interest or penalties), if any, on said interest or other income in connection with the Settlement Fund. Keyes makes no representations regarding, and will not be responsible for, the tax consequences of any

payments made pursuant to this Settlement Agreement to Co-Lead Counsel or to any Settlement Class Member.

**H. Rescission**

43. If the Court does not certify the Settlement Class as defined in this Settlement Agreement, or if the Court does not approve this Settlement Agreement in all material respects, or if such approval is modified in or set aside on appeal in any material respects, or if the Court does not enter final approval, or if any judgment approving this Settlement Agreement is materially modified or set aside on appeal, or if all of the conditions for the Effective Date do not occur, then this Settlement Agreement may be rescinded by Keyes or by Plaintiffs on behalf of the Settlement Class by written notice to the Court and to counsel for the other Settling Party filed and served within 10 business days of the entry of an order not granting court approval or having the effect of disapproving or materially modifying the terms of this Settlement Agreement. A modification or reversal on appeal of any amount of the Settlement Fund that the Court authorizes to be used to pay Plaintiffs' fees or litigation expenses shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or such final judgment order. The Settling Parties have agreed in a Confidential Supplemental Agreement that, after the deadline for filing timely Opt-Out requests has passed, Plaintiffs will provide to Keyes a list of exclusion requests. In its sole discretion, Keyes shall have the right to rescind or terminate this Settlement Agreement if Opt-Out requests for exclusion exceed the threshold specified in the Confidential Supplemental Agreement.

44. If the Settlement or Settlement Agreement is rescinded for any reason, then the balance of the Total Monetary Settlement Amount in the Settlement Fund will be returned to Keyes. In the event that the Settlement Agreement is rescinded, the funds already expended from the Settlement Fund for the costs of notice and administration will not be returned to Keyes. Funds

to cover notice and administration expenses that have been incurred but not yet paid from the Settlement Fund will also not be returned to Keyes.

45. If the Settlement or Settlement Agreement is rescinded for any valid reason before payment of claims to Settlement Class Members, then the Settling Parties will be restored to their respective positions in the Actions as of August 30, 2024. Plaintiffs and Keyes agree that any rulings or judgments that occur in the Actions on or after August 30, 2024 and before this Settlement Agreement is rescinded will not bind Plaintiffs, Keyes, or any of the Released Parties. Plaintiffs and Keyes agree to waive any argument of claim or issue preclusion against Plaintiffs or Keyes arising from such rulings or judgments. In the event of rescission, the Actions will proceed as if this Settlement Agreement had never been executed and this Settlement Agreement, and representations or agreements made in conjunction with this Settlement Agreement, may not be used in the Actions or otherwise for any purpose. Keyes and Plaintiffs expressly reserve all rights if the Settlement Agreement does not become Effective or if it is rescinded by Keyes or the Plaintiffs, including, but not limited to, any defenses concerning the Court's lack of personal jurisdiction over Keyes or any Released Parties. The Settling Parties agree that pending deadlines for motions not yet filed, and all deadlines (whether pending or past) for motions that will be withdrawn pursuant to this Settlement Agreement, shall be tolled for the period from August 30, 2024, until the date this Settlement or Settlement Agreement is rescinded, and no Settling Party shall contend that filing or renewal of such motions was rendered untimely by or was waived by the operation of this Settlement Agreement.

46. Keyes warrants and represents that it is not "insolvent" within the meaning of applicable bankruptcy laws as of the time this Settlement Agreement is executed, and, will be deemed to warrant and represent, that it is not "insolvent" within the meaning of applicable

bankruptcy laws at the time that payments of the Settlement Amount are actually transferred or made to the Escrow Account. In the event of a final order of a court of competent jurisdiction, not subject to any further proceedings, determining the actual transfer of the Settlement Amount, or any portion thereof, by or on behalf of Keyes to be a preference, voidable transfer, fraudulent transfer or similar transaction under Title 11 of the U.S. Code (Bankruptcy) or applicable state law and any portion thereof is required to be refunded and such amount is not promptly deposited in the Escrow Account by or on behalf of Keyes, then, at the election of Plaintiff counsel, the settlement may be terminated and the releases given and the judgment entered pursuant to the Settlement shall be null and void.

47. The Settling Parties' rights to terminate this Settlement Agreement and withdraw from this Settlement Agreement are a material term of this Settlement Agreement.

48. Keyes reserves all of its legal rights and defenses with respect to any claims brought by potential Opt-Out Sellers.

**I. Practice Changes**

49. As soon as practicable, and in no event later than six months after the Effective Date, Keyes (defined for purposes of this paragraph to include present and future, direct and indirect corporate subsidiaries, related entities and affiliates, predecessors, and successors but not franchisees) will implement the following practice changes:

- i. advise and periodically remind Keyes's company-owned brokerages, franchisees (if any), and their agents that there is no Keyes requirement that they must make offers to or must accept offers of compensation from buyer brokers or other buyer representatives or that, if made, such offers must be blanket, unconditional, or unilateral;

- ii. require that any Keyes company-owned brokerages and their agents (and recommend and encourage that any franchisees (if any) and their agents) disclose to prospective home sellers and buyers and state in conspicuous language that broker commissions are not set by law and are fully negotiable (i) in their listing agreement if it is not a government or MLS-specified form, (ii) in their buyer representation agreement if there is one and it is not a government or MLS-specified form, and (iii) in pre-closing disclosure documents if there are any and they are not government or MLS-specified forms. In the event that the listing agreement, buyer representation agreement, or pre-closing disclosure documents is a government or MLS-specified form, then Keyes will require that any company-owned brokerages and their agents (and recommend and encourage that any Keyes franchisees and their agents) include a disclosure with conspicuous language expressly stating that broker commissions are not set by law and are fully negotiable;
- iii. prohibit all Keyes company-owned brokerages and their agents acting as buyer representatives (and recommend and encourage that franchisees (if any) and their agents acting as buyer representatives refrain) from advertising or otherwise representing that their services are free.
- iv. require that Keyes owned brokerages and their agents disclose to their client at the earliest moment possible any offer of compensation made in connection with each home marketed to prospective buyers in any format;
- v. prohibit Keyes owned brokerages and their agents (and recommend and encourage that any franchisees (if any) and their agents refrain) from utilizing

any technology or taking manual actions to filter out or restrict listings that are searchable by and displayed to consumers based on the level of compensation offered to any cooperating broker, unless directed to do so by the client (and eliminate any internal systems or technological processes that may currently facilitate such practices);

- vi. advise and periodically remind Keyes company owned brokerages and their agents of their obligation to (and recommend and encourage that any franchisees (if any) and their agents) show properties regardless of the existence or amount of compensation offered to buyer brokers or other buyer representatives provided that each such property meets the buyer's articulated purchasing priorities;
- vii. for each of the above points, for company owned brokerages, franchisees (if any), and their agents, develop training materials consistent with the above relief and eliminate any contrary training materials currently used.

50. If not automatically terminated earlier by their own terms, the obligations set forth in Paragraph 49 will sunset five years after the Effective Date.

51. Keyes acknowledges that the practice changes set forth here are a material component of this Settlement Agreement and agrees to use its reasonable best efforts to implement the practice changes specified in this Section to the extent not yet fully implemented, as soon as practicable, and in no event later than six months after the Effective Date.

**J. Cooperation**

52. Keyes (defined for purposes of this paragraph to include present and future, direct and indirect corporate subsidiaries, related entities and affiliates, predecessors, and successors but not franchisees) will provide valuable cooperation to Plaintiffs as follows in the Actions, including

to the extent that any is consolidated pursuant to *In re Real Estate Commission Antitrust Litigation* (MDL No. 3100), including but not limited to the following. Any disputes regarding the scope of these provisions or compliance with these provisions can be referred to Jay Daugherty or another mediator, mutually chosen by the parties, for binding resolution.

- i. Keyes will use reasonable best efforts to produce relevant summary-level, companywide transactional data limited to the class period. To the extent reasonably possible, this data will be (i) aggregated on a quarterly basis and will provide transactional volume, transactional value, and commissions paid on a state by state basis; and (ii) sufficient to show volume of commerce and the average commission percentage. The data will be produced at a similar time to when other Defendants produce transactional data in *Gibson*. The data shall not be used or disclosed for any purpose whatsoever other than the prosecution or defense of claims in, or the settlement of, *Gibson*. Upon conclusion of *Gibson*, Plaintiffs and their representatives, shall promptly destroy the data and certify to Keyes that they have done so.
- ii. Keyes will use reasonable best efforts to produce documents sufficient to show (to the extent such documents exist) its and its officers, employees, and agents' membership and participation in NAR; and that Keyes was subject to, and whether Keyes complied with, the challenged NAR rules during the class period, including whether and how Keyes accepted, adopted and implemented the challenged NAR rules, if at all.
- iii. Keyes will provide up to seven hours of 30(b)(6) testimony and up to seven hours of 30(b)(1) testimony across no more than two 30(b)(1) witnesses. The



time only includes Plaintiff questioning and does not include questioning by any other party. Notwithstanding anything to the contrary in this Paragraph, no Keyes deposition witness will sit for more than seven hours on the record of questioning, including questioning from Plaintiffs and any other party, provided that Plaintiffs get up to 4.5 hours. Keyes will make one, mutually agreed upon, witness available at trial, as necessary, and provide access via counsel to that witness prior to trial testimony for up to two (2) hours.

- iv. Keyes will use reasonable best efforts to authenticate documents and/or things produced by it in the Actions where the facts indicate that the documents and/or things at issue are authentic, by declarations or affidavits if possible, or at hearings or trial if necessary;
- v. Keyes will use reasonable best efforts to provide the facts necessary to establish that documents and/or things produced by it in the Actions are “business records,” a present sense impression, an excited utterance, a recorded recollection, or are otherwise admissible under the Federal Rules of Evidence, if any of those exceptions are applicable, by declarations or affidavits if possible, or at hearings or trial if necessary;
- vi. Keyes will use reasonable best efforts at its expense to provide relevant class member and listing data and answer questions about that data to support the provision of class notice, administration of any settlements, or the litigation of the Actions;

- vii. if another Defendant includes a witness on a witness list who is then a current officer or employee of Keyes or its subsidiaries, Keyes will cooperate in providing access via counsel to that witness prior to trial testimony; and
- viii. Keyes will agree not to provide greater assistance in discovery or trial to any defendant than to the Plaintiffs, unless required by subpoena or other compulsory process.

53. Keyes's cooperation obligations, as set forth in Paragraph 52, shall not require the production of information, testimony, and/or documents that are protected from disclosure by the attorney-client privilege, work product doctrine, joint defense privilege, or any other applicable privilege or doctrine.

54. Keyes's obligation to cooperate will not be affected by the release set forth in this Settlement Agreement or the final judgment orders with respect to Keyes. Unless this Settlement Agreement is rescinded, disapproved, or otherwise fails to become Effective, the obligation to cooperate as set forth here will continue until the date that final judgment has been entered in the Actions against the non-Keyes Defendants and the time for appeal or to seek permission to appeal from the entry of a final judgment has expired or, if appealed, any final judgment has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review.

55. Keyes acknowledges that the cooperation set forth here is a material component of this Settlement Agreement and agrees to use its reasonable best efforts to provide the cooperation specified in this Section.

**K. Miscellaneous**

56. This Settlement Agreement and any actions taken to carry out the Settlement are not intended to be, nor may they be deemed or construed to be, an admission or concession of

liability, or of the validity of any claim, defense, or point of fact or law on the part of any party. Keyes denies the material allegations of the complaints in the Actions. Neither this Settlement Agreement, nor the fact of Settlement, nor settlement proceedings, nor the settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by Keyes, or be offered in evidence as an admission, concession, presumption, or inference of any wrongdoing by Keyes in any proceeding, or be offered as a concession or agreement to jurisdiction in any court in Missouri (other than in connection with the enforcement of this Settlement Agreement) by Keyes or any Released Parties in any proceeding.

57. This Settlement Agreement was reached with the assistance of counsel after arm's-length negotiations before a neutral mediator, Jay Daugherty, of Jay Daugherty Mediation & Arbitration. The Settling Parties reached the Settlement Agreement after considering the risks and costs of litigation. The Settling Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. The terms of the settlement continue to be subject to mediation privilege and must be kept strictly confidential until a motion for preliminary approval is filed—except as agreed in writing by the Settling Parties or as necessary or advisable for Keyes to meet any financial reporting obligations and its obligations to any lender or creditor in the reasonable discretion of its legal counsel, including, but not limited to, any press release that the Companies may issue disclosing the existence of the Settlement and the Total Settlement Amount.

58. Any disputes relating to this Settlement Agreement will be governed by Missouri law without regard to conflicts of law provisions. The Parties will not use Keyes's agreement to be governed by Missouri law as grounds for personal jurisdiction in any litigation, including, but not limited to, continued litigation in the Actions in the event that the Settlement is not finally

approved. For the avoidance of doubt, Keyes does not waive and reserves all defenses and rights, including, but not limited to, concerning personal jurisdiction.

