

1  
2 **UNITED STATES DISTRICT COURT**  
3 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

4 JOYCE WALKER, KIM BRUCE  
5 HOWLETT, MURIEL SPOONER,  
6 TALINE BEDELIAN, and OSCAR  
7 GUEVARA, on behalf of themselves and  
8 all others similarly situated,

9 Plaintiffs,

10 vs.

11 LIFE INSURANCE COMPANY OF THE  
12 SOUTHWEST, a Texas corporation, and  
13 DOES 1-50

14 Defendant.

Case No.: CV 10-9198-JVS-JDE

**STIPULATION AND AGREEMENT  
OF SETTLEMENT**

1 This Stipulation and Agreement of Settlement (together with all exhibits  
2 hereto, the “Stipulation”), dated as of February 5, 2021, is entered into by and  
3 among (i) Joyce Walker, Kim Bruce Howlett, Muriel Spooner, Taline Bedelian,  
4 and Oscar Guevara (collectively, “Lead Plaintiffs”), on behalf of themselves and  
5 on behalf of the Class (as defined herein) and (ii) Life Insurance Company of the  
6 Southwest (“LICS”), collectively the “Settling Parties.” This Stipulation states all  
7 of the terms of the settlement and resolution of this matter by the Settling Parties  
8 (the “Settlement”) and is intended by the Settling Parties to fully and finally  
9 release, resolve, remise, and discharge the Released Claims against the Released  
10 Parties, subject to the approval of the United States District Court for the Central  
11 District of California (“Court”).

12 Throughout this Stipulation, all terms used with initial capitalization, but  
13 not immediately defined, shall have the meanings ascribed to them in Section 2  
14 below.

15 **I. RECITALS**

16 Whereas:

17 **A. The Action**

18 **1. Lead Plaintiffs’ Claims and Allegations**

19 Lead Plaintiffs brought this Action on behalf of all persons who purchased  
20 a SecurePlus Provider or SecurePlus Paragon Policy (the “Policies”) from LICS  
21 that was issued between September 24, 2006 and April 27, 2014 (“Class Period”),  
22 who resided in California at the time the Policy was issued, and who received an  
23 illustration on or before the date of policy application.

24 Lead Plaintiffs assert on a class basis California Unfair Competition Law  
25 (“UCL”) unlawfulness and unfairness claims, alleging that pre-application  
26 illustrations (which are documents applicants may—but are not required to—  
27

1 receive at or before the time of policy application, depicting policy performance  
2 based on “what if” scenarios) violated two provisions of Cal. Ins. Code §  
3 10509.950 *et seq.*, a statute containing detailed requirements governing the  
4 contents of illustrations (the “Illustration Statute”). First, Lead Plaintiffs allege  
5 that LICS violated Illustration Statute Section 10509.956(b)(4), which calls for  
6 illustrations to supply a “brief definition” of column headings and key terms.  
7 Lead Plaintiffs allege that LICS’s illustrations failed to define a column heading  
8 that read “Guaranteed Values at 2.00%” (on Provider policies) or “Guaranteed  
9 Values at 2.50%” (on Paragon policies) that appeared above columns of yearly  
10 guaranteed values. Lead Plaintiffs assert that this violation was important to  
11 policyholders because Lead Plaintiffs allege that the illustrations did not disclose  
12 that the guaranteed interest rates are not paid each year, but are instead  
13 retrospectively calculated average rates.

14 Second, Lead Plaintiffs allege that LICS’s SecurePlus Paragon illustrations  
15 violated Illustration Statute Section 10509.956(e)(3), which states that  
16 “nonguaranteed elements” can be illustrated only if they are described in the  
17 policy contract. Lead Plaintiffs assert that the yearly non-guaranteed values  
18 depicted in Paragon illustrations violated this requirement because they showed  
19 the eleventh-year elimination of the Monthly Percent of Accumulated Value  
20 Charge (“MPAVC”), a non-guaranteed element, in illustrations and did not  
21 describe its planned elimination in the policy contracts. Lead Plaintiffs assert that  
22 this violation is important because Lead Plaintiffs allege that it increases the  
23 policy values that LICS showed in its Paragon illustrations without a  
24 corresponding guarantee that the planned elimination would in fact occur.

1                   **2. Procedural Posture**

2                   Since the filing of this Action more than 10 years ago, this matter has been  
3 aggressively litigated, as the Settling Parties have engaged in substantial motion  
4 practice and discovery, a jury and bench trial, and two rounds of appeals. The  
5 Court is well aware of the efforts made by the Settling Parties in this Action. The  
6 Settling Parties summarize the extensive history of this Action herein.

7                   In 2010, Lead Plaintiffs filed a putative class action against LICS and  
8 asserted claims for fraudulent concealment and violation of all three prongs of the  
9 UCL. Lead Plaintiffs alleged various misrepresentations in the purchase process,  
10 including numerous challenges to the contents of illustrations. The district court  
11 heard a motion to dismiss, allowing most claims to survive but dismissing certain  
12 UCL unlawfulness and unfairness claims predicated on alleged violations of the  
13 Illustration Statute. Although the district court held that an Illustration Statute  
14 violation could not serve as the predicate for UCL claims, the Ninth Circuit Court  
15 of Appeals later reversed that ruling, resulting in the UCL claims now at issue.

16                   In 2012, the district court certified: (i) a class of all California Provider and  
17 Paragon policyholders (over a specified time period), asserting LICS omitted  
18 certain information during the sales process, and (ii) a subclass of those  
19 policyholders who received pre-application illustrations, challenging the contents  
20 of pre-application illustrations (the “Illustration Subclass”). Nearly a year after  
21 certifying the Illustration Subclass, and after consideration of extensive additional  
22 information on the process required for the parties to litigate and the court to  
23 determine when policyholders received illustrations, the district court decertified  
24 that subclass (the “Decertification Order”). Following the Decertification Order,  
25 there remained for Lead Plaintiffs to pursue: (i) common-law fraud and UCL  
26 claims on behalf of all California Provider and Paragon policyholders asserting  
27  
28

1 LICS omitted certain information during the purchase process; and (ii) individual  
2 common-law fraud and UCL claims challenging the contents of illustrations.

3 In April 2014, after a three-week jury trial, the jury rendered verdict in  
4 LICS's favor. The district court later entered findings of fact and law resolving  
5 the remaining, non-jury claims in LICS's favor.

6 Lead Plaintiffs appealed on several grounds. In March 2017, the United  
7 States Court of Appeals for the Ninth Circuit affirmed the trial verdict and  
8 affirmed the Decertification Order on the grounds that the claims of the  
9 decertified subclass had no merit. The Ninth Circuit, however, reversed this  
10 Court's pre-trial dismissal of Lead Plaintiffs' UCL claims to the extent that they  
11 were premised on the Illustration Statute and remanded them for further  
12 proceedings.

13 In December 2017, the Court adjudicated cross motions for summary  
14 judgment and narrowed Lead Plaintiffs' remaining claims to two UCL claims  
15 asserting violations of the Illustration Statute.

16 On July 31, 2018, the Court entered a Rule 23 order certifying a class of  
17 "[a]ll persons who purchased a Provider Policy or Paragon Policy from Life  
18 Insurance Company of the Southwest that was issued between September 24,  
19 2006 and April 27, 2014, who resided in California at the time the Policy was  
20 issued, and who received an illustration on or before the date of policy  
21 application" (the "Certification Order"). Lead Plaintiffs moved for  
22 reconsideration of the Certification Order, arguing that the Court should have  
23 certified a class of all purchasers (*i.e.*, not only those who received pre-application  
24 illustrations). The Court denied Lead Plaintiffs' reconsideration motion (the  
25 "Reconsideration Order").  
26  
27  
28

1 LICS and Lead Plaintiffs filed Rule 23(f) petitions seeking review of the  
2 Certification Order and Reconsideration Order, which the Ninth Circuit granted.  
3 On March 23, 2020, the Ninth Circuit affirmed the Court’s Certification Order.

