

EXHIBIT

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CLASS AND COLLECTIVE ACTION SETTLEMENT AGREEMENT

1-A: PROPOSED CLAIM FORM

1-B: PROPOSED NOTICE

1-C: CLASS MEMBER INFORMATION

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1
CLASS AND COLLECTIVE ACTION
SETTLEMENT AGREEMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

DANIELLE CIRILLO, on behalf of herself)
and all others similarly situated,)

Plaintiff,)

v.)

CITRIX SYSTEMS, INC.,)

Defendant.)

Civil Action No.: 5:21-cv-00088-BO

SABRINA STILES, on behalf of herself and)
all others similarly situated,)

Plaintiff,)

v.)

CITRIX SYSTEMS, INC.,)

Defendant.)

Civil Action No.: 5:23-cv-00060-BO

CLASS AND COLLECTIVE ACTION SETTLEMENT AGREEMENT

This Class and Collective Action Settlement Agreement (“Agreement”) is entered into between Plaintiffs (as defined below) and Defendant (as defined below).

I. RECITALS

WHEREAS, Danielle Cirillo (“Cirillo”) and Sabrina Stiles (“Stiles”) (Cirillo and Stiles are referred to collectively in this Agreement as “Plaintiffs”) filed separate complaints¹ against Citrix

¹ Starting with an initial complaint filed on September 29, 2020, Cirillo sued Citrix individually and on behalf of others allegedly similarly situated, asserting that Citrix violated the Fair Labor Standards Act (“FLSA”) and North Carolina Wage and Hour Act (“NCWHA”) in connection with their employment. Cirillo sought to pursue a collective action under the FLSA and, with regard to the NCWHA claims, a class action pursuant to Fed. R. Civ. P. 23. Cirillo also pleaded individual claims for wrongful termination and violation of the Family and Medical Leave Act (“FMLA”). On September 29, 2020, Cirillo filed a consent to join the FLSA collective signed by Stiles. *See Cirillo v. Citrix Systems, Inc.*, 5:21-cv-00088-BO. In a complaint filed on February 9, 2023, Stiles filed a separate action against Citrix, raising similar wage and

Systems, Inc., predecessor-in-interest to Cloud Software Group, Inc. (“Defendant” or “Citrix”),² alleging, on behalf of themselves and those allegedly similarly situated, that Defendant violated state and federal wage and hour laws in connection with their employment;³

WHEREAS, Citrix was subsequently acquired by Vista Equity Partners Management LLC and Evergreen Coast Capital Corp., which acquisition closed on or about September 30, 2022. As part of the transaction, Citrix merged with TIBCO Software Inc. (“TIBCO”), and TIBCO changed its name to Cloud Software Group, Inc. On or about December 1, 2022, then-current Citrix employees became employees of Cloud Software Group, Inc.

WHEREAS, Citrix denies all allegations in the Action (as defined below) and contends it properly classified and properly paid Plaintiffs and those allegedly similarly situated at all relevant times;

WHEREAS, the Parties agreed to mediate the Action (as defined below) in or around February 2023 in an effort to avoid the mutual risks and costs associated with lengthy proceedings involving mass wage and hour litigation in which the Parties contest the merits of Plaintiffs’ allegations and Defendant’s denials and defenses thereto;

WHEREAS, the Parties engaged in pre-mediation, confidential sharing of information, which included the production and exchange of relevant payroll and time data;

hour claims on behalf of herself and others under the FLSA and the NCWHA. *See Stiles v. Citrix Systems, Inc.*, 5:23-cv-00060-BO-KS. In February 2023, Cirillo, Stiles, and Citrix reached agreement on the material terms of settlement for both cases. After the Parties finalized the terms of their settlement, Stiles moved to consolidate her case with Cirillo’s first filed action. The Court granted that motion on May 12, 2023. *See Stiles v. Citrix Systems, Inc.*, 5:23-cv-00060-BO-KS, Dkt. 12; *see also Cirillo v. Citrix Systems, Inc.*, 5:21-cv-00088-BO. Dkt 94.

² Plaintiffs and Defendant or Citrix are referred to collectively in this Agreement as the “Parties” and singularly as “Party.”