59. This Settlement Agreement does not settle or compromise any claim by Plaintiffs or any other Settlement Class Member against (a) any Non-Keyes Defendant or (b) any alleged co-conspirator or other person or entity other than the Released Parties. All rights of any Settlement Class Member against any Non-Keyes Defendant or an alleged co-conspirator or other person or entity other than the Released Parties are specifically reserved by Plaintiffs and the other Settlement Class Members.

60. This Settlement Agreement constitutes the entire agreement among Plaintiffs and Keyes pertaining to the Settlement of the Actions against Keyes. This Settlement Agreement may be modified or amended only by a writing executed by Plaintiffs and Keyes.

61. This Settlement Agreement may be executed in counterparts by Plaintiffs and Keyes, and a DocuSign, facsimile or pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

62. Neither Plaintiffs nor Keyes shall be considered the drafter of this Settlement Agreement or any of its provisions for the purpose of any statute, the common law, or rule of interpretation that would or might cause any provision of this Settlement Agreement to be construed against the drafter.

63. The provisions of this Settlement Agreement shall, where possible, be interpreted in a manner to sustain their legality and enforceability.

64. The Court shall retain jurisdiction over the implementation and enforcement of this Settlement Agreement and the Settlement.

65. The terms of the Settlement Agreement are and shall be binding upon and inure to the benefit of, to the fullest extent possible, each of the Releasing Parties and the Released Parties, and upon all other Persons claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, Released Parties, and any Settlement Class Members.

66. Any disputes between Keyes and Co-Lead Counsel concerning this Settlement Agreement shall, if they cannot be resolved by the Settling Parties, be presented to Jay Daugherty for his assistance in mediating a resolution, and if a resolution is not reached, to binding arbitration with Jay Daugherty.

67. Each Settling Party acknowledges that he, she or it has been and is being fully advised by competent legal counsel of such Settling Party's own choice and fully understands the terms and conditions of this Settlement Agreement, and the meaning and import thereof, and that such Settling Party's execution of this Settlement Agreement is with the advice of such Settling Party's counsel and of such Settling Party's own free will. Each Settling Party represents and warrants that it has sufficient information regarding the transaction and the other parties to reach an informed decision and has, independently and without relying upon the other parties, and based on such information as it has deemed appropriate, made its own decision to enter into this Settlement Agreement and was not fraudulently or otherwise wrongfully induced to enter into this Settlement Agreement.

68. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.

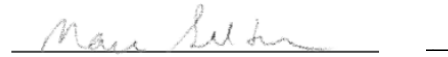
CO-LEAD COUNSEL



Hagens Berman Sobol Shapiro LLP



Cohen Milstein Sellers & Toll PLLC



Susman Godfrey LLP



Ketchmark & McCreight PC



Boulware Law LLC

  
Williams Dirks Dameron LLC

The Keyes Company

By: \_\_\_\_\_

Illustrated Properties, LLC

By: \_\_\_\_\_

CO-LEAD COUNSEL

\_\_\_\_\_  
Hagens Berman Sobol Shapiro LLP

\_\_\_\_\_  
Cohen Milstein Sellers & Toll PLLC


\_\_\_\_\_  
Susman Godfrey LLP

\_\_\_\_\_  
Ketchmark & McCreight PC


\_\_\_\_\_  
Boulware Law LLC

\_\_\_\_\_  
Williams Dirks Dameron LLC

The Keyes Company

By:   
Christina Pappas

Illustrated Properties, LLC

By:   
Michael Pappas

**APPENDIX A**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN MEINERS, and  
DANIEL UMPA, individually and on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, et. al.

Defendants.

Case No. 23-CV-788-SRB

[Consolidated with Case No.  
23-cv-945-SRB]



Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa (collectively “Plaintiffs”) and Defendants The Keyes Company and Illustrated Properties, LLC (collectively, “Keyes”) (collectively, “the Parties”), by and through and including their undersigned counsel, stipulate and agree as follows:

WHEREAS, each firm defined in the Settlement Agreement as Co-Lead Counsel desires to give an undertaking (the “Undertaking”) for repayment of the award of attorneys’ fees, costs, and expenses approved by the Court, and

WHEREAS, the Parties agree that this Undertaking is in the interests of all Parties and in service of judicial economy and efficiency.

NOW, THEREFORE, the undersigned counsel, individually and as agent for his/her law firm, hereby submits both to the jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, Co-Lead Counsel and their shareholders, members, and/or partners submit to the jurisdiction of the United States District Court for the Western District of Missouri for the enforcement of and any and all disputes relating to or arising out of the reimbursement obligation set forth herein and the Settlement Agreement.

In the event that the Settlement Agreement does not receive final approval or any part of the final approval is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, Co-Lead Counsel shall, within thirty (30) days repay to Keyes, based upon written instructions provided by

Keyes, the full amount of the attorneys' fees and costs paid to Co-Lead Counsel from the Settlement Fund, including any accrued interest.

In the event the Settlement Agreement becomes Effective, but the attorneys' fees, costs, and expenses awarded by the Court or any part of them are vacated, overturned, modified, reversed, or rendered void as a result of an appeal, Co-Lead Counsel shall within thirty (30) days repay to the Settlement Fund, based upon written instructions provided by the settlement administrator, the attorneys' fees and costs paid to Co-Lead Counsel from the Settlement Fund in the amount vacated or modified, including any accrued interest.

This Undertaking and all obligations set forth herein shall expire upon finality of all appeals of the final settlement order and judgment pertaining to attorneys' fees, such that the finality of those fees no longer remains in doubt.

In the event Co-Lead Counsel fails to repay to Keyes any of attorneys' fees and costs that are owed to it pursuant to this Undertaking, the Court shall, upon application of Keyes, and notice to Co-Lead Counsel, summarily issue orders, including but not limited to judgments and attachment orders against Co-Lead Counsel.

The undersigned stipulate, warrant, and represent that they have both actual and apparent authority to enter into this stipulation, agreement, and undertaking on behalf of each firm identified as Co-Lead Counsel. This agreement will only be effective upon its execution by each firm identified in the Settlement Agreement as Co-Lead Counsel.

Co-Lead Counsel acknowledge that this Undertaking is a material component of the Settlement Agreement and agree to use its reasonable efforts to timely effect the terms specified in this Undertaking. Each undersigned warrants and represents that it is not "insolvent" within the meaning of applicable bankruptcy laws as of the time this Undertaking is executed.

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

Signatures by facsimile shall be as effective as original signatures.

The undersigned declare under penalty of perjury under the laws of the United States and the State of Missouri that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:



\_\_\_\_\_  
Hagens Berman Sobol Shapiro LLP



\_\_\_\_\_  
Cohen Milstein Sellers & Toll PLLC



\_\_\_\_\_  
Susman Godfrey LLP



\_\_\_\_\_  
Ketchmark & McCreight PC



\_\_\_\_\_  
Boulware Law LLC



\_\_\_\_\_  
Williams Dirks Dameron LLC

# EXHIBIT C

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN MEINERS, and  
DANIEL UMPA, individually and on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, et. al.

Defendants.

Case No. 23-CV-788-SRB

[Consolidated with  
4:23-cv-00945-SRB]

Hon. Stephen R. Bough

**SETTLEMENT AGREEMENT**

*Execution Copy*

This Settlement Agreement (“Settlement Agreement”) is made and entered into this 22<sup>nd</sup> day of October, 22 2024 (the “Execution Date”), by and between Defendants John L. Scott Real Estate Affiliates, Inc., and John L. Scott, Inc. (“John L. Scott”), and Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa, (collectively “Plaintiffs”), who filed suit in the above captioned actions (now consolidated) both individually and as representatives of one or more classes of home sellers. Plaintiffs enter this Settlement Agreement both individually and on behalf of the Settlement Class, as defined below.

WHEREAS, in the Actions Plaintiffs allege that John L. Scott participated in a conspiracy to raise, fix, maintain, or stabilize real estate commissions in violation of Section 1 of the Sherman Act and corresponding state laws;

WHEREAS, John L. Scott denies Plaintiffs’ allegations in the Actions and has asserted defenses to Plaintiffs’ claims;

WHEREAS, extensive arm’s-length settlement negotiations have taken place over the course of several months between Plaintiffs’ Co-Lead Counsel and counsel for John L. Scott;

WHEREAS, the Actions will continue against the Non-John L. Scott Defendants unless Plaintiffs separately settle with any of the Non-John L. Scott Defendants;

WHEREAS, Plaintiffs have conducted an extensive investigation into the facts and the law regarding the claims asserted in the Actions, and have concluded that a settlement with John L. Scott according to the terms set forth below is fair, reasonable, and adequate and in the best interest of Plaintiffs and the Settlement Class;

WHEREAS, John L. Scott believes that it is not liable for the claims asserted and has good defenses to Plaintiffs’ claims and meritorious pre-trial and post-trial motions, but nevertheless has decided to enter into this Settlement Agreement to avoid further expense, inconvenience, and the

distraction of burdensome and protracted litigation, to obtain the nationwide releases, orders, and judgment contemplated by this Settlement Agreement, and to put to rest with finality all claims that Plaintiffs and Settlement Class Members have or could have asserted against the Released Parties, as defined below; and

WHEREAS, John L. Scott, in addition to any settlement payments set forth below, has agreed to cooperate with Plaintiffs and to implement certain practice changes, each as set forth in this Settlement Agreement.

NOW, THEREFORE, in consideration of the agreements and releases set forth herein and other good and valuable consideration, and intending to be legally bound, it is agreed by and between John L. Scott and the Plaintiffs that the Actions be settled, compromised, and dismissed with prejudice as to John L. Scott only, without costs to Plaintiffs, the Settlement Class or John L. Scott except as provided for herein, subject to the approval of the Court, on the following terms and conditions:

**A. Definitions**

The following terms, as used in this Settlement Agreement, have the following meanings:

1. “Actions” means Gibson v. NAR, (W.D. Mo. Case No. 23-CV-788-SRB) and Umpa v. NAR, (W.D. Mo. Case No. 23-CV-945-SRB), which have been consolidated.
2. “Corporate Defendants” means any defendant aside from the National Association of Realtors (“NAR”) named in Gibson, Umpa, Burnett v. NAR, (W.D. Mo. Case No. 19-CV-0332-SRB) (“Burnett”), or Moehrl v. NAR, (N.D. Ill. Case No. 1:19-cv-01610).
3. “Co-Lead Counsel” means the following law firms:

KETCHMARK AND MCCREIGHT P.C.  
11161 Overbrook Road, Suite 210  
Leawood, KS 66211

BOULWARE LAW LLC  
1600 Genessee, Suite 416  
Kansas City, MO 64102

WILLIAMS DIRKS DAMERON LLC  
1100 Main Street, Suite 2600  
Kansas City, MO 64105

HAGENS BERMAN SOBOL SHAPIRO LLP  
1301 Second Avenue, Suite 2000  
Seattle, WA 98101

COHEN MILSTEIN SELLERS & TOLL PLLC  
1100 New York Ave. NW, Fifth Floor  
Washington, DC 20005

SUSMAN GODFREY LLP  
1201 Third Avenue, Suite 3800  
Seattle, Washington 98101

4. “Court” means the U.S. District Court for the Western District of Missouri.
5. “Defendants” means all defendants named in either Gibson and Umpa.
6. “Effective” means that all conditions set forth below in the definition of “Effective Date” have occurred.
7. “Effective Date” means the date when: (a) the Court has entered a final judgment order approving the Settlement set forth in this Settlement Agreement under Rule 23(e) of the Federal Rules of Civil Procedure and a final judgment dismissing the Actions against John L. Scott with prejudice has been entered; and (b) the time for appeal or to seek permission to appeal from the Court’s approval of the Settlement and the entry of a final judgment has expired or, if appealed, approval of the Settlement and the final judgment have been affirmed in their entirety by the Court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review; excluding, however, any appeal or other proceedings unrelated to this Settlement Agreement initiated by any Non-John L. Scott Defendant or any person or entity related to the Non-John L. Scott Defendant, and any such appeal or other proceedings shall not delay the



*Execution Copy*

Settlement Agreement from becoming final and shall not apply to this section; nor shall this section be construed as an admission that such parties have standing or other rights of objection or appeal with respect to this Settlement. It is agreed that neither the provisions of Federal Rule of Civil Procedure 60 nor the All Writs Act, 28 U.S.C. § 1651, shall be considered in determining the above-stated times.

8. “Gibson” means the now consolidated Western District of Missouri Case No. 23-cv-788-SRB, which is currently pending.

9. “Opt-Out Sellers” means members of the Settlement Class who have timely exercised their rights to be excluded from the Settlement Class or have otherwise obtained Court approval to exercise such rights.

10. “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity, and such individual’s or entity’s spouse, heirs, predecessors, successors, representatives, affiliates and assignees. For the avoidance of doubt, Persons include all real estate brokerages.

11. “Released Claims” means any and all manner of federal and state claims regardless of the cause of action arising from or relating to conduct that was alleged or could have been alleged in the Actions based on any or all of the same factual predicates for the claims alleged in the Actions, including but not limited to commissions negotiated, offered, obtained, or paid to brokerages in connection with the sale of any residential home.