4 **B. Settlement Negotiations**

5 The Settling Parties have made numerous good faith attempts to settle this  
6 Action over the years. Prior attempts have included both mediation before a  
7 private neutral, and mediation before Magistrate Judge Early. While the parties  
8 worked hard in good faith to settle this Action, they were unable to do so.

9 The Settling Parties restarted settlement discussions in 2020. In particular,  
10 the Settling Parties engaged in extensive arm’s-length negotiations following the  
11 Ninth Circuit’s March 23, 2020 opinion. These negotiations included an in-  
12 person meeting of counsel, dozens of teleconferences and email exchanges, and  
13 many proposals and counterproposals. After very extensive negotiations, the  
14 parties reached the Settlement set forth in this Stipulation. After reaching  
15 agreement on Settlement terms, the Settling Parties also reached an agreement  
16 concerning attorneys’ fees. Thereafter, the Settling Parties exchanged drafts of  
17 the Stipulation and supporting settlement documents. The Settling Parties  
18 finalized and executed the Stipulation on February 5, 2021.

19 Lead Plaintiffs and Lead Counsel have concluded that the terms and  
20 conditions of the Settlement are fair, reasonable, and adequate to Lead Plaintiffs  
21 and to the other Class Members, and in their best interests, and have agreed to  
22 settle the claims raised in the Action pursuant to the terms and provisions of the  
23 Stipulation, after considering: (1) the benefits the Class Members will receive  
24 from the Settlement; (2) the risks of litigation; and (3) the desirability of  
25 permitting the proposed Settlement to be consummated as provided by the terms  
26 of this Stipulation.

1           **C.     LICS’s Denial of Wrongdoing and Liability**

2           Throughout the course of the Action and in this Stipulation, LICS has  
3 denied and continues to deny each, any, and all allegations of wrongdoing, fault,  
4 liability, or damage whatsoever that have or could have been asserted in the  
5 Action. LICS has also denied and continues to deny, *inter alia*, the allegations  
6 and claims that have been or could have been asserted by Lead Plaintiffs, as well  
7 as the allegations that Lead Plaintiffs or the Class have suffered damages or that  
8 Lead Plaintiffs or the Class were harmed by the conduct alleged in the Action.  
9 LICS continues to believe the claims asserted against it in the Action are without  
10 merit; that its illustrations were not misleading and comply with the requirements  
11 of the Illustration Statute; that Lead Plaintiffs have not suffered any damages as a  
12 result of any alleged conduct, acts, statements, or omissions by LICS; and that the  
13 Action itself should not be certified as a class action for purposes of trial and  
14 adjudication of liability and damages. LICS has not conceded or admitted any  
15 wrongdoing or liability, is not doing so by entering this Stipulation, and disclaims  
16 any and all wrongdoing and liability whatsoever.

17           LICS has agreed to enter this Stipulation solely to avoid the uncertainties,  
18 burden, and expense of further litigation and to put the Released Claims to rest  
19 finally and forever. Nothing in this Stipulation shall be construed as or deemed  
20 evidence supporting an admission by either LICS or any of the Released  
21 Defendant Parties with respect to any of Lead Plaintiffs’ allegations or claims, or  
22 of any wrongdoing, fault, liability, or damages whatsoever.

23           **D.     Claims of Plaintiffs and Benefits of Settlement**

24           Lead Plaintiffs believe that the claims asserted in the Action have merit.  
25 Lead Plaintiffs, however, recognize and acknowledge the expense and length of  
26 continued proceedings necessary to prosecute the Action against LICS through  
27

1 trial and appeals. Lead Plaintiffs have also considered the uncertain outcome and  
2 the risk of any litigation. In particular, Lead Plaintiffs have considered the  
3 inherent problems of proof and possible defenses to the claims asserted in the  
4 Action, including the defenses that have been or could be asserted by LICS. Lead  
5 Plaintiffs have therefore determined that the Settlement set forth in this  
6 Stipulation is fair, adequate, and reasonable, and in the best interests of the Class.

7 Nothing in this Stipulation shall be construed as or deemed evidence  
8 supporting an admission by Lead Plaintiffs with respect to the merits of any of  
9 LICS's defenses.

10 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by  
11 and among Lead Plaintiffs, on behalf of themselves and each of the Class  
12 Members, and LICS (by and through their respective undersigned counsel) that,  
13 subject to the approval of the Court, in consideration of the benefits flowing to the  
14 Settling Parties from the Settlement set forth herein, the Action and the Released  
15 Claims as against the Released Parties shall be finally and fully compromised,  
16 settled, and released, the Action shall be dismissed fully, finally, and with  
17 prejudice, and the Released Claims shall be finally and fully released as against  
18 the Released Parties, upon and subject to the terms and conditions of this  
19 Stipulation, as follows:

20 **II. DEFINITIONS**

21 In addition to the terms defined above, the following capitalized terms, used  
22 in this Stipulation, shall have the meanings specified below:

23 2.1. "Action" means the case captioned above.

24 2.2. "Administrative Costs" means all costs and expenses associated with  
25 preparing and disseminating notice to the Class (including with respect to the  
26 Settlement and class certification) and otherwise administering or carrying out the  
27 terms of the Settlement. Such costs may include, without limitation: Escrow  
28

1 Agent costs, Claims Administrator costs, the costs of publishing, printing, and/or  
2 disseminating all notices, and the costs of allocating and distributing the  
3 settlement proceeds. Such costs do not include legal fees.

4 2.3. "Claims" means any and all manner of claims, debts, demands,  
5 controversies, obligations, losses, costs, interest, penalties, fees, expenses, rights,  
6 duties, judgments, sums of money, suits, contracts, agreements, promises,  
7 damages, actions, causes of action and liabilities, of every nature and description  
8 in law or equity (including, but not limited to, any claims for damages, whether  
9 compensatory, special, incidental, consequential, punitive, exemplary, or  
10 otherwise, injunctive relief, declaratory relief, restitutionary, recession or  
11 recessionary damages, interest, attorneys' fees, expert or consulting fees, costs, or  
12 expenses), accrued or unaccrued, known or unknown, arising under federal, state,  
13 common, administrative, or foreign law, or any other law, rule, or regulation.

14 2.4. "Claims Administrator" means Epiq Class Action & Claims  
15 Solutions, Inc., which shall administer the Settlement.

16 2.5. "Class" means the class certified by the Court via order dated July 31,  
17 2018, consisting of all persons who purchased a Provider Policy or Paragon  
18 Policy from Life Insurance Company of the Southwest that was issued between  
19 September 24, 2006 and April 27, 2014, who resided in California at the time the  
20 Policy was issued, and who received an illustration on or before the date of policy  
21 application. The following Persons are not included in the Class: past or present  
22 officers, directors, agents, brokers, or employees of LICS, or its parent or  
23 subsidiary corporations; any agents, brokers, or others who sold the SecurePlus  
24 Provider or SecurePlus Paragon Policies for LICS, or for its parent or subsidiary  
25 corporations; any entity in which LICS has a controlling interest; the affiliates,  
26 legal representatives, attorneys or assigns of LICS or its parent or subsidiary  
27  
28

1 corporations; any judge, justice, or judicial officer presiding over this matter and  
2 the staff and immediate family of any such judge, justice, or judicial officer;  
3 Persons who previously had settled disputes with LICS with respect to their  
4 SecurePlus Provider or SecurePlus Paragon Policies and signed releases; and any  
5 Person who submits a valid request to be excluded from the Class.

6 2.6. “Class Member” means any one of, and “Class Members” means all  
7 of, the members of the Class.

8 2.7. “Defense Counsel” means Wilmer Cutler Pickering Hale and Dorr  
9 LLP and Baker Botts LLP.