³ As noted in footnote 1, Cirillo also alleged individual claims relating to her termination, including a claim under the FMLA. During the mediation discussed in this Agreement, the Parties also resolved all of Cirillo’s individual claims, including those under the FMLA.

WHEREAS, the Parties reached a settlement in principle during the mediation, the precise terms and conditions of which they agreed would be memorialized in a settlement agreement as set forth herein;

WHEREAS, Plaintiffs and their lawyers have determined, based upon all facts and circumstances underlying and surrounding the Action (as defined below), including their allegations and Defendant's denials and defenses, that the settlement described herein is fair, reasonable, and equitable;

WHEREAS, while Defendant has at all times denied Plaintiffs' claims and allegations (and continues to do so) and denies any wrongdoing whatsoever, Defendant has chosen to resolve this Action in order to avoid the risks of litigation and continued expense, inconvenience, and interference with ongoing business operations associated with defending against Plaintiffs' claims; and

WHEREAS, the Parties' settlement as set forth in this Agreement reflects a compromise regarding wages alleged to be due Plaintiffs and Class Members (as defined below), reached after arms' length negotiation facilitated through a third-party mediator;

NOW, THEREFORE, it is hereby STIPULATED and AGREED by and between the undersigned Parties that the Action (as defined below) is settled, subject to the Court's approval, pursuant to the following terms and conditions:

II. DEFINITIONS

“**Action**” means the consolidated case that includes the two cases styled *Cirillo v. Citrix Systems, Inc.*, 5:21-cv-00088-BO and *Stiles v. Citrix Systems, Inc.*, 5:21-cv-0008860-BO-KS. See footnote 1.

“Agreement” means this Class and Collective Action Settlement Agreement, inclusive of all attachments.

“CAFA Notice” refers to the notice, subject to review by Defense Counsel, to be sent by the Settlement Administrator on behalf of Defendant to appropriate federal and state officials pursuant to the requirements of the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715(b).

“Claim Form” means a written form to be mailed via first class mail to all Class Members, which, unless otherwise stated in this Agreement, must be completed and returned to the Settlement Administrator pursuant to the terms herein in order for any Class Member to become a Participating Class Member to receive payment.⁴ Claim forms will be deemed consents to join the Fair Labor Standards Act (“FLSA”) claims brought in the Action. As will be specified in the Notice Form (as defined below) and Claim Form, Class Members who previously filed consents to join the Action will not be required to submit Claim Forms to participate in this Settlement and will automatically become Participating Class Members. A copy of the Claim Form is attached as Exhibit A; a copy of the Notice Form is attached as Exhibit B.

“Class Counsel” means the Law Offices of Gilda A. Hernandez, PLLC.

“Class Members” (singular, “Class Member”) means Plaintiffs and all other individuals employed by Defendant in North Carolina at any time between September 29, 2017 through the date Defendant provides the Settlement Administrator Class Member Information (defined below) in in one of the titles set forth in Exhibit C to this Agreement.

“Class Representatives,” “Plaintiffs,” or “Named Plaintiffs” refers to Danielle Cirillo and Sabrina Stiles.

⁴ Any Class Member who filed a consent to join the Action prior to the execution of this Agreement will not be required to submit a Claim Form to participate in this Settlement. As detailed in this Agreement, and as the Notice and Claim form will advise, these individuals will release all claims relating to payment of wages, including, but not limited to, claims under the NCSHA and FLSA.

“Class Member Information” means the following information for all individuals employed by Defendant in sales positions with titles set forth in Exhibit C in North Carolina at any point from September 29, 2017 through the date Defendant provides information to the Administrator: (1) his or her name; (2) his or her last known address, both mailing and email (as both are maintained in Defendant’s system); (3) social security number; (4) last known telephone number (as maintained in Defendant’s system); (5) dates worked in the applicable title September 29, 2017 through the date Defendant provides the Administrator the information noted herein; and (6) an employee identification number.

“Complaints” mean the Collective and Class Action Complaints filed in this Court on September 29, 2020 by Danielle Cirillo and February 9, 2023 by Sabrina Stiles, respectively.

“Court” means the United States District Court for the Eastern District of North Carolina, Western Division.