12. “Released Parties” means John L. Scott and all of its respective past, present and future, direct and indirect corporate parents (including holding companies), individual owners, subsidiaries, related entities and affiliates, associates (all as defined in SEC Rule 12b-2

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promulgated pursuant to the Securities Exchange Act of 1934), predecessors, and successors, and all of their respective franchisees, franchisors, sub-franchisors, officers, directors, managing directors, members, managers, employees, agents, brokers, contractors, independent contractors, attorneys, legal or other representatives, accountants, auditors, experts, trustees, trusts, heirs, beneficiaries, estates, executors, administrators, insurers, and assigns, and all of the franchisees' and sub-franchisors' officers, directors, managing directors, members, managers, employees, agents, and independent contractors. Notwithstanding this definition, "Released Parties" shall not include the Non-John L. Scott Corporate Defendants not included within the preceding definition, or their past, present and future, direct and indirect corporate parents (including holding companies), subsidiaries, related entities and affiliates, associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), predecessors, and successors, and all of their respective franchisees, officers, directors, managing directors, members, managers, employees, agents, contractors, independent contractors, attorneys, legal or other representatives, accountants, auditors, experts, trustees, trusts, heirs, beneficiaries, estates, executors, administrators, insurers, and assigns. For the avoidance of doubt, individuals who were members of the National Association of Realtors are not thereby excluded from being Released Parties, and entities and individuals that were sometimes associated with the Released Parties and other times associated with a different Corporate Defendant are included as Released Parties for the periods of time they were associated with the Released Parties and excluded for the periods of time they were associated with a different Corporate Defendant. For the avoidance of doubt, the foregoing release is not intended to and does not release John L. Scott or any other Person for any claims based on the conduct of any real estate brokerage acquired by John L. Scott or any other Person

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that becomes affiliated with John L. Scott after the Execution Date for conduct which took place before the Execution Date.

13. “Releasing Parties” means Plaintiffs and any Settlement Class Members (including any of their immediate family members, heirs, representatives, administrators, executors, devisees, legatees, and estates, acting in their capacity as such; and for entities including any of their past, present or future officers, directors, insurers, general or limited partners, members, managers, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors and assigns, acting in their capacity as such solely with respect to the claims based on or derived from claims of the Plaintiffs or Settlement Class Members).

14. “Settlement” means the settlement of the Actions contemplated by this Settlement Agreement.

15. “Settlement Class” means the class of persons that will be certified by the Court for settlement purposes only, namely, all persons who sold a home that was listed on a multiple listing service anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home in the following date ranges: (i) homes in Arkansas, Kentucky, and Missouri: October 31, 2018 to the date of class notice; (ii) homes in Alabama, Georgia, Indiana, Maine, Michigan, Minnesota, New Jersey, Pennsylvania, Tennessee, Vermont, Wisconsin, and Wyoming: October 31, 2017 to the date of class notice; and (iii) for all other homes: October 31, 2019 to the date of Class Notice. For the avoidance of doubt, Plaintiffs and John L. Scott intend this Settlement Agreement to provide for and the Settlement Class Definition to encompass a nationwide class with a nationwide settlement and release, including, but not limited to, all persons who sold a home nationwide that was listed on any and all non-NAR multiple

listing services as well as NAR multiple listing services. Such release is intended to apply to all related cases in which a Released Party entity is a party defendant or may be a party defendant.

16. “Settlement Class Member” means a member of the Settlement Class who does not file a valid request for exclusion from the Settlement Class.

17. “Settling Parties” means Plaintiffs and John L. Scott.

18. “Total Monetary Settlement Amount” means payment of \$1 million (One Million Dollars) in United States currency. All costs of settlement, including all payments to class members, all attorneys’ fees and costs, all service awards to current and former class representatives, and all costs of notice and administration, will be paid out of the Total Monetary Settlement Amount, and John L. Scott will pay nothing apart from the Total Monetary Settlement Amount.

19. “Umpa” means Western District of Missouri Case No. 23-cv-00945, which has now been consolidated with Gibson.

**B. Stipulation to Class Certification**

20. The Settling Parties hereby stipulate for purposes of this Settlement only that the requirements of Federal Rules of Civil Procedure 23(a), 23(b)(2), and 23(b)(3) are satisfied and, subject to Court approval, the Settlement Class shall be certified for settlement purposes as to John L. Scott. The Settling Parties stipulate and agree to the conditional certification of the Settlement Class for purposes of this Settlement only. Should, for whatever reason, the Settlement not become Effective, the Settling Parties’ stipulation to class certification as part of the Settlement shall become null and void.

21. Neither this Settlement Agreement, nor any statement, transaction, or proceeding in connection with the negotiation, execution, or implementation of this Settlement Agreement should be intended to be, construed as, or deemed to be evidence of an admission or concession

by John L. Scott that a class should be or should have been certified for any purposes other than settlement, and none of them shall be admissible in evidence for any such purpose in any proceeding.

**C. Approval of this Settlement Agreement and Dismissal of the Actions**

22. The Settling Parties agree to make reasonable best efforts to effectuate this Settlement Agreement, including, but not limited to, seeking the Court's approval of procedures (including the giving of class notice under Federal Rules of Civil Procedure 23(c) and (e)); scheduling a final fairness hearing to obtain final approval of the Settlement and the final dismissal with prejudice of the Actions as to John L. Scott; and John L. Scott's cooperation by providing information reflecting its ability to pay limitations and, if requested by Co-Lead Counsel, a declaration describing and attesting to those limitations, provided that such declarations are confidential and may not be filed in court except if necessary and in any event only under seal.

23. Plaintiffs will submit to the Court a motion requesting that the Court preliminarily approve the Settlement (the "Motion"). Plaintiffs shall file the Motion for preliminary approval no later than October 31, 2024. The Motion shall include a proposed form of order preliminarily approving the Settlement and enjoining Releasing Parties from prosecuting any Released Claims in any forum until the Effective Date of this Settlement. The proposed form of the preliminary approval order shall be acceptable to John L. Scott provided that it is substantially in the form of the orders proposed in connection with the Compass and Douglas Elliman settlements in Gibson. At least 48 hours before submission to the Court, the papers in support of the Motion for preliminary approval shall be provided by Co-Lead Counsel to John L. Scott for its review. To the extent that John L. Scott objects to any aspect of the Motion, it shall communicate such objection to Co-Lead Counsel and the Settling Parties shall meet and confer to resolve any such objection. The Settling Parties shall take all reasonable actions as may be necessary to obtain

preliminary approval of the Settlement. To the extent the Court finds that the Settlement does not meet the standard for preliminary approval, the Settling Parties will negotiate in good faith to modify the Settlement Agreement directly and will endeavor to resolve any issues to the satisfaction of the Court.

24. The Settling Parties agree that Plaintiffs may at their sole discretion: (i) seek to include notice of this Settlement to the Settlement Class and for claim administration along with the settlement with the National Association of Realtors or any other Defendant or (ii) seek approval of a separate plan for providing class notice of this Settlement in a manner that meets the requirements of due process and Federal Rule of Civil Procedure 23 (“Class Notice”). Plaintiffs will provide John L. Scott with the form of notice that they decide upon. To the extent that John L. Scott has any comments, it should provide them within 24 hours of receiving the form of notice. The Settling Parties agree to the use of JND as a claims and notice administrator. The timing of any request to disseminate Class Notice to the Settlement Class will be at the discretion of Co-Lead Counsel.

25. Within ten (10) calendar days after the filing with the Court of this Settlement Agreement and the accompanying motion papers seeking its preliminary approval, JND, the notice administrator, shall at John L. Scott’s expense, be credited against the Total Monetary Settlement Amount and not to exceed \$100,000, cause notice of the Settlement Agreement to be served upon appropriate State and Federal officials as provided in the Class Action Fairness Act, 28 U.S.C. § 1715.

26. If the Settlement is preliminarily approved by the Court, Plaintiffs shall timely seek final approval of the Settlement and entry of a final judgment order as to John L. Scott:

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(a) certifying the Settlement Class under Federal Rule of Civil Procedure 23(b), solely for purposes of this Settlement;

(b) granting final approval of the Settlement as fair, reasonable, and adequate within the meaning of Federal Rule of Civil Procedure 23(e) and directing the consummation of the Settlement according to its terms;

(c) directing that, as to John L. Scott only, the Actions be dismissed with prejudice and, except as provided for herein, without costs;

(d) reserving exclusive jurisdiction over the Settlement and this Settlement Agreement, including reserving exclusive jurisdiction over the administration and consummation of this Settlement to the United States District Court for the Western District of Missouri; and

(e) determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing entry of final judgment as to John L. Scott.

27. This Settlement Agreement will become Effective only after the occurrence of all conditions set forth above in the definition of the Effective Date.

**D. Releases, Discharge, and Covenant Not to Sue**

28. Upon the occurrence of the Effective Date, the Releasing Parties expressly and irrevocably waive, and fully, finally, and forever settle, discharge, and release the Released Parties from, any and all manner of claims, demands, actions, suits, and causes of action, whether individual, class, representative, or otherwise in nature, for damages, restitution, disgorgement, interest, costs, expenses, attorneys' fees, fines, civil or other penalties, or other payment of money, or for injunctive, declaratory, or other equitable relief, whenever incurred, whether directly, indirectly, derivatively, or otherwise, whether known or unknown, suspected or unsuspected, in law or in equity, that any Releasing Party ever had, now has, or hereafter can, shall, or may have

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and that have accrued as of the date of preliminary approval of the Settlement arising from or related to the Released Claims. The Released Claims include but are not limited to the antitrust and consumer protection claims brought in the Actions. For the avoidance of doubt, this includes claims arising from the same factual predicate that could be brought under similar state and federal statutes. In connection therewith, upon the Effective Date of Settlement, each of the Releasing Parties: (i) shall forever be enjoined from prosecuting in any forum any Released Claims against any of the Released Parties that accrued from the beginning of time through the date of final approval of the Settlement; and (ii) agrees and covenants not to sue any of the Released Parties with respect to any Released Claims. For avoidance of doubt, this release extends to, but only to, the fullest extent permitted by law.

29. The Releasing Parties may hereafter discover facts other than or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims. Nevertheless, the Releasing Parties expressly, fully, finally, and forever settle and release, and, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal with Prejudice in the Actions shall have, fully, finally, and forever settled and released, any and all Released Claims, without regard to the subsequent discovery or existence of such other, different, or additional facts, as well as any and all rights and benefits existing under (i) Cal. Civ. 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.

or any equivalent, similar or comparable present or future law or principle of law of any jurisdiction, including but not limited to Section 20-7-11 of the South Dakota Codified Laws,



which provides that “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR;” or (ii) any law or principle of law of any jurisdiction that would limit or restrict the effect or scope of the provisions of the release set forth above, without regard to the subsequent discovery or existence of such other, different, or additional facts. The Releasing Parties acknowledge that the inclusion of unknown claims in the definition of Released Claims was separately bargained for and was a material element of this Settlement Agreement.

30. The Releasing Parties intend by this Settlement Agreement to settle with and release only the Released Parties, and the Settling Parties do not intend this Settlement Agreement, or any part hereof, or any other aspect of the proposed Settlement or release, to release or otherwise affect in any way any claims concerning product liability, breach of warranty, breach of contract or tort of any kind (other than a breach of contract or tort based on any factual predicate in this Action), a claim arising out of violation of the Uniform Commercial Code, or personal or bodily injury. The release does not extend to any individual claims that a class member may have against his or her own broker or agent based on a breach of contract, breach of fiduciary duty, malpractice, negligence or other tort claim, other than a claim that a class member paid an excessive commission or home price due to the claims at issue in these Actions.

**E. Payment of the Settlement Amount**

31. Plaintiffs will open a special interest-bearing settlement escrow account or accounts, established for that purpose as a qualified settlement fund as defined in Section 1.468B-1(a) of the U.S. Treasury Regulations (the “Escrow Account”). Within 30 business days after preliminary approval of the Settlement by the Court, John L. Scott will deposit \$500,000 into the

Escrow Account. John L. Scott will pay an additional \$500,000 into the Escrow Account on or before December 31, 2025. All accrued interest from John L. Scott's payments into the Escrow Account shall be for the benefit of the plaintiff class unless the Settlement is not approved, or is rescinded, in which case the interest shall be for the benefit of John L. Scott.

**F. The Settlement Fund**

32. The Total Monetary Settlement Amount and any interest earned thereon shall be held in the Escrow Account and constitute the "Settlement Fund." The full and complete cost of the settlement notice, claims administration, Settlement Class Members' compensation, current and former class representatives' incentive awards, attorneys' fees and reimbursement of all actual expenses of the Actions, any other litigation costs of Plaintiffs (all as approved by the Court), and all applicable taxes, if any, assessable on the Settlement Fund or any portion thereof, will be paid out of the Settlement Fund. In no event will John L. Scott's monetary liability with respect to the Settlement exceed the Total Monetary Settlement Amount.

33. The Settling Parties and their counsel will not have any responsibility, financial obligation, or liability for any fees, costs, or expenses related to providing notice to the Settlement Class or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund with Court approval. The balance of the Settlement Fund shall be disbursed to Settlement Class Members as provided in a Plan of Allocation (as defined below) approved by the Court. The Settling Parties shall have the right to audit amounts paid from the Settlement Fund.