10 2.8. “Effective Date” shall have the meaning set forth in Section 10.4 of  
11 this Stipulation.

12 2.9. “Escrow Account” means an escrow account administered by the  
13 Escrow Agent for the benefit of the Settling Parties and the Class, subject to the  
14 authority and supervision of the Court.

15 2.10. “Escrow Agent” means Epiq Class Action & Claims Solutions, Inc.

16 2.11. “Final” when referring to the Final Judgment means exhaustion of all  
17 possible appeals, meaning (i) if no appeal or request for review is filed, the day  
18 after the date of expiration of any time for appeal or review of the Final Judgment,  
19 and (ii) if an appeal or request for review is filed, the day after the date the last-  
20 taken appeal or request for review is dismissed, or the Final Judgment is upheld  
21 on appeal or review in all material respects, and is not subject to further review on  
22 appeal or by certiorari or otherwise; provided, however, that no order of the Court  
23 or modification or reversal on appeal or any other order relating solely to the Fee  
24 and Cost Reimbursement or Incentive Award shall constitute grounds for  
25 cancellation or termination of this Settlement or affect its terms, or shall affect or  
26 delay the date on which the Final Judgment becomes Final.

1           2.12. “Final Judgment” means the final judgment and order of dismissal to  
2 be entered by the Court finally approving the Settlement and dismissing the  
3 Action, which must be in the form attached hereto as Exhibit C unless otherwise  
4 agreed by Lead Plaintiffs and LICS.

5           2.13 “Lead Counsel” means Kasowitz Benson Torres LLP.

6           2.14. “Notice” means the Notice of Pendency and Proposed Settlement of  
7 Class Action, which is to be made available to Class Members substantially in the  
8 form attached hereto as Exhibit A-1 to be posted on the Claims Administrator’s  
9 website.

10          2.15. “Person” means an individual, corporation, fund, limited liability  
11 corporation, professional corporation, limited liability partnership, partnership,  
12 limited partnership, association, joint stock company, estate, legal representative,  
13 trust, unincorporated association, government or any political subdivision or  
14 agency thereof, and any business or legal entity and their spouses, heirs,  
15 predecessors, successors, representatives, or assigns.

16          2.16. “Preliminary Approval Order” means the order to be entered by the  
17 Court preliminarily approving the Settlement and directing that notice of the  
18 Settlement be provided to the Class, which must be in the form attached hereto as  
19 Exhibit B absent agreement by Lead Plaintiffs and LICS.

20          2.17. “Postcard Notice” means the postcard notice to be provided to Class  
21 Members in accordance with the Court’s Preliminary Approval Order in the form  
22 attached as Exhibit A-2.

23          2.18. “Proof of Claim” means a timely and complete Proof of Claim Form.  
24 For avoidance of doubt, a Class Member’s failure to submit a Proof of Claim shall  
25 preclude certain relief as specified herein but shall not impact their membership in  
26 the Class or provision of releases as set forth herein.

1           2.19. “Proof of Claim Cure Period” means the period beginning on the  
2 calendar day after the end of the Proof of Claim Submission Period and ending  
3 sixty (60) consecutive calendar days thereafter.

4           2.20. “Proof of Claim Form” means the proof of claim and release form to  
5 be submitted by Class Members to participate in certain relief as specified herein,  
6 in the form attached hereto as Exhibit D.

7           2.21. “Proof of Claim Mailing Date” means the date, which must fall after  
8 the Effective Date, on which the Claims Administrator provides the Proof of  
9 Claim Forms, Term Insurance Applications, and Surrender Forms to Class  
10 Members.

11           2.22. “Proof of Claim Submission Period” means the period beginning five  
12 (5) calendar days after the Proof of Claim Mailing Date and ending sixty (60)  
13 consecutive calendar days thereafter.

14           2.23. “Related Parties” means, with respect to each Released Party, the  
15 immediate family members, heirs, executors, trustees, administrators, successors,  
16 assigns, and present and former employees, officers, directors, attorneys, legal  
17 representatives, accountants, insurers, reinsurers, managers, and agents of each of  
18 them, and any person or entity which is or was related to or affiliated with any  
19 Released Party or in which any Released Party has a controlling interest, and the  
20 present, former, and future direct and indirect parents, subsidiaries, divisions,  
21 affiliates, predecessors, successors, and the employees, officers, directors,  
22 attorneys, assigns, legal representatives, insurers, reinsurers, managers, and agents  
23 of each of them.

24           2.24. “Released Claims” means and includes any and all Released  
25 Plaintiffs’ Claims and Released Defendant’s Claims, as defined herein.  
26  
27  
28

1           2.25. “Released Defendant’s Claims” means and includes, unless prohibited  
2 by law, any and all Claims and Unknown Claims (as defined herein) that could  
3 have been asserted against any of the Released Plaintiff Parties arising out of,  
4 based upon, or relating in any way to the institution, prosecution, or settlement of  
5 the Action. Notwithstanding the foregoing, “Released Defendant’s Claims” does  
6 not include claims to enforce the terms of this Stipulation or orders or judgments  
7 issued by the Court in connection with this Settlement.

8           2.26. “Released Plaintiffs’ Claims” means and includes, unless prohibited  
9 by law, any and all Claims and Unknown Claims (as defined herein) relating in  
10 any way, directly or indirectly, to any Paragon or Provider life insurance Policies  
11 issued in California between September 24, 2006 and April 27, 2014, that have  
12 been or could have been asserted by or on behalf of any of the Releasing Plaintiff  
13 Parties, in any capacity, which concern, arise out of, are based upon, or refer or  
14 relate in any way to the same events, transactions, circumstances, or factual  
15 predicate as the claims asserted in the Action, including without limitation any  
16 communications, disclosures, omissions, or nondisclosures related to the Policies,  
17 whether written or oral, including any Policy illustrations; the offering of advice  
18 in any manner related to the Policies; the design, marketing, solicitation,  
19 application, sale, appropriateness, or administration of the Policies; or the  
20 crediting of interest to Policy accounts. Notwithstanding the foregoing,  
21 “Released Plaintiffs’ Claims” does not include: (i) Claims to enforce a Class  
22 Member’s contractual rights to make a claim for benefits that will become  
23 payable in the future pursuant to the express terms of the policy form issued by  
24 LICs; or (ii) Claims to enforce the terms of this Stipulation or orders or  
25 judgments issued by the Court in connection with this Settlement.  
26  
27  
28

1           2.27. “Released Parties” means any and all Released Defendant Parties and  
2 Released Plaintiff Parties.

3           2.28. “Released Defendant Parties” means LICS and its Related Parties.

4           2.29. “Released Plaintiff Parties” means Lead Plaintiffs and Class  
5 Members, and each and all of their Related Parties.

6           2.30. “Releasing Parties” means any and all Releasing Defendant Parties  
7 and Releasing Plaintiff Parties.

8           2.31. “Releasing Defendant Parties” means LICS and its Related Parties.

9           2.32. “Releasing Plaintiff Parties” means jointly and severally, individually  
10 and collectively, Lead Plaintiffs, each and every Class Member, and each of their  
11 respective Related Parties.

12           2.33. “Settlement Hearing” means the hearing at or after which the Court  
13 will make a final decision pursuant to Rule 23 of the Federal Rules of Civil  
14 Procedure as to whether the Settlement contained in the Stipulation is fair,  
15 reasonable, and adequate, and, therefore, should receive final approval from the  
16 Court.

17           2.34. “Taxes” means any taxes payable by or due to the existence of the  
18 Settlement Fund. For avoidance of doubt, Taxes does not include any taxes  
19 payable by any Party or Class Member.