“Cy Pres Amount” means the total amount associated with any checks for Individual Settlement Amounts sent to Participating Class Members that remain uncashed 180 calendar days after mailing.

“Defendant” means Citrix Systems, Inc., predecessor-in-interest to Cloud Software Group, Inc.

“Defendant Releasees” means Defendant and all of its predecessors, successors, parents, subsidiaries, partnerships, divisions, affiliates, affiliated entities, and other related entities, and their respective current, future, and former officers, directors, agents, employees, attorneys, representatives, insurers, reinsurers, benefit plans, plan fiduciaries, and administrators. The Parties acknowledge that Citrix was acquired in 2022; the releases in this Agreement are intended to, among other things, release the acquiring entities and any successors from the Released Claims,

including Vista Equity Partners Management LLC, Evergreen Coast Capital Corp., and Cloud Software Group, Inc. The release of any third parties is limited to any actions taken by or on behalf of Citrix, including its successor-in-interest Cloud Software Group, Inc.

“Defense Counsel” means Seyfarth Shaw LLP.

“Effective Date” means the *latest* of the following events: (i) expiration of the period for filing any appeal, writ, or other appellate proceeding relating to the Settlement without any appeal, writ or other appellate proceeding having been filed; (ii) dismissal of any appeal, writ, or other appellate proceeding relating to the Settlement with no right to pursue further remedies or relief; and (iii) issuance of a final appellate order upholding the Court’s Final Approval Order (as defined below) with no right to pursue further remedies or relief.

“Final Approval Date” means the date on which the Court docketed an order approving the Settlement as fair and reasonable and dismissing the Action with prejudice (“Final Approval Order”). The Parties will work together to ensure the Final Approval Date is not scheduled prior to the required time frame set forth in CAFA.

“Final Settlement Hearing” means the hearing to be conducted by the Court to determine whether to finally approve the Settlement explained herein.

“Gross Settlement Payment” means the total monetary payment that Defendant will make under this Agreement and is inclusive of all payments to Plaintiffs (including Service Awards), payments to Participating Class Members, attorneys’ fees and costs (inclusive of all expenses and fees incurred through the conclusion of the settlement administration process), costs of settlement administration, any employer-side payroll taxes associated with payment to Participating Class Members, and any other costs, expenses or fees related to the Action or Settlement unless excluded under the terms of this Agreement.

“Individual Settlement Amount” means the amount to be allocated pro rata to each Class Member from the Net Settlement Amount.

“Motion for Preliminary Approval” means the motion for preliminary approval of this Settlement and its supporting papers that Plaintiffs will file with the Court.

“Named Plaintiffs” means Danielle Cirillo and Sabrina Stiles.

“Net Settlement Amount” means the remainder of the Gross Settlement Payment after deducting for all Service Awards (as defined below), attorneys’ fees and costs (inclusive of all expenses and fees incurred through the conclusion of the settlement administration process), costs of settlement administration, any employer-side payroll taxes associated with payment to Participating Class Members, and any other costs, expenses or fees related to the Action or Settlement.

“Notice Form” means the official notice of Settlement of the Collective and Class Actions and Final Settlement Hearing to Class Members agreed upon by the Parties and approved by the Court, which is to be delivered by the Settlement Administrator in the means described herein and attached hereto as Exhibit C.

“Notice Mailing Date” means the date on which the Notice Form is originally mailed.

“Opt-in Plaintiff” mean any individual who, pursuant to 29 U.S.C. § 216(b), filed a written consent with the Court in the Action prior to the date of this Agreement.

“Order Granting Final Approval” means the order or statement of decision in the Action by the Court granting final approval to this Settlement following a Final Settlement Hearing, which will not occur until at least 90 days after the Settlement Administrator provides the appropriate

Federal officials and State officials with the CAFA Notice.⁵

“Order Granting Preliminary Approval” means the order or statement of decision in the Action by the Court granting preliminary approval to this Settlement.

“Participating Class Member” means a Class Member who timely submits a fully completed and signed Claim Form, as well as any individual who filed a consent to join the Action prior to the execution of this Agreement.

“Payment Weeks” means the weeks worked by Class Members in the titles set forth (associated with sales positions) in Exhibit C to this Agreement between September 29, 2017 and the date Defendant provides the Administrator with the Class Member Information.