34. After preliminary approval of the Settlement and approval of a class notice plan, Co-Lead Counsel may utilize a portion of the Settlement Fund to provide notice of the Settlement to potential members of the Settlement Class. John L. Scott will not object to Plaintiffs' counsel withdrawing from the Settlement Fund, subject to any necessary Court approval, up to \$100,000 to pay the costs for notice. If notice of one or more other settlements is included in the notice of

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the John L. Scott settlement, then the cost of such notice will be apportioned equitably between (or among) the John L. Scott Settlement Fund and the other settling Defendant(s)' settlement funds. The amount spent or accrued for notice and notice administration costs is not refundable to John L. Scott in the event the Settlement Agreement is disapproved, jointly rescinded, or otherwise fails to become effective.

35. Subject to Co-Lead Counsel's sole discretion as to timing, except that the timing must be consistent with rules requiring that Settlement Class Members be given the opportunity to review fee applications, Co-Lead Counsel may apply to the Court for a fee award, plus expenses, and costs incurred, and current and former class representative service awards to be paid out of the Settlement Fund. Within 14 business days after any order by the Court awarding attorneys' fees, expenses, or class representative incentive awards, the escrow agent for the Settlement Fund shall pay any approved attorneys' fees, expenses, costs, and class representative service award up to the amount specified in Paragraph 18 above for such fees, expenses, costs, and class representative service award by wire transfer as directed by Co-Lead Counsel in accordance with and attaching the Court's Order, provided that each Co-Lead Counsel receiving payment signs an assurance, in the form attached hereto as Appendix A, attesting that they will repay all awarded amounts if this Settlement Agreement does not become Effective.

36. The Settlement Fund will be invested in United States Government Treasury obligations or United States Treasury money market funds.

37. John L. Scott will not have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, use, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such investment, distribution, use or

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administration except as expressly otherwise provided in this Settlement Agreement. John L. Scott's only payment obligation is to pay the Total Monetary Settlement Amount.

38. There will be no reduction of the Total Monetary Settlement Amount based on Opt-Out Sellers. The Settlement will be non-reversionary except as set forth below in Section H. If the Settlement becomes Effective, no proceeds from the Settlement will revert to John L. Scott regardless of the claims that are made.

39. No disbursements shall be made from the Settlement Fund prior to the Effective Date of this Settlement Agreement except as described in Paragraphs 34 and 35 above and 42 below.

40. The distribution of the Settlement Fund shall be administered pursuant to a plan of allocation (the "Plan of Allocation") proposed by Co-Lead Counsel in their sole and absolute discretion and subject to the approval of the Court. John L. Scott will have no participatory or approval rights with respect to the Plan of Allocation. It is understood and agreed by the Settling Parties that any proposed Plan of Allocation, including, but not limited to, any adjustments to an authorized claimant's claim, is completely independent of and is not a part of this Settlement Agreement and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement. The Settlement Class, Plaintiffs, and John L. Scott shall be bound by the terms of the Settlement Agreement, irrespective of whether the Court or any other court, including on any appeal, disapproves or modifies the Plan of Allocation, and any modification or rejection of the Plan of Allocation shall not affect the validity or enforceability of this Settlement Agreement or otherwise operate to terminate, modify, or cancel that Agreement.

41. The Releasing Parties will look solely to the Settlement Fund for settlement and satisfaction against the Released Parties of all Released Claims and shall have no other recovery against John L. Scott or the Released Parties.

**G. Taxes**

42. Co-Lead Counsel is solely responsible for filing all informational and other tax returns necessary to report any net taxable income earned by the Settlement Fund and shall file all informational and other tax returns necessary to report any income earned by the Settlement Fund and shall be solely responsible for taking out of the Settlement Fund, as and when legally required, any tax payments, including interest and penalties due on income earned by the Settlement Fund. All taxes (including any interest and penalties) due with respect to the income earned by the Settlement Fund shall be paid from the Settlement Fund. John L. Scott has no responsibility to make any filings relating to the Settlement Fund and will have no responsibility to pay tax on any income earned by the Settlement Fund or to pay any taxes on the Settlement Fund unless the Settlement does not become Effective and the Settlement Fund is returned to John L. Scott. In the event the Settlement does not become Effective and any funds including interest or other income are returned to John L. Scott, John L. Scott will be responsible for the payment of all taxes (including any interest or penalties), if any, on said interest or other income in connection with the Settlement Fund. John L. Scott makes no representations regarding, and will not be responsible for, the tax consequences of any payments made pursuant to this Settlement Agreement to Co-Lead Counsel or to any Settlement Class Member.

**H. Rescission**

43. If the Court does not certify the Settlement Class as defined in this Settlement Agreement, or if the Court does not approve this Settlement Agreement in all material respects, or if such approval is modified in or set aside on appeal in any material respects, or if the Court does

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not enter final approval, or if any judgment approving this Settlement Agreement is materially modified or set aside on appeal, or if all of the conditions for the Effective Date do not occur, then this Settlement Agreement may be rescinded by John L. Scott or by Plaintiffs on behalf of the Settlement Class by written notice to the Court and to counsel for the other Settling Party filed and served within 10 business days of the entry of an order not granting court approval or having the effect of disapproving or materially modifying the terms of this Settlement Agreement. A modification or reversal on appeal of any amount of the Settlement Fund that the Court authorizes to be used to pay Plaintiffs' fees or litigation expenses shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or such final judgment order. The Settling Parties have agreed in a Confidential Supplemental Agreement that, after the deadline for filing timely Opt-Out requests has passed, Plaintiffs will provide to John L. Scott a list of exclusion requests. In its sole discretion, John L. Scott shall have the right to rescind or terminate this Settlement Agreement if Opt-Out requests for exclusion exceed the threshold specified in the Confidential Supplemental Agreement.

44. If the Settlement or Settlement Agreement is rescinded for any reason, then the balance of the Total Monetary Settlement Amount in the Settlement Fund will be returned to John L. Scott. In the event that the Settlement Agreement is rescinded, the funds already expended from the Settlement Fund for the costs of notice and administration will not be returned to John L. Scott. Funds to cover notice and administration expenses that have been incurred but not yet paid from the Settlement Fund will also not be returned to John L. Scott.

45. If the Settlement or Settlement Agreement is rescinded for any valid reason before payment of claims to Settlement Class Members, then the Settling Parties will be restored to their respective positions in the Actions as of September 30, 2024. Plaintiffs and John L. Scott agree

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that any rulings or judgments that occur in the Actions on or after September 30, 2024 and before this Settlement Agreement is rescinded will not bind Plaintiffs, John L. Scott, or any of the Released Parties. Plaintiffs and John L. Scott agree to waive any argument of claim or issue preclusion against Plaintiffs or John L. Scott arising from such rulings or judgments. In the event of rescission, the Actions will proceed as if this Settlement Agreement had never been executed and this Settlement Agreement, and representations or agreements made in conjunction with this Settlement Agreement, may not be used in the Actions or otherwise for any purpose. John L. Scott and Plaintiffs expressly reserve all rights if the Settlement Agreement does not become Effective or if it is rescinded by John L. Scott or the Plaintiffs, including, but not limited to, any defenses concerning the Court's lack of personal jurisdiction over John L. Scott or any Released Parties. The Settling Parties agree that pending deadlines for motions not yet filed, and all deadlines (whether pending or past) for motions that will be withdrawn pursuant to this Settlement Agreement, shall be tolled for the period from September 30, 2024, until the date this Settlement or Settlement Agreement is rescinded, and no Settling Party shall contend that filing or renewal of such motions was rendered untimely by or was waived by the operation of this Settlement Agreement.

46. John L. Scott warrants and represents that it is not "insolvent" within the meaning of applicable bankruptcy laws as of the time this Settlement Agreement is executed, and, will be deemed to warrant and represent, that it is not "insolvent" within the meaning of applicable bankruptcy laws at the time that payments of the Settlement Amount are actually transferred or made to the Escrow Account. In the event of a final order of a court of competent jurisdiction, not subject to any further proceedings, determining the actual transfer of the Settlement Amount, or any portion thereof, by or on behalf of John L. Scott to be a preference, voidable transfer,

fraudulent transfer or similar transaction under Title 11 of the U.S. Code (Bankruptcy) or applicable state law and any portion thereof is required to be refunded and such amount is not promptly deposited in the Escrow Account by or on behalf of John L. Scott, then, at the election of Plaintiffs' counsel, the settlement may be terminated and the releases given and the judgment entered pursuant to the Settlement shall be null and void.

47. The Settling Parties' rights to terminate this Settlement Agreement and withdraw from this Settlement Agreement are a material term of this Settlement Agreement.

48. John L. Scott reserves all of its legal rights and defenses with respect to any claims brought by potential Opt-Out Sellers.

**I. Practice Changes**

49. As soon as practicable, and in no event later than six months after the Effective Date, John L. Scott (defined for purposes of this paragraph to include present and future, direct and indirect corporate subsidiaries, related entities and affiliates, predecessors, and successors but not franchisees) will implement or continue the following practices:

- i. advise and periodically remind John L. Scott's company-owned brokerages, franchisees (if any), and their agents that there is no John L. Scott requirement that they must make offers to or must accept offers of compensation from buyer brokers or other buyer representatives or that, if made, such offers must be blanket, unconditional, or unilateral;
- ii. require that any John L. Scott company-owned brokerages and their agents (and recommend and encourage that any franchisees (if any) and their agents) disclose to prospective home sellers and buyers and state in conspicuous language that broker commissions are not set by law and are fully negotiable (i) in their listing agreement if it is not a government or MLS-specified form, (ii)



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in their buyer representation agreement if there is one and it is not a government or MLS-specified form, and (iii) in pre-closing disclosure documents if there are any and they are not government or MLS-specified forms. In the event that the listing agreement, buyer representation agreement, or pre-closing disclosure documents is a government or MLS-specified form, then John L. Scott will require that any company-owned brokerages and their agents (and recommend and encourage that any John L. Scott franchisees and their agents) include a disclosure with conspicuous language expressly stating that broker commissions are not set by law and are fully negotiable;

- iii. prohibit all John L. Scott company-owned brokerages and their agents acting as buyer representatives (and recommend and encourage that franchisees (if any) and their agents acting as buyer representatives refrain) from advertising or otherwise representing that their services are free.
- iv. require that John L. Scott owned brokerages and their agents disclose to their clients at the earliest moment possible any offer of compensation made in connection with each home marketed to prospective buyers in any format;
- v. prohibit John L. Scott owned brokerages and their agents (and recommend and encourage that any franchisees (if any) and their agents refrain) from utilizing any technology or taking manual actions to filter out or restrict listings that are searchable by and displayed to consumers based on the level of compensation offered to any cooperating broker, unless directed to do so by the client (and eliminate any internal systems or technological processes that may currently facilitate such practices);

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- vi. advise and periodically remind John L. Scott company owned brokerages and their agents of their obligation to (and recommend and encourage that any franchisees (if any) and their agents) show properties regardless of the existence or amount of compensation offered to buyer brokers or other buyer representatives provided that each such property meets the buyer's articulated purchasing priorities;
- vii. for each of the above points, for company owned brokerages, franchisees (if any), and their agents, develop training materials consistent with the above relief and eliminate any contrary training materials currently used.

50. If not automatically terminated earlier by their own terms, the obligations set forth in Paragraph 49 will sunset five years after the Effective Date.

51. John L. Scott acknowledges that the implementation and/or continuation of the practices set forth here are a material component of this Settlement Agreement and agrees to use its reasonable best efforts to implement the practice changes specified in this Section to the extent not yet fully implemented, as soon as practicable, and in no event later than six months after the Effective Date.

**J. Cooperation**

52. John L. Scott (defined for purposes of this paragraph to include present and future, direct and indirect corporate subsidiaries, related entities and affiliates, predecessors, and successors but not franchisees) will provide valuable cooperation to Plaintiffs as follows in the Actions, including to the extent that any is consolidated pursuant to *In re Real Estate Commission Antitrust Litigation* (MDL No. 3100), including but not limited to the following.

- i. John L. Scott will use reasonable best efforts to produce relevant summary-level, companywide transactional data limited to the class period. To the extent

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reasonably possible, this data will be (i) aggregated on a quarterly basis and will provide transactional volume, transactional value, and commissions paid on a state by state basis; and (ii) sufficient to show volume of commerce and the average commission percentage. Such data may be anonymized to protect client and other privacy rights. The data will be produced at a similar time to when other Defendants produce transactional data in *Gibson*. The data shall not be used or disclosed for any purpose whatsoever other than the prosecution or defense of claims in, or the settlement of, *Gibson*. Upon conclusion of *Gibson*, Plaintiffs and their representatives, shall promptly destroy the data and certify to John L. Scott that they have done so.