20           2.35. “Underlying Life Insurance Policy” means the Paragon or Provider  
21 life insurance policy purchased by a Class Member that causes such Class  
22 Member to fall within the Class. In the event a Class Member owns multiple  
23 Underlying Life Insurance Policies, the terms of this settlement shall apply to  
24 each such Underlying Life Insurance Policy.

25           2.36. “Unknown Claims” means and includes any and all claims that one  
26 or more Releasing Parties does not know or suspect to exist in his, her, or its favor  
27

1 at the time of the release of the Released Parties. This includes claims which, if  
2 known by him, her, or it, might have affected his, her, or its settlement with and  
3 release of the Released Parties, or might have affected his, her, or its decision(s)  
4 with respect to the Settlement and the Released Claims, including his, her, or its  
5 decision to object or not to object to this Settlement. The Settling Parties  
6 expressly acknowledge, and the Releasing Parties by operation of the Judgment  
7 shall have acknowledged, and shall be deemed to have expressly waived and  
8 relinquished any and all provisions, rights, and benefits conferred by any law of  
9 any state or territory of the United States or any other jurisdiction, or principle of  
10 common law that is, or is similar, comparable, or equivalent to California Civil  
11 Code Section 1542, which provides: “A general release does not extend to claims  
12 that the creditor or releasing party does not know or suspect to exist in his or her  
13 favor at the time of executing the release and that, if known by him or her, would  
14 have materially affected his or her settlement with the debtor or released party.”

15 The Settling Parties and Releasing Parties may hereafter discover facts,  
16 legal theories, or authorities in addition to or different from those which he, she,  
17 or it now knows or believes to be true with respect to the subject matter of the  
18 Released Claims, but the Settling Parties expressly, fully, finally, and forever  
19 settle and release, and each other Releasing Party and Released Party shall be  
20 deemed to have settled and released, and upon the Effective Date and by operation  
21 of the Judgment shall have settled and released, fully, finally, and forever, any and  
22 all Released Claims, without regard to the subsequent discovery or existence of  
23 such different or additional facts, legal theories, or authorities. The Settling  
24 Parties expressly acknowledge, and each other Releasing Party and Released  
25 Party by operation of law shall be deemed to have acknowledged, that the  
26  
27  
28

1 inclusion of “Unknown Claims” in the definition of Released Claims was  
2 separately bargained for and a material element of the Settlement.

3 **III. THE SETTLEMENT FUND**

4 3.1. Within fifteen (15) calendar days after entry of the Preliminary  
5 Approval Order, LICS shall pay \$1,500,000 into the Escrow Account. This  
6 \$1,500,000 together with any interest shall be referred to as the “Settlement  
7 Fund.” The residual after payment of Administrative Costs and Taxes shall be  
8 referred to as the “Net Settlement Fund.”

9 3.2. Without further order of the Court, Lead Counsel shall be authorized to  
10 withdraw from the Escrow Account up to \$150,000 to pay Taxes and/or  
11 Administrative Costs actually incurred. Additional amounts may be withdrawn  
12 from the Escrow Account pursuant to Court order. Apart from the \$150,000  
13 described in this paragraph, and any additional amount ordered by the Court, no  
14 additional amount shall be withdrawn from the Escrow Account prior to the  
15 Effective Date.

16 3.3. This is not a claims-made settlement, and if all conditions of the  
17 Stipulation are satisfied and the Final Judgment becomes Final, no portion of the  
18 Settlement Fund will be returned to LICS. LICS, Defense Counsel, and the other  
19 Released Parties shall have no responsibility for, involvement in, interest in, or  
20 liability whatsoever with respect to the investment or distribution of the  
21 Settlement Fund, the determination, administration, or calculation of claims, the  
22 payment or withholding of Taxes, or any losses incurred in connection therewith.  
23 No Person shall have any claims against Lead Counsel, the Claims Administrator  
24 or any other agent designated by Lead Counsel based on distribution  
25 determinations or claim rejections made substantially in accordance with this  
26 Stipulation and the Settlement contained herein or orders of the Court.

1 **IV. RELIEF TO THE CLASS**

2 4.1. In consideration of the full and final release, settlement, and discharge  
3 of all Released Claims, LICS agrees to make available the following relief. For  
4 avoidance of doubt, the Term Insurance Relief Option (described in Section 4.A  
5 below) and the Cash Relief Option (described in Section 4.C below) are mutually  
6 exclusive—a Class Member may not receive both (but may receive neither).

7 **A. Term Insurance Relief Option**

8 4.2. Subject to the provisions set forth herein, LICS shall make available  
9 to the Class as a whole up to \$35,000,000 in aggregate face value of term life  
10 insurance (which shall be referred to herein as the “Term Insurance Relief,” a  
11 term insurance policy issued to a Class Member shall be referred to as a “Term  
12 Policy,” and all such policies shall be referred to as the “Term Policies”). The  
13 Term Insurance Relief Option is separate from, and is not funded by, the  
14 Settlement Fund.

15 4.3. Term Insurance Relief shall be available to all Class Members except  
16 for Class Members who meet any of the following criteria: (i) any Class Member  
17 who does not elect Term Insurance Relief on a Proof of Claim; (ii) any Class  
18 Member who elects Cash Relief, set forth in Section 4.C below; or (iii) any Class  
19 Member whose Underlying Life Insurance Policy has an insured that dies prior to  
20 the actual issuance of Term Insurance Relief, as described in Section 4.5 of this  
21 Stipulation.

22 4.4. The Term Policies shall contain the following terms and limitations:

- 23
- 24 • Three-year term with no ability to extend, convert or renew the Term  
25 Policy.
  - 26 • The insured under a Term Policy shall be the insured on a Class  
27 Member’s Underlying Life Insurance Policy, with no ability to change  
28 the insured.

- 1           • The owner or owners shall be the same owner or owners as are, as of  
2           the time of issuance of the Term Policy, reflected on the Underlying  
3           Life Insurance Policy. In the case of a terminated Underlying Life  
4           Insurance Policy, the owner or owners of the Term Policy shall be the  
5           same as the owner or owners of the Underlying Life Insurance Policy  
6           as of the time of such termination.
- 7           • The beneficiary or beneficiaries shall be identified on the Term  
8           Insurance Application. Change of beneficiary shall be allowed in  
9           accordance with the terms of the Term Policies.
- 10          • The Term Policies shall not include any benefits other than a death  
11          benefit, and (without limitation) shall not include accelerated death  
12          benefit riders, other riders, or any ability to take loans or cash  
13          withdrawals.
- 14          • The face value of each Term Policy shall be a percentage of the face  
15          value of the Underlying Life Insurance Policy owned by the Class  
16          Member receiving the Term Policy. The percentage, which shall be  
17          the same for all Term Policies, is equal to \$35,000,000 divided by the  
18          product of: (i) the aggregate face value of all SecurePlus Paragon and  
19          SecurePlus Provider Policies issued to individuals in California during  
20          the Class Period (other than Policies that have paid a death claim prior  
21          to the date on which the Stipulation of Settlement was executed),  
22          multiplied by (ii) 0.75. The percentage is currently estimated to be  
23          0.51%, and will be finalized as part of the settlement administration  
24          process. To illustrate the calculation on a purely hypothetical basis, if  
25          a Class Member has an Underlying Life Insurance Policy with a face  
26          value of \$500,000 and the percentage is 0.51%, if the Class Member  
27  
28

1 elects to receive Term Insurance Relief, the face value of her Term  
2 Policy will be \$2,561. In the event that the total aggregate face value  
3 of the Term Policies to be issued calculated using the formula outlined  
4 above exceeds \$35,000,000, then the face value of each Term Policy  
5 shall instead be based on a pro rata share (by face value of each  
6 Underlying Life Insurance Policy electing to receive the Term  
7 Insurance Relief Option) of the \$35,000,000, such that the total  
8 aggregate face value of Term Policies does not exceed \$35,000,000.