“Plaintiffs” means Danielle Cirillo and Sabrina Stiles.

“Plaintiffs’ Attorneys’ Fees” means the amount to be paid to the Plaintiffs’ Attorneys under the terms of this Agreement, as authorized by the Court.

“Plaintiffs’ Litigation Expenses” means the litigation costs and expenses incurred by Plaintiffs in connection with the Action, which shall be paid to Plaintiffs’ Attorneys under the terms of this Agreement, as authorized by the Court.

“Preliminary Approval Date” means the date on which the Court docketed an order preliminarily approving the Settlement and authorizing the distribution of the Claim Form and Notice Form to the Class Members as outlined herein.

“Service Award(s)” means the compensation the Parties agree Plaintiffs may receive pursuant to this Agreement, subject to Court approval, for serving as Named Plaintiffs in the Action. These Service Awards also constitute consideration to Plaintiffs for their general release

⁵ The Settlement Administrator on Defendant’s behalf will serve notice of the Settlement that meets the requirements of CAFA to the appropriate Federal and State officials within ten (10) days after the Motion for Preliminary Approval and this Agreement are filed with the Court.

of claims, which includes, with regard to Cirillo, the dismissal of her Family and Medical Leave Act (“FMLA”) claim with prejudice.

“**Settlement**” means the terms, conditions, and obligations described in this Agreement.

“**Settlement Administrator**” means CPT Group, a qualified neutral, independent, third-party firm, agreed upon by the Parties to effectuate the Settlement by, among other actions, issuing the Notice Form and Claim Form, collecting required Claim Forms, distributing settlement checks, and all other tasks specified in this Agreement or by order of the Court.

“**Settlement Class**” is composed of the Class Members.

“**Settlement Expenses**” means all expenses associated with administering the Settlement, including, but not limited to, the fee of the Settlement Administrator, the costs of mailing the Notice of Settlement, the costs of setting up a website that Class Members can access to learn about the Settlement and to submit a Claim Form, and the costs of disbursing the Settlement Shares, Service Awards, and Plaintiffs’ Attorneys’ Fees and Litigation Costs.

“**Settlement Fund**” means a qualified settlement fund that will be established by the Settlement Administrator consistent with the requirements of 26 U.S.C. § 468B.

“**Settlement Share**” means the Individualized Settlement Amount allocated pro-rata to each Class Member consistent with the breakdown *infra*, at IV(B)-(C). Each Class Member is eligible to receive a minimum of \$100 from the Net Settlement Amount, even if it is determined that such Class Member would be entitled to less damages utilizing the Settlement Share formula, and the Settlement Shares to the other Class Members, Named Plaintiffs, and Opt-in Plaintiffs will be adjusted accordingly, such that the total amount of Settlement Shares does not exceed the Net Settlement Amount. Settlement Shares will be distributed only to Participating Class Members.

III. SETTLEMENT APPROVAL AND ADMINISTRATION

A. Preliminary and Final Approval. On or before July 14, 2023, and subject to Defendant's approval, Plaintiffs shall file with the Court an unopposed motion requesting that the Court preliminarily approve the Settlement and grant class certification of the settlement class under Fed. R. Civ. P. 23. The unopposed motion also will ask the Court to approve the Notice Form and Claim Form prepared by Plaintiffs and Class Counsel and approved by Defendant. Class Counsel shall send the proposed unopposed motion for preliminary approval and Notice Form and Claim Form to Defense Counsel at least five business days before the deadline to file same. Class Counsel agrees she will not file the unopposed motion for preliminary approval and/or Notice Form and Claim Form until the Parties have reached agreement on its content. Class Counsel agrees she will, if necessary, ask the Court for additional time to file the motion and Notice and Claim form if the Parties require additional time to reach agreement on same.

At the conclusion of the sixty-day notice period provided in the Notice Form, and prior to the fairness hearing date, and subject to Defendant's approval, Plaintiffs will file with the Court an unopposed motion for final approval of the Settlement and Proposed Final Order and Judgment dismissing the Action with prejudice (together, "Proposed Final Approval Papers"). Class Counsel will provide Defense Counsel the Proposed Final Approval Papers for Defendant's approval at least five business days before filing same. Class Counsel agrees she will not file the Proposed Final Approval Papers until the Parties have reached agreement on their content. Class Counsel agrees she will, if necessary, ask the Court for additional time to file the Proposed Final Approval Papers if the Parties require additional time to reach agreement on the same.