- ii. John L. Scott will use reasonable best efforts to produce documents sufficient to show (to the extent such documents exist) its and its officers, employees, and agents' membership and participation in NAR; and that John L. Scott was subject to, and whether John L. Scott complied with, the challenged NAR rules during the class period, including whether and how John L. Scott accepted, adopted and implemented the challenged NAR rules, if at all.
- iii. John L. Scott will provide up to seven hours of 30(b)(6) testimony and up to seven hours of 30(b)(1) testimony across no more than two 30(b)(1) witnesses. The time only includes Plaintiff questioning and does not include questioning by any other party. Notwithstanding anything to the contrary in this Paragraph, no John L. Scott deposition witness will sit for more than seven hours on the record of questioning, including questioning from Plaintiffs and any other party, provided that Plaintiffs get up to 4.5 hours. John L. Scott will make one,

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- mutually agreed upon, witness available at trial, as necessary, and provide access via counsel to that witness prior to trial testimony for up to two (2) hours.
- iv. John L. Scott will use reasonable best efforts to authenticate documents and/or things produced by it in the Actions where the facts indicate that the documents and/or things at issue are authentic, by declarations or affidavits if possible, or at hearings or trial if necessary;
  - v. John L. Scott will use reasonable best efforts to provide the facts necessary to establish that documents and/or things produced by it in the Actions are “business records,” a present sense impression, an excited utterance, a recorded recollection, or are otherwise admissible under the Federal Rules of Evidence, if any of those exceptions are applicable, by declarations or affidavits if possible, or at hearings or trial if necessary;
  - vi. John L. Scott will use reasonable best efforts at its expense to provide relevant class member and listing data and answer questions about that data to support the provision of class notice, administration of any settlements, or the litigation of the Actions;
  - vii. if another Defendant includes a witness on a witness list who is then a current officer or employee of John L. Scott or its subsidiaries, John L. Scott will cooperate in providing access via counsel to that witness prior to trial testimony;
- and

viii. John L. Scott will agree not to provide greater assistance in discovery or trial to any defendant than to the Plaintiffs, unless required by subpoena or other compulsory process.

53. John L. Scott's cooperation obligations, as set forth in Paragraph 52, shall not require the production of information, testimony, and/or documents that are protected from disclosure by the attorney-client privilege, work product doctrine, joint defense privilege, or any other applicable privilege or doctrine.

54. John L. Scott's obligation to cooperate will not be affected by the release set forth in this Settlement Agreement or the final judgment orders with respect to John L. Scott. Unless this Settlement Agreement is rescinded, disapproved, or otherwise fails to become Effective, the obligation to cooperate as set forth here will continue until the date that final judgment has been entered in the Actions against the non-John L. Scott Defendants and the time for appeal or to seek permission to appeal from the entry of a final judgment has expired or, if appealed, any final judgment has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review.

55. John L. Scott acknowledges that the cooperation set forth here is a material component of this Settlement Agreement and agrees to use its reasonable best efforts to provide the cooperation specified in this Section.

**K. Miscellaneous**

56. This Settlement Agreement and any actions taken to carry out the Settlement are not intended to be, nor may they be deemed or construed to be, an admission or concession of liability, or of the validity of any claim, defense, or point of fact or law on the part of any party. John L. Scott denies the material allegations of the complaints in the Actions. Neither this Settlement Agreement, nor the fact of Settlement, nor settlement proceedings, nor the settlement

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negotiations, nor any related document, shall be used as an admission of any fault or omission by John L. Scott, or be offered in evidence as an admission, concession, presumption, or inference of any wrongdoing by John L. Scott in any proceeding, or be offered as a concession or agreement to jurisdiction in any court in Missouri (other than in connection with the enforcement of this Settlement Agreement) by John L. Scott or any Released Parties in any proceeding.

57. The Settling Parties reached the Settlement Agreement after considering the risks and costs of litigation. The Settling Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. The terms of the settlement continue to be subject to FRE 408 and must be kept strictly confidential until a motion for preliminary approval is filed—except as agreed in writing by the Settling Parties or as necessary or advisable for John L. Scott to meet any financial reporting obligations and its obligations to any lender or creditor in the reasonable discretion of its legal counsel, including, but not limited to, any press release that the Companies may issue disclosing the existence of the Settlement and the Total Settlement Amount.

58. Any disputes relating to this Settlement Agreement will be governed by Missouri law without regard to conflicts of law provisions. The Parties will not use John L. Scott's agreement to be governed by Missouri law as grounds for personal jurisdiction in any litigation, including, but not limited to, continued litigation in the Actions in the event that the Settlement is not finally approved. For the avoidance of doubt, John L. Scott does not waive and reserves all defenses and rights, including, but not limited to, concerning personal jurisdiction.

59. This Settlement Agreement does not settle or compromise any claim by Plaintiffs or any other Settlement Class Member against (a) any Non-John L. Scott Defendant or (b) any alleged co-conspirator or other person or entity other than the Released Parties. All rights of any

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Settlement Class Member against any Non-John L. Scott Defendant or an alleged co-conspirator or other person or entity other than the Released Parties are specifically reserved by Plaintiffs and the other Settlement Class Members.

60. This Settlement Agreement constitutes the entire agreement among Plaintiffs and John L. Scott pertaining to the Settlement of the Actions against John L. Scott. This Settlement Agreement may be modified or amended only by a writing executed by Plaintiffs and John L. Scott.

61. This Settlement Agreement may be executed in counterparts by Plaintiffs and John L. Scott, and a DocuSign, facsimile or pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

62. Neither Plaintiffs nor John L. Scott shall be considered the drafter of this Settlement Agreement or any of its provisions for the purpose of any statute, the common law, or rule of interpretation that would or might cause any provision of this Settlement Agreement to be construed against the drafter.

63. The provisions of this Settlement Agreement shall, where possible, be interpreted in a manner to sustain their legality and enforceability.

64. The Court shall retain jurisdiction over the implementation and enforcement of this Settlement Agreement and the Settlement.

65. The terms of the Settlement Agreement are and shall be binding upon and inure to the benefit of, to the fullest extent possible, each of the Releasing Parties and the Released Parties, and upon all other Persons claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, Released Parties, and any Settlement Class Members.

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66. Each Settling Party acknowledges that he, she or it has been and is being fully advised by competent legal counsel of such Settling Party's own choice and fully understands the terms and conditions of this Settlement Agreement, and the meaning and import thereof, and that such Settling Party's execution of this Settlement Agreement is with the advice of such Settling Party's counsel and of such Settling Party's own free will. Each Settling Party represents and warrants that it has sufficient information regarding the transaction and the other parties to reach an informed decision and has, independently and without relying upon the other parties, and based on such information as it has deemed appropriate, made its own decision to enter into this Settlement Agreement and was not fraudulently or otherwise wrongfully induced to enter into this Settlement Agreement.

67. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.



CO-LEAD COUNSEL

Hagens Berman Sobol Shapiro LLP

Cohen Milstein Sellers & Toll PLLC

Susman Godfrey LLP

Ketchmark & McCreight PC

Boulware Law LLC

Williams Dirks Dameron LLC

John L. Scott Real Estate Affiliates, Inc.

By: J. Lennox Scott

John L. Scott, Inc.

By: J. Lennox Scott

**APPENDIX A**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN MEINERS, and  
DANIEL UMPA, individually and on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, et. al.

Defendants.

Case No. 23-CV-788-SRB

[Consolidated with Case No.  
23-cv-945-SRB]

*Execution Copy*

Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa (collectively “Plaintiffs”) and Defendants The John L. Scott Company and Illustrated Properties, LLC (collectively, “John L. Scott”) (collectively, “the Parties”), by and through and including their undersigned counsel, stipulate and agree as follows:

WHEREAS, each firm defined in the Settlement Agreement as Co-Lead Counsel desires to give an undertaking (the “Undertaking”) for repayment of the award of attorneys’ fees, costs, and expenses approved by the Court, and

WHEREAS, the Parties agree that this Undertaking is in the interests of all Parties and in service of judicial economy and efficiency.

NOW, THEREFORE, the undersigned counsel, individually and as agent for his/her law firm, hereby submits both to the jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, Co-Lead Counsel and their shareholders, members, and/or partners submit to the jurisdiction of the United States District Court for the Western District of Missouri for the enforcement of and any and all disputes relating to or arising out of the reimbursement obligation set forth herein and the Settlement Agreement.

In the event that the Settlement Agreement does not receive final approval or any part of the final approval is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, Co-Lead Counsel shall, within thirty (30) days repay to John L. Scott, based upon written instructions

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provided by John L. Scott, the full amount of the attorneys' fees and costs paid to Co-Lead Counsel from the Settlement Fund, including any accrued interest.

In the event the Settlement Agreement becomes Effective, but the attorneys' fees, costs, and expenses awarded by the Court or any part of them are vacated, overturned, modified, reversed, or rendered void as a result of an appeal, Co-Lead Counsel shall within thirty (30) days repay to the Settlement Fund, based upon written instructions provided by the settlement administrator, the attorneys' fees and costs paid to Co-Lead Counsel from the Settlement Fund in the amount vacated or modified, including any accrued interest.

This Undertaking and all obligations set forth herein shall expire upon finality of all appeals of the final settlement order and judgment pertaining to attorneys' fees, such that the finality of those fees no longer remains in doubt.

In the event Co-Lead Counsel fails to repay to John L. Scott any of attorneys' fees and costs that are owed to it pursuant to this Undertaking, the Court shall, upon application of John L. Scott, and notice to Co-Lead Counsel, summarily issue orders, including but not limited to judgments and attachment orders against Co-Lead Counsel.

The undersigned stipulate, warrant, and represent that they have both actual and apparent authority to enter into this stipulation, agreement, and undertaking on behalf of each firm identified as Co-Lead Counsel. This agreement will only be effective upon its execution by each firm identified in the Settlement Agreement as Co-Lead Counsel.

Co-Lead Counsel acknowledge that this Undertaking is a material component of the Settlement Agreement and agree to use its reasonable efforts to timely effect the terms specified in this Undertaking. Each undersigned warrants and represents that it is not "insolvent" within the meaning of applicable bankruptcy laws as of the time this Undertaking is executed.

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

Signatures by facsimile shall be as effective as original signatures.

The undersigned declare under penalty of perjury under the laws of the United States and the State of Missouri that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:



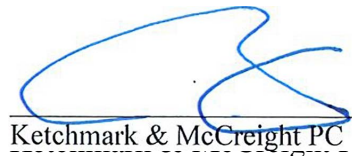
Hagens Berman Sobol Shapiro LLP



Cohen Milstein Sellers & Toll PLLC



Susman Godfrey LLP



Ketchmark & McCreight PC



Boulware Law LLC



Williams Dirks Dameron LLC

# EXHIBIT D

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN MEINERS, and  
DANIEL UMPA, individually and on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, et. al.

Defendants.

Case No. 23-CV-788-SRB

[Consolidated with  
4:23-cv-00945-SRB]

Hon. Stephen R. Bough

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Settlement Agreement”) is made and entered into this 28th day of October, 2024 (the “Execution Date”), by and between Defendant The K Company Realty, LLC d/b/a LoKation (“LoKation”) and Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa, (collectively “Plaintiffs”), who filed suit in the above captioned actions (now consolidated) both individually and as representatives of one or more classes of home sellers. Plaintiffs enter this Settlement Agreement both individually and on behalf of the Settlement Class, as defined below.

WHEREAS, in the Actions Plaintiffs allege that LoKation participated in a conspiracy to raise, fix, maintain, or stabilize real estate commissions in violation of Section 1 of the Sherman Act and corresponding state laws;

WHEREAS, LoKation denies Plaintiffs’ allegations in the Actions and has asserted defenses to Plaintiffs’ claims;

WHEREAS, extensive arm’s-length settlement negotiations have taken place between Plaintiffs’ Co-Lead Counsel and counsel for LoKation, including an in-person mediation with a nationally recognized and highly experienced mediator, leading to this Settlement Agreement;

WHEREAS, the Actions will continue against the Non-LoKation Defendants unless Plaintiffs separately settle with any of the Non-LoKation Defendants;

WHEREAS, Plaintiffs have conducted an extensive investigation into the facts and the law regarding the claims asserted in the Actions, and have concluded that a settlement with LoKation according to the terms set forth below is fair, reasonable, and adequate and in the best interest of Plaintiffs and the Settlement Class;

WHEREAS, LoKation believes that it is not liable for the claims asserted and has good defenses to Plaintiffs’ claims and meritorious motions to dismiss, but nevertheless has decided



to enter into this Settlement Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, to obtain the nationwide releases, orders, and judgment contemplated by this Settlement Agreement, and to put to rest with finality all claims that Plaintiffs and Settlement Class Members have or could have asserted against the Released Parties, as defined below; and

WHEREAS, LoKation, in addition to any settlement payments set forth below, has agreed to cooperate with Plaintiffs and to implement certain practice changes, each as set forth in this Settlement Agreement.

NOW, THEREFORE, in consideration of the agreements and releases set forth herein and other good and valuable consideration, and intending to be legally bound, it is agreed by and between LoKation and the Plaintiffs that the Actions be settled, compromised, and dismissed with prejudice as to LoKation only, without costs to Plaintiffs, the Settlement Class or LoKation except as provided for herein, subject to the approval of the Court, on the following terms and conditions:

**A. Definitions**

The following terms, as used in this Settlement Agreement, have the following meanings:

1. “Actions” means Gibson v. NAR, (W.D. Mo. Case No. 23-CV-788-SRB) and Umpa v. NAR, (W.D. Mo. Case No. 23-CV-945-SRB).