- 9
- 10 • LICS shall be entitled to conform or alter any provision of the Term  
11 Policies to obtain or ensure compliance with all laws, regulations, and  
12 requirements or requests imposed by any government regulatory  
13 agency.

14 4.5. The following procedure and mandatory steps shall govern Class  
15 Members' election and receipt of Term Insurance Relief.

- 16 • Step one: Upon the Proof of Claim Mailing Date, the Claims  
17 Administrator shall provide Proof of Claim Forms and Term  
18 Insurance Applications to Class Members.
- 19 • Step two: During the Proof of Claim Submission Period, Class  
20 Members who wish to elect Term Insurance Relief must submit a  
21 Proof of Claim electing Term Insurance Relief and submit an  
22 accompanying Term Insurance Application.
- 23 • Step three: During the Proof of Claim Cure Period, the Claims  
24 Administrator may contact Class Members to attempt to cure any  
25 defects in the Proof of Claim and/or Term Insurance Application, but  
26 the Claims Administrator may not accept new Proof of Claims or  
27 Term Insurance Applications.

- 1           • Step four: Following the conclusion of the Proof of Claim Cure  
2           Period, the Claims Administrator shall provide to LICS all Term  
3           Insurance Applications.
- 4           • Step five: LICS shall within a reasonable time thereafter process  
5           valid, timely and complete Term Insurance Applications and issue  
6           Term Insurance Relief.

7           4.6. The Settling Parties and the Claims Administrator shall cooperate fully  
8           in obtaining from Class Members any information or documentation required by  
9           LICS to facilitate issuance of Term Policies, including but not limited to the Term  
10          Insurance Application.

11           **B. Surrender Charge Credit**

12           4.7. Pursuant to the terms set forth herein, each Class Member who is  
13           eligible based on the conditions specified in Section 4.8 shall have a one-time  
14           opportunity to fully surrender an Underlying Life Insurance Policy and obtain a  
15           refund of some or all of the surrender charge incurred on the full surrender  
16           ("Surrender Charge Credit"). LICS will make available to the Class up to  
17           \$1,000,000 in aggregate Surrender Charge Credit. The Surrender Charge Credit  
18           shall be paid out of the Net Settlement Fund and shall reduce it accordingly.  
19

20           4.8. To be eligible, a Class Member must maintain his or her Underlying  
21           Life Insurance Policy in force through the Proof of Claim Cure Period and until  
22           the surrender has been processed in accordance with this Settlement. For  
23           avoidance of doubt, in the event a death benefit comes due on a Policy prior to the  
24           processing of a surrender in accordance with this Settlement, the Surrender  
25           Charge Credit will not be given and a death claim will be processed in accordance  
26           with the policy terms. Electing Surrender Charge Credit will result in: (i) a full  
27           surrender of the Underlying Life Insurance Policy, processed by LICS in  
28

1 accordance with the terms of the Underlying Life Insurance Policy, and (ii) the  
2 payment of a Surrender Charge Credit by the Claims Administrator as described  
3 herein.

4 4.9. The amount of Surrender Charge Credit available to each eligible  
5 Class Member shall be the lesser of:

6 (i) the amount of surrender charge actually incurred on full surrender  
7 of the Class Member's Underlying Life Insurance Policy in accordance with  
8 this Stipulation; or

9 (ii) an amount determined by the following formula: (a) first,  
10 calculate a percentage (which shall be the same for all eligible Class  
11 Members) equal to one million dollars (\$1,000,000) divided by the  
12 aggregate premium paid on all SecurePlus Paragon and SecurePlus Provider  
13 Policies issued to individuals in California during the Class Period; and then  
14 (b) multiply that percentage times the total premiums paid on the eligible  
15 Class Member's Underlying Life Insurance Policy that is being surrendered.

16 The percentage is currently estimated to be 0.256%, and will be finalized as part  
17 of the settlement administration process. To illustrate the foregoing calculation  
18 on a purely hypothetical basis, suppose a class member has paid total premiums of  
19 \$20,000 on an Underlying Life Insurance Policy, fully surrenders it in accordance  
20 with this Stipulation, and incurs a surrender charge of \$200. In this instance, if  
21 the percentage is 0.256%, then the Surrender Charge Credit is \$51.20 (*i.e.*,  
22 0.256% of \$20,000).

23 4.10. The following procedure and mandatory steps shall govern Class  
24 Members' election and receipt of Surrender Charge Credit.

- 1           • Step one: Upon the Proof of Claim Mailing Date, the Claims  
2           Administrator shall provide Proof of Claim Forms and Surrender  
3           Forms to Class Members.
- 4           • Step two: During the Proof of Claim Submission Period, Class  
5           Members who wish to elect Surrender Charge Credit must submit a  
6           Proof of Claim electing Surrender Charge Credit and submit an  
7           accompanying Surrender Form, and must maintain their Underlying  
8           Life Insurance Policies in force as set forth in Section 4.8 above.
- 9           • Step three: During the Proof of Claim Cure Period, the Claims  
10          Administrator may contact Class Members who submitted a Proof of  
11          Claim electing Surrender Charge Credit to attempt to cure any defects  
12          in the Proof of Claim and/or Surrender Form, but the Claims  
13          Administrator may not accept new Proof of Claims or Surrender  
14          Forms.
- 15          • Step four: Following the conclusion of the Proof of Claim Cure  
16          Period, the Claims Administrator shall provide to LICS all Surrender  
17          Forms.
- 18          • Step five: LICS shall, within a reasonable time thereafter, process the  
19          full surrenders, and electing Class Members shall incur any applicable  
20          surrender charge before the Surrender Charge Credit is distributed.
- 21          • Step six: LICS shall notify the Claims Administrator of the amount of  
22          surrender charge imposed on each eligible and electing Class Member  
23          and provide the Claims Administrator with the amount of Surrender  
24          Charge Credit due to each eligible and electing Class Member.

- Step seven: The Claims Administrator will pay the Surrender Charge Credit due to any such electing Class Members from the Net Settlement Fund.

4.11. The Settling Parties and the Claims Administrator shall cooperate fully in obtaining from Class Members any information or documentation required by LICS to facilitate issuance of the Surrender Charge Credit, including but not limited to the Surrender Form.

**C. The Cash Relief Option**

4.12. Pursuant to the terms set forth herein, the residual of the Net Settlement Fund after the payment of Surrender Charge Credit described above (the “Residual”) shall be made available as a Cash Relief Option that shall be paid by the Claims Administrator from the Net Settlement Fund.

4.13. The Cash Relief Option shall be available to Class Members that meet all of the following conditions: (i) the Class Member does not elect Term Insurance Relief on a Proof of Claim; and (ii) the Class Member elects Cash Relief Option on a Proof of Claim and completes all steps set forth herein; provided, however, that if a Class Member elects Term Insurance Relief and the insured on the Class Member’s Underlying Life Insurance Policy dies prior to issuance of the Term Insurance Relief, then the Class Member shall receive the Cash Relief Option.

4.14. The Cash Relief shall be a cash payment by the Claims Administrator out of the Net Settlement Fund equal to the lesser of: (a) the total premiums paid on the Underlying Life Insurance Policy owned by the electing Class Member; or (b) a pro rata share (by total premium paid on each Underlying Life Insurance Policy electing to receive the Cash Relief Option) of the Residual.

1 4.15. The Claims Administrator shall calculate and disseminate the Cash  
2 Relief after the Proof of Claim Cure Period has ended and the amount of the  
3 Residual has been calculated following dissemination of the Surrender Charge  
4 Credit.

5 4.16. When the Residual becomes sufficiently small that, in the reasonable  
6 judgment of Lead Counsel, it is not economically reasonable to distribute further  
7 proceeds, any remaining Residual shall be donated to a charity selected by Lead  
8 Counsel and unaffiliated with any Party or their counsel.