Plaintiffs, Defendants, and their respective counsel agree to execute all documents necessary to dismiss with prejudice any and all claims raised against Defendant in the Action.

B. Certification of the Settlement Class. Solely for the purpose of settlement, the Parties stipulate that Named Plaintiffs are adequate to serve as Class Representatives, and Plaintiffs' attorneys are adequate to serve as Class Counsel. Solely for purposes of settlement, the Parties agree that Plaintiffs shall request, as part of the Motion for Preliminary Approval, that the Court certify the following state law Settlement Class under Federal Rule of Civil Procedure 23 as follows: all individuals employed by Defendant in sales positions consistent with titles listed in Exhibit C in North Carolina September 29, 2017 through the date Defendant provides the Class Member Information to the Administrator.

The Agreement is contingent upon the approval of, and final certification by the Court of the Settlement Class for settlement purposes only. In agreeing to Plaintiffs moving the Court for certification of this Settlement Class, Defendant does not waive, and instead expressly reserves its right to challenge the propriety of the certification of the Settlement Class for any purpose as if this Agreement had not been entered into by the Parties should the Court, for any reason, not approve the Settlement reflected herein.

C. CAFA Compliance. Within seven (7) business days following Plaintiffs' filing of the unopposed motion for preliminary approval, the Settlement Administrator shall mail the CAFA Notice to the appropriate federal and state officials, as required by 28 U.S.C. § 1715. The Settlement Administrator will provide to Defense Counsel a proposed draft of the CAFA Notice, and list of intended recipients, at least seven (7) business days before mailing same. The Settlement Administrator will not mail the CAFA Notice until Defense Counsel has approved its content.

D. Settlement Administrator. The Parties agree that CPT Group shall serve as the Settlement Administrator for this Settlement, if approved by the Court. To that end, as part of their

Motion for Preliminary Approval, Plaintiffs shall request that the Court approve CPT Group to serve in this capacity and order CPT Group to perform the specific tasks assigned to the Settlement Administrator in this Agreement or by order of the Court, and only those tasks, unless otherwise agreed to by the Parties. This shall include the issuance of the agreed Notice Form, substantially in the form attached hereto as Exhibit B to all members of the Settlement Class after entry of the Order Granting Preliminary Approval of the settlement outlined in this Agreement.

E. Notice of Settlement

1. Providing and Updating Contact Information for Class Members

Within fourteen (14) calendar days after the date the Court enters an Order Granting Preliminary Approval of this Settlement, Plaintiffs will provide the Settlement Administrator with the names and last known mailing addresses for the Named and Opt-in Plaintiffs. Within that same time period, Defendant will provide the Settlement Administrator with the Class Member Information for all members of the Settlement Class. This information will remain confidential and will not be disclosed to anyone other than the Settlement Administrator, or as described in this Agreement, with the exception of applicable taxing authorities or pursuant to express written authorization by the party providing the information or by court order. To ensure that the Settlement Administrator has the most up to date addresses possible, the Settlement Administrator shall update all addresses the Parties provide for the members of the Settlement Class using the national change of address database. In addition, if any Notice Form is returned as undeliverable, the Settlement Administrator will perform a “skiptrace,” as described below. Any fees or costs incurred by the Settlement Administrator in updating addresses are Settlement Expenses and are included in the Gross Settlement Payment.

2. Confidentiality of Class Member Information

The Settlement Administrator will (i) hold the Class Member Information in strictest confidence and not disclose or divulge the Class Member Information to anyone except as provided above (ii) keep the Class Member Information in secure facilities; (iii) not post on its website the names or any other identifying information concerning the same, or the Agreement, and (iv) use the Class Member Information exclusively for or to assist in administration of this Settlement and for no other purpose. No copies or duplication of Class Member Information shall be retained by the Settlement Administrator.