2. “Corporate Defendants” means any defendant aside from the National Association of Realtors named in *Gibson, Umpa, Burnett v. NAR*, (W.D. Mo. Case No. 19-CV-0332-SRB) (“Burnett”), or *Moehrl v. NAR*, (N.D. Ill. Case No. 1:19-cv-01610).

3. “Co-Lead Counsel” means the following law firms:

KETCHMARK AND MCCREIGHT P.C.  
11161 Overbrook Road, Suite 210  
Leawood, KS 66211

BOULWARE LAW LLC  
1600 Genessee, Suite 956A  
Kansas City, MO 64102

WILLIAMS DIRKS DAMERON LLC  
1100 Main Street, Suite  
2600 Kansas City, MO  
64105

HAGENS BERMAN SOBOL SHAPIRO LLP  
1301 Second Avenue, Suite 2000  
Seattle, WA 98101

COHEN MILSTEIN SELLERS & TOLL PLLC  
1100 New York Ave. NW, Fifth Floor  
Washington, DC 20005

SUSMAN GODFREY LLP  
1201 Third Avenue, Suite 3800  
Seattle, Washington 98101

4. “Court” means the U.S. District Court for the Western District of Missouri.
5. “Defendants” means LoKation, and all defendants named in either Gibson or Umpa.
6. “Effective” means that all conditions set forth below in the definition of “Effective Date” have occurred.
7. “Effective Date” means the date when: (a) the Court has entered a final judgment order approving the Settlement set forth in this Settlement Agreement under Rule 23(e) of the Federal Rules of Civil Procedure and a final judgment dismissing the Actions against LoKation with prejudice has been entered; and (b) the time for appeal or to seek permission to appeal from the Court’s approval of the Settlement and the entry of a final judgment has expired or, if appealed, approval of the Settlement and the final judgment have been affirmed in their entirety by the Court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review; excluding, however, any appeal or other proceedings

unrelated to this Settlement Agreement initiated by any Non-LoKation Defendant or any person or entity related to the Non-LoKation Defendant, and any such appeal or other proceedings shall not delay the Settlement Agreement from becoming final and shall not apply to this section; nor shall this section be construed as an admission that such parties have standing or other rights of objection or appeal with respect to this Settlement. It is agreed that neither the provisions of Federal Rule of Civil Procedure 60 nor the All Writs Act, 28 U.S.C. § 1651, shall be considered in determining the above-stated times.

8. “Gibson” means Western District of Missouri Case No. 4:19-cv-00332-SRB, which is currently pending.

9. “Opt-Out Sellers” means members of the Settlement Class who have timely exercised their rights to be excluded from the Settlement Class or have otherwise obtained Court approval to exercise such rights.

10. “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity, and such individual’s or entity’s spouse, heirs, predecessors, successors, representatives, affiliates and assignees. For the avoidance of doubt, Persons include all real estate brokerages.

11. “Released Claims” means any and all manner of federal and state claims regardless of the cause of action arising from or relating to conduct that was alleged or could have been alleged in the Actions based on any or all of the same factual predicates for the claims alleged in the Actions, including but not limited to commissions negotiated, offered, obtained, or paid to brokerages in connection with the sale of any residential home.

12. “Released Parties” means LoKation and all of its respective past, present and

future, direct and indirect corporate parents (including holding companies), subsidiaries, related entities and affiliates, associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), predecessors, and successors, and all of their respective franchisees, sub-franchisors, officers, directors, managing directors, members, managers, employees, agents, contractors, independent contractors, attorneys, legal or other representatives, accountants, auditors, experts, trustees, trusts, heirs, beneficiaries, estates, executors, administrators, insurers, and assigns, and all of the franchisees' and sub-franchisors' officers, directors, managing directors, members, managers, employees, agents, and independent contractors. Notwithstanding this definition, "Released Parties" shall not include the Non-LoKation Corporate Defendants, or their past, present and future, direct and indirect corporate parents (including holding companies), subsidiaries, related entities and affiliates, associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), predecessors, and successors, and all of their respective franchisees, officers, directors, managing directors, members, managers, employees, agents, contractors, independent contractors, attorneys, legal or other representatives, accountants, auditors, experts, trustees, trusts, heirs, beneficiaries, estates, executors, administrators, insurers, and assigns. For the avoidance of doubt, individuals who were members of the National Association of Realtors are not thereby excluded from being Released Parties, and entities and individuals that were sometimes associated with the Released Parties and other times associated with a different Corporate Defendant are included as Released Parties for the periods of time they were associated with the Released Parties and excluded for the periods of time they were associated with a different Corporate Defendant. For the avoidance of doubt, the foregoing release is not intended to and does not release LoKation or any other Person for any claims based on the conduct of any real estate brokerage acquired by

LoKation or any other Person who becomes affiliated with LoKation after the Execution Date for conduct which took place before the Execution Date.

13. “Releasing Parties” means Plaintiffs and any Settlement Class Members (including any of their immediate family members, heirs, representatives, administrators, executors, devisees legatees, and estates, acting in their capacity as such; and for entities including any of their past, present or future officers, directors, insurers, general or limited partners, members, managers, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors and assigns, acting in their capacity as such solely with respect to the claims based on or derived from claims of the Plaintiffs or Settlement Class Members).

14. “Settlement” means the settlement of the Actions contemplated by this Settlement Agreement.

15. “Settlement Class” means the class of persons that will be certified by the Court for settlement purposes only, namely, all persons who sold a home that was listed on a multiple listing service anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home between October 31, 2019 and the date of the Class Notice. For the avoidance of doubt, Plaintiffs and LoKation intend this Settlement Agreement and the Settlement Class Definition to encompass a nationwide class with a nationwide settlement and release, including, but not limited to, all persons who sold a home nationwide that was listed on any and all non-NAR multiple listing services, which shall include, but are not limited to, transactions associated with the Real Estate Board of New York (“REBNY”) and/or on the REBNY Residential Listing Service (“RLS”).

16. “Settlement Class Member” means a member of the Settlement Class who does not file a valid request for exclusion from the Settlement Class.

17. “Settling Parties” means Plaintiffs and LoKation.

18. “Total Monetary Settlement Amount” means payment of \$925,000.00 in a guaranteed payment in United States currency. All costs of settlement, including all payments to class members, all attorneys’ fees and costs, all service awards to current and former class representatives, and all costs of notice and administration, will be paid out of the Total Monetary Settlement Amount, and LoKation will pay nothing apart from the Total Monetary Settlement Amount.

19. “Umpa” means Western District of Missouri Case No. 23-cv-00945, which is currently pending, and which has now been consolidated with Gibson.

**B. Stipulation to Class Certification**

20. The Settling Parties hereby stipulate for purposes of this Settlement only that the requirements of Federal Rules of Civil Procedure 23(a), 23(b)(2), and 23(b)(3) are satisfied and, subject to Court approval, the Settlement Class shall be certified for settlement purposes as to LoKation. The Settling Parties stipulate and agree to the conditional certification of the Settlement Class for purposes of this Settlement only. Should, for whatever reason, the Settlement not become Effective, the Settling Parties’ stipulation to class certification as part of the Settlement shall become null and void.

21. Neither this Settlement Agreement, nor any statement, transaction, or proceeding in connection with the negotiation, execution, or implementation of this Settlement Agreement should be intended to be, construed as, or deemed to be evidence of an admission or concession by LoKation that a class should be or should have been certified for any purposes other than

settlement, and none of them shall be admissible in evidence for any such purpose in any proceeding.

**C. Approval of this Settlement Agreement and Dismissal of the Actions**

22. The Settling Parties agree to make reasonable best efforts to effectuate this Settlement Agreement, including, but not limited to, seeking the Court's approval of procedures (including the giving of class notice under Federal Rules of Civil Procedure 23(c) and (e)); scheduling a final fairness hearing to obtain final approval of the Settlement and the final dismissal with prejudice of the Actions as to LoKation; and LoKation's cooperation by providing information reflecting its ability to pay limitations and, if requested by Co-Lead Counsel, a declaration describing and attesting to those limitations. All parties will keep this Settlement Agreement, and its terms, confidential until LoKation has disclosed notice of the Settlement, consistent with its securities law reporting obligations. On the day that LoKation publicly discloses the Settlement, or no later than one (1) business day later, LoKation will notify the Court in a joint filing with Plaintiffs that it and Plaintiffs have reached an agreement to resolve the claims against LoKation, and that Plaintiffs and LoKation stipulate to, and jointly request, an immediate stay of the Actions as to LoKation, pending the Court's final decision on approval of the settlement.

23. Plaintiffs will submit to the Court a motion requesting that the Court preliminarily approve the Settlement (the "Motion"). Plaintiffs shall seek a hearing on the Motion for preliminary approval on October 25, 2024. The Motion shall include a proposed form of order preliminarily approving the Settlement and enjoining Releasing Parties from prosecuting any Released Claims in any forum until the Effective Date of this Settlement. The proposed form of the preliminary approval order shall be acceptable to LoKation provided that it is substantially in

the form of the orders proposed in connection with the Keller Williams, Anywhere, and RE/MAX settlements in Burnett. At least 24 hours before submission to the Court, the papers in support of the Motion for preliminary approval shall be provided by Co-Lead Counsel to LoKation for its review. To the extent that LoKation objects to any aspect of the Motion, it shall communicate such objection to Co- Lead Counsel and the Settling Parties shall meet and confer to resolve any such objection. The Settling Parties shall take all reasonable actions as may be necessary to obtain preliminary approval of the Settlement. To the extent the Court finds that the Settlement does not meet the standard for preliminary approval, the Settling Parties will negotiate in good faith to modify the Settlement Agreement directly or with the assistance of mediator Victor Howard and will endeavor to resolve any issues to the satisfaction of the Court.

24. The Settling Parties agree that Plaintiffs may at their sole discretion: (i) seek to include notice of this Settlement to the Settlement Class and for claim administration along with the settlement with the National Association of Realtors or any other Defendant or (ii) seek approval of a separate plan for providing class notice of this Settlement in a manner that meets the requirements of due process and Federal Rule of Civil Procedure 23. The Settling Parties agree that the method and form of notice shall not be subject to LoKation's review or approval so long as they are substantially in the form of the Court-approved notice of the Anywhere, RE/MAX, and Keller Williams settlements. To the extent Plaintiffs seek to vary the method or form of notice, LoKation must provide any edits or objections within 24 hours, and the Settling Parties shall promptly meet and confer to resolve any such objection. The Settling Parties agree to the use JND as a claims and notice administrator. The timing of any request to disseminate notice to the Settlement Class will be at the discretion of Co-Lead Counsel. Co-Lead counsel



shall include an objection deadline for this settlement no later than the objection deadline set for the NAR settlement.

25. Within ten (10) calendar days after the filing with the Court of this Settlement Agreement and the accompanying motion papers seeking its preliminary approval, JND, the notice administrator, shall at LoKation's expense to be credited against and not to exceed the guaranteed payment amount of the Total Monetary Settlement Amount cause notice of the Settlement Agreement to be served upon appropriate State and Federal officials as provided in the Class Action Fairness Act, 28 U.S.C. § 1715.

26. If the Settlement is preliminarily approved by the Court, Plaintiffs shall timely seek final approval of the Settlement and entry of a final judgment order as to LoKation:

(a) certifying the Settlement Class under Federal Rule of Civil Procedure 23(b), solely for purposes of this Settlement;

(b) granting final approval of the Settlement as fair, reasonable, and adequate within the meaning of Federal Rules of Civil Procedure 23(e) and directing the consummation of the Settlement according to its terms;

(c) directing that, as to LoKation only, the Actions be dismissed with prejudice and, except as provided for herein, without costs;

(d) reserving exclusive jurisdiction over the Settlement and this Settlement Agreement, including reserving exclusive jurisdiction over the administration and consummation of this Settlement to the United States District Court for the Western District of Missouri; and

(e) determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing entry of final judgment as to LoKation.

27. This Settlement Agreement will become Effective only after the occurrence of all conditions set forth above in the definition of the Effective Date.

**D. Releases, Discharge, and Covenant Not to Sue**

28. Upon the occurrence of the Effective Date, the Releasing Parties expressly and irrevocably waive, and fully, finally, and forever settle, discharge, and release the Released Parties from, any and all manner of claims, demands, actions, suits, and causes of action, whether individual, class, representative, or otherwise in nature, for damages, restitution, disgorgement, interest, costs, expenses, attorneys' fees, fines, civil or other penalties, or other payment of money, or for injunctive, declaratory, or other equitable relief, whenever incurred, whether directly, indirectly, derivatively, or otherwise, whether known or unknown, suspected or unsuspected, in law or in equity, that any Releasing Party ever had, now has, or hereafter can, shall, or may have and that have accrued as of the date of preliminary approval of the Settlement arising from or related to the Released Claims. The Released Claims include but are not limited to the antitrust and consumer protection claims brought in the Actions and similar state and federal statutes. In connection therewith, upon the Effective Date of Settlement, each of the Releasing Parties (i) shall forever be enjoined from prosecuting in any forum any Released Claims against any of the Released Parties that accrued from the beginning of time through the date of preliminary approval of the Settlement; and (ii) agrees and covenants not to sue any of the Released Parties with respect to any Released Claims. For avoidance of doubt, this release extends to, but only to, the fullest extent permitted by law.