9 **D. MPAVC Elimination**

10 4.17. LICS shall be required to continue to eliminate the Monthly Percent  
11 of Accumulated Value Charge (“MPAVC”) on each Underlying Life Insurance  
12 Policy that is a Paragon Policy once such Underlying Life Insurance Policy has  
13 been in force for ten policy years.

14 **E. Illustration Changes**

15 4.18. During the course of this Action, LICS made certain updates to its  
16 pre-application life insurance illustrations, including but not limited to adding  
17 definitions of “Current Basis A” and “Current Basis B”, and adding clarifying text  
18 pertaining to the illustration of the elimination of the MPAVC. Without admitting  
19 any wrongdoing, LICS acknowledges that these changes were made as a result of  
20 this Action.

21 **V. RELEASES, INJUNCTIONS, AND COVENANTS NOT TO SUE**

22 5.1. Upon the Effective Date, the Releasing Parties, on behalf of  
23 themselves, their successors and assigns, and any other Person claiming (now or  
24 in the future) through or on behalf of them (regardless of whether any such  
25 Releasing Party ever seeks or obtains by any means, including without limitation  
26 by submitting a Proof of Claim, any Term Insurance Relief or any disbursement  
27

1 from the Settlement Fund), shall be deemed to have, and by operation of the Final  
2 Judgment shall have, fully, finally, and forever released, relinquished, and  
3 discharged all Released Claims against the Released Parties and shall have  
4 covenanted not to sue the Released Parties with respect to all such Released  
5 Claims, and shall be permanently barred and enjoined from asserting,  
6 commencing, prosecuting, instituting, assisting, instigating, or in any way  
7 participating in the commencement or prosecution of any action or other  
8 proceeding, in any forum, asserting any Released Claim, in any capacity, against  
9 any of the Released Parties. Nothing contained herein shall, however, release or  
10 bar the Releasing Parties from bringing any action or claim to enforce the terms of  
11 this Stipulation or the Final Judgment.

12 **VI. ORDER FOR PRELIMINARY APPROVAL AND DISSEMINATION OF**  
13 **NOTICE**

14 6.1. As soon as practicable after execution of this Stipulation, Lead  
15 Counsel shall submit this Stipulation and its exhibits to the Court and shall apply  
16 for preliminary approval of the Settlement set forth in this Stipulation, entry of the  
17 Preliminary Approval Order, and approval for the dissemination of the Postcard  
18 Notice and posting of the Notice.

19 6.2. LICS shall provide the Claims Administrator with a list of last known  
20 e-mail addresses and mailing addresses for Class Members based on information  
21 contained in LICS's records that is readily accessible and customarily used to  
22 facilitate communications with policyholders, provided, however, that nothing  
23 herein shall require LICS to conduct a manual or human review of any records.

24 6.3. Upon entry of the Preliminary Approval Order, the Claims  
25 Administrator shall post the Notice and disseminate the Postcard Notice to Class  
26 Members, in accordance with the Preliminary Approval Order or other order of  
27 the Court.

1 **VII. SETTLEMENT ADMINISTRATION**

2 7.1. Under the supervision of Lead Counsel and the Court, the Claims  
3 Administrator shall be responsible for: (i) the dissemination of the Postcard  
4 Notice and posting of the Notice; (ii) the receipt, collection and reporting to the  
5 parties of any opt outs; (iii) the dissemination of Proof of Claim Forms, Term  
6 Insurance Applications, and Surrender Forms, and the collection of Proof of  
7 Claim Forms, Term Insurance Applications, and Surrender Forms; (iv)  
8 administering any efforts to cure defects in Proof of Claims, Term Insurance  
9 Applications, and Surrender Forms during the Proof of Claim Cure Period; (v) the  
10 calculation of payments to be made from the Net Settlement Fund; (vi)  
11 disseminating payments from the Net Settlement Fund; and (vii) such other  
12 related tasks as the Claims Administrator agrees to perform and which Lead  
13 Counsel and LICS approve being performed.

14 7.2. The Claims Administrator shall disseminate Proof of Claim Forms to  
15 Class Members within a reasonable period after the Effective Date, which shall  
16 trigger the beginning of the Proof of Claim Submission Period as specified herein.  
17 All subsequent dates and deadlines shall proceed in accordance with the terms and  
18 steps outlined in Section 4 above.

19 **VIII. LEAD COUNSEL’S ATTORNEYS’ FEES AND REIMBURSEMENT OF**  
20 **EXPENSES**

21 8.1. Lead Plaintiffs shall make, and LICS shall not oppose, an application  
22 for reimbursement of fees and costs not to exceed the sum of \$2,500,000 in  
23 satisfaction of all attorneys’ fees, costs, or expenses that have been claimed or  
24 could be claimed in accordance with the Action (the “Fee and Cost  
25 Reimbursement”). In no event shall LICS be required to pay an amount more  
26 than \$2,500,000.  
27  
28

1           8.2. The Fee and Cost Reimbursement shall be contingent upon Court  
2 approval, which Lead Counsel shall seek through a motion to be heard at the  
3 Settlement Hearing. LICS shall take no position with respect to such motion.

4           8.3. The Fee and Cost Reimbursement shall be paid by LICS to Lead  
5 Counsel within five (5) business days after all the following conditions have been  
6 satisfied: (i) the Court has approved the Fee and Cost Reimbursement in an  
7 amount not exceeding \$2,500,000, notwithstanding the existence of any timely  
8 filed objections thereto, or potential appeal therefrom, subject to Lead Counsel's  
9 obligation to make appropriate refunds or repayments, pursuant to Section 8.4  
10 below; and (ii) Lead Counsel has supplied LICS with reasonable payment  
11 instructions and completed W-9 forms.

12           8.4. If the Fee and Cost Reimbursement award is reduced or reversed  
13 following payment by LICS, Lead Counsel shall refund it to LICS within thirty  
14 (30) calendar days following a Court order providing for such reduction or  
15 reversal.

16           8.5. Approval of a Fee and Cost Reimbursement in the amount of  
17 \$2,500,000 shall not be a condition of the Settlement, and the Settlement shall  
18 proceed if the Court awards a lower amount.

19 **IX. INCENTIVE PAYMENT TO LEAD PLAINTIFFS**

20           9.1. Lead Plaintiffs shall make, and LICS shall not oppose, an application  
21 for an incentive award to Lead Plaintiffs in up to the aggregate sum of \$100,000  
22 in consideration of their efforts on behalf of the Class (the "Incentive Award"). In  
23 no event shall LICS be required to pay an amount more than \$100,000.

24           9.2. The Incentive Award shall be contingent upon Court approval, which  
25 Lead Plaintiffs shall seek through a motion to be heard at the Settlement Hearing.  
26 LICS shall take no position with respect to such motion.

1           9.3. The Incentive Award shall be paid by LICS to Lead Counsel on behalf  
2 of all Lead Plaintiffs within fifteen (15) calendar days after all the following  
3 conditions have been satisfied: (i) the Court has approved the Incentive Award in  
4 an amount not exceeding \$100,000; (ii) the Effective Date has occurred; and (iii)  
5 Lead Counsel has supplied LICS with reasonable payment instructions and  
6 completed W-9 forms.

7           9.4. Lead Counsel may allocate the Incentive Award amongst Lead  
8 Plaintiffs as they choose (depending, for example, on the extent of each Lead  
9 Plaintiff's active involvement in this case), with no involvement by or recourse to  
10 LICS, provided that the Incentive Award shall be deemed to satisfy any and all  
11 claims of each Lead Plaintiff for an incentive award, regardless of the allocation.

12           9.5. If the Incentive Award is reduced or reversed following payment by  
13 LICS, Lead Plaintiffs shall refund it to LICS within ten (10) calendar days  
14 following a Court order providing for such reduction or reversal. Lead Plaintiffs  
15 shall be joint and severally liable for such repayment, unless they have previously  
16 disclosed to LICS how the amount has been allocated, in which case each Lead  
17 Plaintiff shall be liable for the amount received.

18           9.6. Approval of an Incentive Award in the amount of \$100,000 shall not  
19 be a condition of the Settlement, and the Settlement shall proceed if the Court  
20 awards a lower amount or disallows any Incentive Award.

21 **X. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL,**  
22 **CANCELLATION, OR TERMINATION**

23           10.1. Lead Plaintiffs, on behalf of the Class, and LICS shall each have the  
24 right to terminate the Settlement and Stipulation by providing written notice of  
25 his, her, or its election to do so ("Termination Notice") to all other Settling Parties  
26 within seven (7) business days of:  
27  
28

- 1 (i) entry of a Court order declining to enter the Preliminary Approval
- 2 Order;
- 3 (ii) entry of a Court order refusing to approve this Stipulation;
- 4 (iii) entry of a Court order declining to enter the Final Judgment;
- 5 (iv) entry of a Court order refusing to dismiss the Action with prejudice;
- 6 (v) entry of an order by which the Final Judgment is modified or reversed
- 7 by any appeal or review; or
- 8 (vi) failure on the part of any Settling Party to abide, in material respect,
- 9 with the terms of this Stipulation.

10 10.2. If the Settlement Fund amount is not paid into the Escrow Account in  
11 accordance with Section 3.1 of this Stipulation, then Lead Plaintiffs, on behalf of  
12 the Class, shall have the right to: (a) terminate the Settlement and Stipulation by  
13 providing written notice to LICS at any time prior to the Court’s entry of the Final  
14 Judgment; or (b) enforce the terms of the Settlement and this Stipulation and seek  
15 a judgment effecting the terms herein.

16 10.3. If, prior to Final Judgment, Persons who otherwise would be Class  
17 Members have filed with the Court valid and timely requests for exclusion from  
18 the Class in accordance with the provisions of the Preliminary Approval Order  
19 and the Notice given pursuant thereto (“Requests for Exclusion”), or requests for  
20 exclusion that are otherwise accepted by the Court, and such Persons in the  
21 aggregate paid total premiums on Underlying Life Insurance Policies in an  
22 amount greater than the amount specified in a separate Supplemental Agreement  
23 between the Settling Parties (“Supplemental Agreement”), then LICS shall have,  
24 in its sole and absolute discretion, the option to terminate this Stipulation and  
25 Settlement in accordance with the requirements and procedures set forth in the  
26 Supplemental Agreement (the “Supplemental Termination Option”). The  
27

1 Supplemental Agreement shall not be filed with the Court unless and until a  
2 dispute among the Settling Parties concerning its interpretation or application  
3 arises, or if the Court otherwise requests such filing.

4 10.4. The Effective Date of this Stipulation (“Effective Date”) shall not  
5 occur unless and until each of the following events occurs, and it shall be the date  
6 upon which the last in time of the following events occurs:

- 7 (a) No Settling Party has exercised a termination option as provided in  
8 this Section 10;
- 9 (b) The Court has entered the Preliminary Approval Order;
- 10 (c) The Escrow Account has been funded in accordance with Section 3.1;
- 11 (d) The Court has approved the Settlement, following notice to the Class  
12 and the Settlement Hearing, and has entered the Final Judgment;
- 13 (e) The Final Judgment has become Final; and
- 14 (f) The Action has been dismissed with prejudice.

15 10.5. None of the Settling Parties, or any of them, shall have any obligation  
16 whatsoever to proceed under any terms other than those provided for and agreed  
17 herein. If any Settling Party engages in a material breach of the terms hereof, any  
18 other Settling Party, provided that it is in substantial compliance with the terms of  
19 this Stipulation, may terminate this Stipulation on notice to all the Settling Parties.

20 10.6. In the event the Stipulation shall terminate, or be canceled, or shall  
21 not become effective for any reason, the Settling Parties shall be restored to their  
22 respective positions in the Action immediately prior to the execution of this  
23 Stipulation, and they shall proceed in all respects as if the Stipulation had not been  
24 executed and the related orders had not been entered, and in that event all of their  
25 respective claims and defenses as to any issue in the Action shall be preserved  
26 without prejudice.

1           10.7. In the event that the Stipulation is not approved by the Court or the  
2 Settlement set forth in this Stipulation is terminated or fails to become effective in  
3 accordance with its terms, the terms and provisions of this Stipulation, except as  
4 otherwise provided herein, shall have no further force and effect with respect to  
5 the Settling Parties and shall not be used in the Action or in any other proceeding  
6 for any purpose, and any judgment or order entered by the Court in accordance  
7 with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*.

8           10.8. In the event the Stipulation shall be terminated, or be canceled, or  
9 shall not become effective for any reason, within ten (10) calendar days after the  
10 occurrence of such event, the Settlement Fund (less Taxes already paid and any  
11 Administrative Costs which have either been disbursed or are determined to be  
12 chargeable) shall be refunded by the Escrow Agent to LICS. At the request of  
13 LICS, the Escrow Agent or their designee shall apply for any tax refund owed on  
14 the Settlement Fund and pay the proceeds, after deduction of any fees or expenses  
15 incurred in connection with such application(s) for refund, to LICS.

16           10.9. No order of the Court or modification or reversal on appeal of any  
17 order of the Court concerning the Fee and Cost Reimbursement or Incentive  
18 Award shall constitute grounds for cancellation or termination of the Stipulation.

19 **XI. NO ADMISSION OF LIABILITY OR WRONGDOING**

20           11.1. The Settling Parties covenant and agree that neither this Stipulation,  
21 nor the fact nor any terms of the Settlement, nor any communication relating  
22 thereto, nor the Supplemental Agreement, is evidence, or an admission,  
23 presumption, or concession by any Settling Party or their counsel, any Class  
24 Member, or any of the Released Parties of any fault, liability, or wrongdoing  
25 whatsoever, as to any facts or claims alleged or that have been or could have been  
26 asserted in the Action, or in any other actions or proceedings, or as to the validity  
27 or merit of any of the claims or defenses alleged or that have been or could have  
28

1 been asserted in any such action or proceeding. This Stipulation is not a finding  
2 or evidence of the validity or invalidity of any claims or defenses in the Action,  
3 any wrongdoing by any Settling Party, Class Member, or any of the Released  
4 Parties, or any damages or injury to any Settling Party, Class Member, or any  
5 Released Parties. Neither this Stipulation, nor the Supplemental Agreement, nor  
6 any of the terms and provisions of this Stipulation or the Supplemental  
7 Agreement, nor any of the negotiations or proceedings in connection therewith,  
8 nor any of the documents or statements referred to herein or therein, nor the  
9 Settlement, nor the fact of the Settlement, nor the Settlement proceedings, nor any  
10 statement in connection therewith, (a) shall (i) be argued to be, used or construed  
11 as, offered or received in evidence as, or otherwise constitute an admission,  
12 concession, presumption, proof, evidence, or a finding of any liability, fault,  
13 wrongdoing, injury or damages, or of any wrongful conduct, acts or omissions on  
14 the part of any Released Party, or of any infirmity of any defense, or of any  
15 damages to the Lead Plaintiffs or any other Class Member, or (ii) otherwise be  
16 used to create or give rise to any inference or presumption against any of the  
17 Released Parties concerning any fact or any purported liability, fault, or  
18 wrongdoing of the Released Parties or any injury or damages to any person or  
19 entity; or (b) shall otherwise be admissible, referred to, or used in any proceeding  
20 of any nature, for any purpose whatsoever; provided, however, that the Stipulation  
21 or the Supplemental Agreement or the Final Judgment may be introduced in any  
22 proceeding, whether in the Court or otherwise, as may be necessary to enforce the  
23 Settlement or Supplemental Agreement or Final Judgment, or as otherwise  
24 required by law.