29. The Releasing Parties may hereafter discover facts other than or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims. Nevertheless, the Releasing Parties expressly, fully, finally, and forever settle and release,

and, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal with Prejudice in the Actions shall have, fully, finally, and forever settled and released, any and all Released Claims, without regard to the subsequent discovery or existence of such other, different, or additional facts, as well as any and all rights and benefits existing under (i) Cal. Civ. 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.

or any equivalent, similar or comparable present or future law or principle of law of any jurisdiction, including but not limited to Section 20-7-11 of the South Dakota Codified Laws, which provides that “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR;” or (ii) any law or principle of law of any jurisdiction that would limit or restrict the effect or scope of the provisions of the release set forth above, without regard to the subsequent discovery or existence of such other, different, or additional facts. The Releasing Parties acknowledge that the inclusion of unknown claims in the definition of Released Claims was separately bargained for and was a

material element of this Settlement Agreement.

30. The Releasing Parties intend by this Settlement Agreement to settle with and release only the Released Parties, and the Settling Parties do not intend this Settlement Agreement, or any part hereof, or any other aspect of the proposed Settlement or release, to release or otherwise affect in any way any claims concerning product liability, breach of warranty, breach of contract or tort of any kind (other than a breach of contract or tort based on any factual predicate in this Action), a claim arising out of violation of the Uniform Commercial Code, or personal or bodily injury. The release does not extend to any individual claims that a class member may have against his or her own broker or agent based on a breach of contract, breach of fiduciary duty, malpractice, negligence or other tort claim, other than a claim that a class member paid an excessive commission or home price due to the claims at issue in these Actions.

**E. Payment of the Settlement Amount**

31. Plaintiffs will open a special interest-bearing settlement escrow account or accounts, established for that purpose as a qualified settlement fund as defined in Section 1.468B-1(a) of the U.S. Treasury Regulations (the “Escrow Account”). Within 30 business days after preliminary approval of the Settlement by the Court, LoKation will deposit \$887,500 into the Escrow Account. LoKation agrees to pay an additional \$37,500 into the Escrow Account six months after preliminary approval of the Settlement by the Court. All payments that LoKation owes must be completed by six months after preliminary approval of the Settlement by the Court. In total, these payments of \$925,000.00 are the Total Monetary Settlement Amount. All accrued interest from LoKation’s payments into the Escrow Account shall be for the benefit of the plaintiff classes unless the Settlement is not approved, or is rescinded, in which case the interest shall be for the benefit of LoKation.

**F. The Settlement Fund**

32. The Total Monetary Settlement Amount and any interest earned thereon shall be held in the Escrow Account and constitute the “Settlement Fund.” The full and complete cost of the settlement notice, claims administration, Settlement Class Members’ compensation, current and former class representatives’ incentive awards, attorneys’ fees and reimbursement of all actual expenses of the Actions, any other litigation costs of Plaintiffs (all as approved by the Court), and all applicable taxes, if any, assessable on the Settlement Fund or any portion thereof, will be paid out of the Settlement Fund. In no event will LoKation’s monetary liability with respect to the Settlement exceed the Total Monetary Settlement Amount.

33. The Settling Parties and their counsel will not have any responsibility, financial obligation, or liability for any fees, costs, or expenses related to providing notice to the Settlement Class or administering the settlement except in Paragraph 34. Such fees, costs, or expenses shall be paid solely from the Settlement Fund with Court approval. The balance of the Settlement Fund shall be disbursed to Settlement Class Members as provided in a Plan of Allocation (as defined below) approved by the Court. The Settling Parties shall have the right to audit amounts paid from the Settlement Fund.

34. After preliminary approval of the Settlement and approval of a class notice plan, Co- Lead Counsel may utilize a portion of the Settlement Fund to provide notice of the Settlement to potential members of the Settlement Class. LoKation will not object to Plaintiffs’ counsel withdrawing from the Settlement Fund, subject to any necessary Court approval, up to \$350,000.00 to pay the costs for notice. If Plaintiffs settle with one (or more) Non-LoKation Corporate Defendants and notice of one or more other settlements is included in the notice of the LoKation settlement, then the cost of such notice will be apportioned equitably between (or

among) the LoKation Settlement Fund and the other settling Defendant(s)' settlement funds. The amount spent or accrued for notice and notice administration costs is not refundable to LoKation in the event the Settlement Agreement is disapproved, rescinded, or otherwise fails to become Effective.

35. Subject to Co-Lead Counsel's sole discretion as to timing, except that the timing must be consistent with rules requiring that Settlement Class Members be given the opportunity to review fee applications, Co-Lead Counsel may apply to the Court for a fee award, plus expenses, and costs incurred, and current and former class representative service awards to be paid out of the Settlement Fund. Within 14 business days after any order by the Court awarding attorneys' fees, expenses, or class representative incentive awards, the escrow agent for the Settlement Fund shall pay any approved attorneys' fees, expenses, costs, and class representative service award up to the amount specified in Paragraph 31 above for such fees, expenses, costs, and class representative service award by wire transfer as directed by Co-Lead Counsel in accordance with and attaching the Court's Order, provided that each Co-Lead Counsel receiving payment signs an assurance, in the form attached hereto as Appendix A, attesting that they will repay all awarded amounts if this Settlement Agreement does not become Effective.

36. The Settlement Fund will be invested in United States Government Treasury obligations or United States Treasury money market funds.

37. LoKation will not have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, use, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such investment, distribution, use or administration except as expressly otherwise provided in this Settlement Agreement. LoKation's only payment obligation is to pay the Total Monetary Settlement Amount.

38. There will be no reduction of the Total Monetary Settlement Amount based on Opt-Out Sellers. The Settlement will be non-reversionary. If the Settlement becomes Effective, no proceeds from the Settlement will revert to LoKation regardless of the claims that are made.

39. No disbursements shall be made from the Settlement Fund prior to the Effective Date of this Settlement Agreement except as described in Paragraphs 34 and 35 above and 42 below.

40. The distribution of the Settlement Fund shall be administered pursuant to a plan of allocation (the “Plan of Allocation”) proposed by Co-Lead Counsel in their sole and absolute discretion and subject to the approval of the Court. LoKation will have no participatory or approval rights with respect to the Plan of Allocation. It is understood and agreed by the Settling Parties that any proposed Plan of Allocation, including, but not limited to, any adjustments to an authorized claimant’s claim, is completely independent of and is not a part of this Settlement Agreement and is to be considered by the Court separately from the Court’s consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement. The Settlement Class, Plaintiffs, and LoKation shall be bound by the terms of the Settlement Agreement, irrespective of whether the Court or any other court, including on any appeal, disapproves or modifies the Plan of Allocation, and any modification or rejection of the Plan of Allocation shall not affect the validity or enforceability of this Settlement Agreement or otherwise operate to terminate, modify, or cancel that Agreement.

41. The Releasing Parties will look solely to the Settlement Fund for settlement and satisfaction against the Released Parties of all Released Claims and shall have no other recovery against LoKation or the Released Parties.

**G. Taxes**

42. Co-Lead Counsel is solely responsible for filing all informational and other tax returns necessary to report any net taxable income earned by the Settlement Fund and shall file all informational and other tax returns necessary to report any income earned by the Settlement Fund and shall be solely responsible for taking out of the Settlement Fund, as and when legally required, any tax payments, including interest and penalties due on income earned by the Settlement Fund. All taxes (including any interest and penalties) due with respect to the income earned by the Settlement Fund shall be paid from the Settlement Fund. LoKation has no responsibility to make any filings relating to the Settlement Fund and will have no responsibility to pay tax on any income earned by the Settlement Fund or to pay any taxes on the Settlement Fund unless the Settlement does not become Effective and the Settlement Fund is returned to LoKation. In the event the Settlement does not become Effective and any funds including interest or other income are returned to LoKation, LoKation will be responsible for the payment of all taxes (including any interest or penalties), if any, on said interest or other income in connection with the Settlement Fund. LoKation makes no representations regarding, and will not be responsible for, the tax consequences of any payments made pursuant to this Settlement Agreement to Co-Lead Counsel or to any Settlement Class Member.

**H. Rescission**

43. If the Court does not certify the Settlement Class as defined in this Settlement Agreement, or if the Court does not approve this Settlement Agreement in all material respects, or if such approval is modified in or set aside on appeal in any material respects, or if the Court does not enter final approval, or if any judgment approving this Settlement Agreement is materially modified or set aside on appeal, or if all of the conditions for the Effective Date do not



occur, then this Settlement Agreement may be rescinded by LoKation or by Plaintiffs on behalf of the Settlement Class by written notice to the Court and to counsel for the other Settling Party filed and served within 10 business days of the entry of an order not granting court approval or having the effect of disapproving or materially modifying the terms of this Settlement Agreement. A modification or reversal on appeal of any amount of the Settlement Fund that the Court authorizes to be used to pay Plaintiffs' fees or litigation expenses shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or such final judgment order.

44. If the Settlement or Settlement Agreement is rescinded for any reason, then the balance of the Total Monetary Settlement Amount in the Settlement Fund will be returned to LoKation. In the event that the Settlement Agreement is rescinded, the funds already expended from the Settlement Fund for the costs of notice and administration will not be returned to LoKation. Funds to cover notice and administration expenses that have been incurred but not yet paid from the Settlement Fund will also not be returned to LoKation.

45. If the Settlement or Settlement Agreement is rescinded for any valid reason before payment of claims to Settlement Class Members, then the Settling Parties will be restored to their respective positions in the Actions as of October 22, 2024. Plaintiffs and LoKation agree that any rulings or judgments that occur in the Actions on or after October 21, 2024 and before this Settlement Agreement is rescinded will not bind Plaintiffs, LoKation, or any of the Released Parties. Plaintiffs and LoKation agree to waive any argument of claim or issue preclusion against Plaintiffs or LoKation arising from such rulings or judgments. In the event of rescission, the Actions will proceed as if this Settlement Agreement had never been executed and this Settlement Agreement, and representations or agreements made in conjunction with this

Settlement Agreement, may not be used in the Actions or otherwise for any purpose. LoKation and Plaintiffs expressly reserve all rights if the Settlement Agreement does not become Effective or if it is rescinded by LoKation or the Plaintiffs, including, but not limited to, any defenses concerning the Court's lack of personal jurisdiction over LoKation or any Released Parties. The Settling Parties agree that pending deadlines for motions not yet filed, and all deadlines (whether pending or past) for motions that will be withdrawn pursuant to this Settlement Agreement, shall be tolled for the period from October 22, 2024, until the date this Settlement or Settlement Agreement is rescinded, and no Settling Party shall contend that filing or renewal of such motions was rendered untimely by or was waived by the operation of this Settlement Agreement.

46. LoKation warrants and represents that it is not "insolvent" within the meaning of applicable bankruptcy laws as of the time this Settlement Agreement is executed, and, will be deemed to warrant and represent, that it is not "insolvent" within the meaning of applicable bankruptcy laws at the time that payments of the Settlement Amount are actually transferred or made to the Escrow Account. In the event of a final order of a court of competent jurisdiction, not subject to any further proceedings, determining the actual transfer of the Settlement Amount, or any portion thereof, by or on behalf of LoKation to be a preference, voidable transfer, fraudulent transfer or similar transaction under Title 11 of the U.S. Code (Bankruptcy) or applicable state law and any portion thereof is required to be refunded and such amount is not promptly deposited in the Escrow Account by or on behalf of LoKation, then, at the election of Plaintiff counsel, the settlement may be terminated and the releases given and the judgment entered pursuant to the Settlement shall be null and void.

47. The Settling Parties' rights to terminate this Settlement Agreement and withdraw from this Settlement Agreement are a material term of this Settlement Agreement.

48. LoKation reserves all of its legal rights and defenses with respect to any claims brought by potential Opt-Out Sellers.

**I. Practice Changes**

49. As soon as practicable, and in no event later than six months after the Effective Date, LoKation (defined for purposes of this paragraph to include present and future, direct and indirect corporate subsidiaries, related entities and affiliates, predecessors, and successors but not franchisees) will implement the following practice changes:

- i. advise and periodically remind LoKation's company-owned brokerages, franchisees (if any), and their agents that there is no LoKation requirement that they must make offers to or must accept offers of compensation from buyer brokers or other buyer representatives or that, if made, such offers must be blanket, unconditional, or unilateral;
- ii. require that any LoKation company-owned brokerages and their agents (and recommend and encourage that any franchisees (if any) and their agents) disclose to prospective home sellers and buyers and state in conspicuous language that broker commissions are not set by law and are fully negotiable (i) in their listing agreement if it is not a government or MLS-specified form, (ii) in their buyer representation agreement if there is one and it is not a government or MLS-specified form, and (iii) in pre-closing disclosure documents if there are any and they are not government or MLS-specified forms. In the event that the listing agreement, buyer representation agreement, or pre-closing disclosure documents is a government or MLS-specified form, then LoKation will

require that any company-owned brokerages and their agents (and recommend and encourage that any LoKation franchisees and their agents) include a disclosure with conspicuous language expressly stating that broker commissions are not set by law and are fully negotiable;

- iii. prohibit all LoKation company-owned brokerages and their agents acting as buyer representatives (and recommend and encourage that franchisees (if any) and their agents acting as buyer representatives refrain) from advertising or otherwise representing that their services are free;
- iv. require that LoKation owned brokerages and their agents disclose at the earliest moment possible any offer of compensation made in connection with each home marketed to prospective buyers in any format;
- v. prohibit LoKation owned brokerages and their agents (and recommend and encourage that any franchisees (if any) and their agents refrain) from utilizing any technology or taking manual actions to filter out or restrict listings that are searchable by and displayed to consumers based on the level of compensation offered to any cooperating broker, unless directed to do so by the client (and eliminate any internal systems or technological processes that may currently facilitate such practices);
- vi. advise and periodically remind LoKation company owned brokerages and their agents of their obligation to (and recommend and encourage that any franchisees (if any) and their agents) show properties regardless

of the existence or amount of compensation offered to buyer brokers or other buyer representatives provided that each such property meets the buyer's articulated purchasing priorities;

vii. for each of the above points, for company owned brokerages, franchisees (if any), and their agents, develop training materials consistent with the above relief and eliminate any contrary training materials currently used.

50. If not automatically terminated earlier by their own terms, the obligations set forth in Paragraph 49 will sunset 5 years after the Effective Date.

51. LoKation acknowledges that the practice changes set forth here are a material component of this Settlement Agreement and agrees to use its reasonable best efforts to implement the practice changes specified in this Section.

**J. Cooperation**

52. LoKation (defined for purposes of this paragraph to include present and future, direct and indirect corporate subsidiaries, related entities and affiliates, predecessors, and successors but not franchisees) will provide valuable cooperation to Plaintiffs as follows in the Actions, including to the extent that any is consolidated pursuant to *In re Real Estate Commission Antitrust Litigation* (MDL No. 3100), including but not limited to the following. Any disputes regarding the scope of these provisions or compliance with these provisions can be referred to Victor Howard or another mediator, mutually chosen by the parties, for binding resolution.

i. LoKation will use reasonable best efforts to produce relevant summary - level, companywide transactional data limited to the class period. This

data will be aggregated on a quarterly basis and will provide transactional volume, transactional value, and commissions paid on a state by state basis. The data will be sufficient to show volume of commerce and the average commission percentage. The data will be produced at a similar time to when other Defendants produce transactional data in Gibson and Umpa.

- ii. LoKation will produce documents sufficient to show (to the extent such documents exist) its and its officers, employees, and agents' membership and participation in NAR, that was subject to, and complied with the challenged NAR rules during the class period, including whether and how LoKation accepted, adopted and implemented the challenged NAR rules, if at all.
- iii. LoKation will provide up to seven hours of 30(b)(6) testimony and up to seven hours of 30(b)(1) testimony across no more than two 30(b)(1) witnesses. The time only includes Plaintiff questioning and does not include questioning by any other party. Notwithstanding anything to the contrary in this Paragraph, no LoKation deposition witness will sit for more than seven hours on the record of questioning, including questioning from Plaintiffs and any other party, provided that Plaintiffs get up to 4.5 hours. LoKation will make one, mutually agreed upon, witness available at trial, as necessary, and provide access via counsel to that witness prior to trial testimony for up to two (2) hours.
- iv. LoKation will use reasonable best efforts to authenticate documents

and/or things produced by it in the Actions where the facts indicate that the documents and/or things at issue are authentic, by declarations or affidavits if possible, or at hearings or trial if necessary;

- v. LoKation will use reasonable best efforts to provide the facts necessary to establish that documents and/or things produced by it in the Actions are “business records,” a present sense impression, an excited utterance, a recorded recollection, or are otherwise admissible under the Federal Rules of Evidence, if any of those exceptions are applicable, by declarations or affidavits if possible, or at hearings or trial if necessary;
- vi. LoKation will use reasonable best efforts at its expense to provide relevant class member and listing data and answer questions about that data to support the provision of class notice, administration of any settlements, or the litigation of the Actions;
- vii. if another Defendant includes a witness on a witness list who is then a current officer or employee of LoKation or its subsidiaries, LoKation will cooperate in providing access via counsel to that witness prior to trial testimony; and
- viii. LoKation will agree not to provide greater assistance in discovery or trial to any defendant than to the Plaintiffs, unless required by subpoena or other compulsory process.

53. LoKation’s cooperation obligations, as set forth in Paragraph 52, shall not require the production of information, testimony, and/or documents that are protected from disclosure by the attorney-client privilege, work product doctrine, joint defense privilege, or any

other applicable privilege or doctrine.

54. LoKation's obligation to cooperate will not be affected by the release set forth in this Settlement Agreement or the final judgment orders with respect to LoKation. Unless this Settlement Agreement is rescinded, disapproved, or otherwise fails to become Effective, the obligation to cooperate as set forth here will continue until the date that final judgment has been entered in the Actions against the non-LoKation Defendants and the time for appeal or to seek permission to appeal from the from the entry of a final judgment has expired or, if appealed, any final judgment has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review.

55. LoKation acknowledges that the cooperation set forth here is a material component of this Settlement Agreement and agrees to use its reasonable best efforts to provide the cooperation specified in this Section.

**K. Miscellaneous**

56. This Settlement Agreement and any actions taken to carry out the Settlement are not intended to be, nor may they be deemed or construed to be, an admission or concession of liability, or of the validity of any claim, defense, or point of fact or law on the part of any party. LoKation denies the material allegations of the complaints in the Actions. Neither this Settlement Agreement, nor the fact of Settlement, nor settlement proceedings, nor the settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by LoKation, or be offered in evidence as an admission, concession, presumption, or inference of any wrongdoing or concession or agreement to jurisdiction in any court in Missouri (other than in connection with the enforcement of this Settlement Agreement) by LoKation or any Released Parties in any proceeding.



57. This Settlement Agreement was reached with the assistance of counsel after arm's-length negotiations before a neutral mediator, Honorable Victor Howard, of Jay Daughterty Mediation & Arbitration Services. The Settling Parties reached the Settlement Agreement after considering the risks and costs of litigation. The Settling Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. The terms of the settlement continue to be subject to mediation privilege and must be kept strictly confidential until a motion for preliminary approval is filed—except as necessary for LoKation to meet its securities law reporting obligations as referenced in Paragraph 22.

58. Any disputes relating to this Settlement Agreement will be governed by Missouri law without regard to conflicts of law provisions. The Parties will not use LoKation's agreement to be governed by Missouri law as grounds for personal jurisdiction in any litigation, including, but not limited to, continued litigation in the Actions in the event that the settlement is not finally approved. For the avoidance of doubt, LoKation does not waive and reserves all defenses and rights, including, but not limited to, concerning personal jurisdiction.

59. This Settlement Agreement does not settle or compromise any claim by Plaintiffs or any other Settlement Class Member against (a) any Non-LoKation Defendant or (b) any alleged co-conspirator or other person or entity other than the Released Parties. All rights of any Settlement Class Member against any Non-LoKation Defendant or an alleged co-conspirator or other person or entity other than the Released Parties are specifically reserved by Plaintiffs and the other Settlement Class Members.

60. This Settlement Agreement constitutes the entire agreement among Plaintiffs and LoKation pertaining to the Settlement of the Actions against LoKation. This Settlement

Agreement may be modified or amended only by a writing executed by Plaintiffs and LoKation.

61. This Settlement Agreement may be executed in counterparts by Plaintiffs and LoKation, and a DocuSign, facsimile or pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

62. Neither Plaintiffs nor LoKation shall be considered the drafter of this Settlement Agreement or any of its provisions for the purpose of any statute, the common law, or rule of interpretation that would or might cause any provision of this Settlement Agreement to be construed against the drafter.

63. The provisions of this Settlement Agreement shall, where possible, be interpreted in a manner to sustain their legality and enforceability.

64. The Court shall retain jurisdiction over the implementation and enforcement of this Settlement Agreement and the Settlement.

65. The terms of the Settlement Agreement are and shall be binding upon and inure to the benefit of, to the fullest extent possible, each of the Releasing Parties and the Released Parties, and upon all other Persons claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, Released Parties, and any Settlement Class Members.

66. Any disputes between LoKation and Co-Lead Counsel concerning this Settlement Agreement shall, if they cannot be resolved by the Settling Parties, be presented to Honorable Victor Howard for his assistance in mediating a resolution, and if a resolution is not reached, to binding arbitration with Honorable Victor Howard.

67. Each Settling Party acknowledges that he, she or it has been and is being fully advised by competent legal counsel of such Settling Party's own choice and fully understands the terms and conditions of this Settlement Agreement, and the meaning and import thereof,

and that such Settling Party's execution of this Settlement Agreement is with the advice of such Settling Party's counsel and of such Settling Party's own free will. Each Settling Party represents and warrants that it has sufficient information regarding the transaction and the other parties to reach an informed decision and has, independently and without relying upon the other parties, and based on such information as it has deemed appropriate, made its own decision to enter into this Settlement Agreement and was not fraudulently or otherwise wrongfully induced to enter into this Settlement Agreement.

68. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.

CO-LEAD COUNSEL



Hagens Berman Sobol Shapiro LLP



Cohen Milstein Sellers & Toll PLLC



Susman Godfrey LLP



Ketchmark & McCreight PC



Bouiware Law LLC



Williams Dirks Dameron LLC

THE K COMPANY REALTY, LLC.

By: NATHAN KLUTZNICK

Nathan Klutznick, Chief Executive Officer

**APPENDIX A**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, and JOHN MEINERS,  
individually and on behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, et. al.

Defendants.

Case No. 23-CV-788-SRB

Hon. Stephen R. Bough

DANIEL UMPA, on behalf of himself and all others similarly  
situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, et. al.

Defendants.

Case No. 23-CV-945-SRB

Hon. Stephen R. Bough

Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa (collectively  
“Plaintiffs”) and defendant The K Company Realty, LLC d/b/a LoKation (“LoKation”) (collectively,

“the Parties”), by and through and including their undersigned counsel, stipulate and agree as follows:

WHEREAS, each firm defined in the Settlement Agreement as Co-Lead Counsel desires to give an undertaking (the “Undertaking”) for repayment of the award of attorneys’ fees, costs, and expenses approved by the Court, and

WHEREAS, the Parties agree that this Undertaking is in the interests of all Parties and in service of judicial economy and efficiency.

NOW, THEREFORE, the undersigned counsel, individually and as agent for his/her law firm, hereby submits both to the jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, Co-Lead Counsel and their shareholders, members, and/or partners submit to the jurisdiction of the United States District Court for the Western District of Missouri for the enforcement of and any and all disputes relating to or arising out of the reimbursement obligation set forth herein and the Settlement Agreement.

In the event that the Settlement Agreement does not receive final approval or any part of the final approval is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, Co-Lead Counsel shall, within thirty (30) days repay to LoKation, based upon written instructions provided by LoKation, the full amount of the attorneys’ fees and costs paid to Co-Lead Counsel from the Settlement Fund, including any accrued interest.

In the event the Settlement Agreement becomes Effective, but the attorneys’ fees, costs, and expenses awarded by the Court or any part of them are vacated, overturned, modified, reversed, or rendered void as a result of an appeal, Co-Lead Counsel shall within thirty (30) days repay to the

Settlement Fund, based upon written instructions provided by the settlement administrator, the attorneys' fees and costs paid to Co-Lead Counsel from the Settlement Fund in the amount vacated or modified, including any accrued interest.

This Undertaking and all obligations set forth herein shall expire upon finality of all appeals of the final settlement order and judgment pertaining to attorneys' fees, such that the finality of those fees no longer remains in doubt.

In the event Co-Lead Counsel fails to repay to LoKation any of attorneys' fees and costs that are owed to it pursuant to this Undertaking, the Court shall, upon application of LoKation, and notice to Co-Lead Counsel, summarily issue orders, including but not limited to judgments and attachment orders against Co-Lead Counsel.

The undersigned stipulate, warrant, and represent that they have both actual and apparent authority to enter into this stipulation, agreement, and undertaking on behalf of each firm identified as Co-Lead Counsel. This agreement will only be effective upon its execution by each firm identified in the Settlement Agreement as Co-Lead Counsel.

Co-Lead Counsel acknowledge that this Undertaking is a material component of the Settlement Agreement and agree to use its reasonable efforts to timely effect the terms specified in this Undertaking. Each undersigned warrants and represents that it is not "insolvent" within the meaning of applicable bankruptcy laws as of the time this Undertaking is executed.

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

Signatures by facsimile shall be as effective as original signatures.

The undersigned declare under penalty of perjury under the laws of the United States and the State of Missouri that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:



Hagens Berman Sobol Shapiro LLP



Cohen Milstein Sellers & Toll PLLC



Susman Godfrey LLP



Ketchmark & McCreight PC



Boulware Law LLC



Williams Dirks Dameron LLC