## 25 **XII. MISCELLANEOUS PROVISIONS**

26 12.1. Except in the event of termination pursuant to Section 10 of this  
27 Stipulation and the Settling Parties' Supplemental Agreement, the Settling Parties  
28

1 shall take all actions necessary to consummate this agreement; and agree to  
2 cooperate with each other to the extent reasonably necessary to effectuate and  
3 implement all terms and conditions of the Stipulation.

4 12.2. The Settling Parties and their counsel represent that they will not  
5 encourage or otherwise influence (or seek to influence) any Class Members to  
6 request exclusion from, or object to, the Settlement.

7 12.3. Each of the attorneys executing this Stipulation, any of its exhibits, or  
8 any related settlement documents on behalf of any Settling Party hereto hereby  
9 warrants and represents that he or she has been duly empowered and authorized to  
10 do so by the Settling Party he or she represents.

11 12.4. Lead Plaintiffs and Lead Counsel represent and warrant that none of  
12 Lead Plaintiffs' claims or causes of action against LICS in the Action, or referred  
13 to in this Stipulation, or that could have been alleged against one or more LICS in  
14 the Action have been assigned, encumbered, or in any manner transferred in  
15 whole or in part.

16 12.5. This Stipulation, together with the Supplemental Agreement,  
17 constitutes the entire agreement between the Settling Parties related to the  
18 Settlement and supersedes any prior agreements. No representations, warranties,  
19 promises, inducements, or other statements have been made to or relied upon by  
20 any Settling Party concerning this Stipulation, other than the representations,  
21 warranties, and covenants expressly set forth herein and in the Supplemental  
22 Agreement. Lead Plaintiffs, on behalf of themselves and the Class, acknowledge  
23 and agree that any and all other representations and warranties of any kind or  
24 nature, express or implied, are specifically disclaimed and were not relied upon in  
25 connection with this Stipulation. In entering this Stipulation, the Settling Parties  
26  
27  
28

1 relied solely upon their own knowledge and investigation. Except as otherwise  
2 provided herein, each Settling Party shall bear its own costs.

3 12.6. This Stipulation may not be modified or amended, nor may any of its  
4 provisions be waived, except by a writing signed by all Settling Parties or their  
5 counsel or their respective successors in interest.

6 12.7. This Stipulation shall be binding upon, and shall inure to the benefit  
7 of, the Settling Parties and their respective agents, successors, executors, heirs,  
8 and assigns.

9 12.8. The Released Parties who do not appear on the signature lines below,  
10 are acknowledged and agreed to be third party beneficiaries of this Stipulation and  
11 Settlement.

12 12.9. The headings herein are used for the purpose of convenience only and  
13 are not meant to have legal effect.

14 12.10. This Stipulation may be executed in any number of counterparts by  
15 any of the signatories hereto and the transmission of an original signature page  
16 electronically (including by facsimile or portable document format) shall  
17 constitute valid execution of the Stipulation as if all signatories hereto had  
18 executed the same document. Copies of this Stipulation executed in counterpart  
19 shall constitute one agreement.

20 12.11. This Stipulation, the Settlement, the Supplemental Agreement, and  
21 any and all disputes arising out of or relating in any way to this Stipulation,  
22 whether in contract, tort, or otherwise, shall be governed by and construed in  
23 accordance with the laws of California without regard to conflict of laws  
24 principles.

25 12.12. The Court shall retain jurisdiction with respect to the  
26 implementation and enforcement of the terms of this Stipulation, and all parties  
27

1 hereto submit to the jurisdiction of the Court for purposes of implementing and  
2 enforcing the Settlement embodied in this Stipulation. The Court shall retain  
3 exclusive jurisdiction to enforce all injunctions set forth herein.

4 12.13. The Stipulation shall not be construed more strictly against one  
5 Party than another merely by virtue of the fact that it, or any part of it, may have  
6 been prepared by counsel for one of the Settling Parties, it being recognized that it  
7 is the result of arm's-length negotiations between the Settling Parties, and all  
8 Settling Parties have contributed substantially and materially to the preparation of  
9 this Stipulation.

10 12.14. Unless prohibited by law, Lead Plaintiffs, Lead Counsel, LICS,  
11 Defense Counsel, and the attorneys, staff, experts, and consultants assisting them  
12 in this Action agree that (a) they will not intentionally assist or cooperate with any  
13 person or entity in the pursuit of legal action related to the subject matter of this  
14 Action against the Released Parties, and (b) they will not intentionally assist or  
15 cooperate with any person or entity seeking to publicly defame the Released  
16 Parties with respect to any matter relating to the subject matter of this Action.

17 12.15. All agreements by, between, or among the Settling Parties, their  
18 counsel, and their other advisors as to the confidentiality of information  
19 exchanged between or among them shall remain in full force and effect, and shall  
20 survive the execution and any termination of this Stipulation and the final  
21 consummation of the Settlement, if finally consummated, without regard to any of  
22 the conditions of the Settlement.

23 12.16. The Settling Parties shall not assert or pursue any action, claim, or  
24 rights that any party violated any provision of Rule 11 of the Federal Rules of  
25 Civil Procedure in connection with this Action, the Settlement, the Stipulation, or  
26 the Supplemental Agreement. The Settling Parties agree that the Action was  
27

1 resolved in good faith following arm's-length bargaining, in full compliance with  
2 applicable requirements of Rule 11 of the Federal Rules of Civil Procedure.

3 12.17. Any failure by any of the Settling Parties to insist upon the strict  
4 performance by any other Settling Party of any of the provisions of the Stipulation  
5 shall not be deemed a waiver of any of the provisions hereof, and such Settling  
6 Party, notwithstanding such failure, shall have the right thereafter to insist upon  
7 the strict performance of any and all of the provisions of this Stipulation to be  
8 performed by the other Settling Parties to this Stipulation.

9 12.18. The waiver, express or implied, by any Settling Party of any breach  
10 or default by any other Settling Party in the performance of such Settling Party of  
11 its obligations under the Stipulation shall not be deemed or construed to be a  
12 waiver of any other breach, whether prior, subsequent, or contemporaneous, under  
13 this Stipulation.

14 12.19. LICS shall be responsible for complying with the requirements of  
15 Class Action Fairness Act ("CAFA") pertaining to notification of appropriate  
16 governmental officials.

17 12.20. The Settling Parties reserve the right (but not obligation), subject to  
18 the Court's approval, to agree to any reasonable extensions of time that might be  
19 necessary to carry out any of the provisions of this Stipulation.

20 12.21. Each Lead Plaintiff warrants and agrees that he or she has had  
21 ample opportunity to review, comment on, and approve all documentation in  
22 connection with this Settlement, has consulted with counsel, and enters into this  
23 Settlement voluntarily.

1           IN WITNESS WHEREOF, the Settling Parties have executed this  
2 Stipulation by their undersigned counsel effective as of the date set forth below.

3  
4  
5 Dated: February 5, 2021  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

February 5, 2021

**KASOWITZ BENSON TORRES LLP**

By: *Veronica Nauts*  
Veronica Nauts  
101 California Street, Suite 3000  
San Francisco, California 94111

Daniel A. Saunders  
2029 Century Park East, Suite 2000N  
Los Angeles, California 90067

*Lead Counsel for Plaintiffs*

February 5, 2021

**WILMER CUTLER PICKERING  
HALE AND DORR LLP**

By: *Timothy J. Perla*  
Andrea J. Robinson  
Timothy J. Perla  
60 State Street  
Boston, Massachusetts 02109

Matthew T. Martens  
1875 Pennsylvania Ave. NW  
Washington, DC 20006

**BAKER BOTTS LLP**

Jonathan A. Shapiro  
101 California Street, Suite 3600  
San Francisco, CA 94111

*Counsel for Defendant*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28