3. Mailing of the Notice Form and Related Materials

Within thirty (30) calendar days after the Court enters an Order Granting Preliminary Approval of the Agreement, the Settlement Administrator will mail and email the Notice Form, a Claim Form, and a postage pre-paid return envelope in a single mailing to all members of the Settlement Class defined herein. The Settlement Administrator shall issue the Notice Form by First Class U.S. Mail, using envelopes that include the name and logo of Plaintiffs' Attorneys' law firm, to ensure proper delivery and notice to all Class Members. Class Members may also contact the Settlement Administrator to obtain the Claim Form. The Notice will contain a URL link (using a name to be agreed to by the Parties) to a website maintained by CPT Group for Class Members. Along with the Court-approved Notice Form, the Settlement Administrator shall mail and email the Claim Form that members of the Settlement Class are required to complete in order to receive settlement payments, as discussed in this Agreement, and a postage pre-paid return envelope. If any Notice is returned undeliverable, the Settlement Administrator will perform a "skiptrace" and make reasonable efforts to find an updated address and re-send the notice via U.S. mail.

4. **Response to the Notice Form**

The Notice Form will inform the Settlement Class that, among other things, any member of the Settlement Class who is not a Named Plaintiff or Opt-in Plaintiff must return a Claim Form, a copy of which is included as Exhibit A, to receive a settlement payment. While the Notice Form will not indicate the amount of each individual's respective estimated settlement payment amount, any Class Member may obtain the amount of his or her estimated settlement payment amount by contacting the Settlement Administrator, who will provide that information. Members of the Settlement Class shall have 60 calendar days following the mailing of the Notice to postmark or submit online via the Settlement Administrator-maintained website the Claim Form to the Settlement Administrator. In the event a member of the Settlement Class submits the Claim Form in a timely manner (i.e., postmarked or submitted online within 60 days of the mailing of the Notice of Settlement), but the Claim Form is missing a signature, the settlement Administrator will (no later than seven (7) calendar days of receipt of the unsigned form) return the deficient document to the Class Member with a letter explaining the signature is required and reminding the individual that the Claim Form must be submitted by the end of the 60-day period. The Settlement Administrator's decision on whether a form has been "signed" shall be binding on the Parties and the Class Member.

The Notice Form will also explain the option for members of the Settlement Class who are not Named or Opt-In Plaintiffs to opt out of the Settlement. Members of the Settlement Class who are not Named or Opt-In Plaintiffs and who wish to opt out of the Settlement must submit a written statement expressly asserting that he or she wishes to be excluded from the Settlement. Such written statements should state at the top: "Request for Exclusion from Settlement in *Stiles v. Citrix Systems, Inc.*, 5:23-cv-00060-BO-KS," and should include the name, address, telephone number,

and signature of the member requesting exclusion from the Settlement. All written requests for exclusion must be returned by First-Class U.S. Mail to the Settlement Administrator and must be postmarked no later than 60 calendar days from the postmark of the Notice of Settlement sent to members of the Settlement Class. Any member of the Settlement Class who requests exclusion from the Settlement will not be eligible to receive a settlement payment and cannot object to the Settlement. In the event that any members of the Settlement Class timely and properly submit a written request for exclusion, and also timely submit an objection to the Settlement, the Settlement Administrator shall contact such Class Members, inform them that they cannot both request exclusion from the Settlement and request a settlement payment and/or object to the Settlement, and shall ask such members which option they wish to pursue. Any member of the Settlement Class who properly and timely requests exclusion from the Settlement will not be legally bound by the terms of the Agreement or the final order approving the Settlement. In contrast, any members of the Settlement Class who do not return a valid and timely written request for exclusion will be bound by all terms of the Agreement and Order Granting Final Approval, regardless of whether they have objected to the Settlement.

Additionally, the Notice of Settlement will inform the Settlement Class of their right to object to the Settlement and that to do so they must file with the Court, and serve on counsel for the Parties, a written statement objecting to the Settlement. Such written statement or notice must be filed and served within 60 calendar days after the mailing date of the Notice of Settlement. Members of the Settlement Class who fail to timely file and serve written objections or notice of intention to appear and object in the manner specified above will be deemed to have waived any objections and will be foreclosed from making any objection to the Settlement, whether by appeal or otherwise.

Within seventy-five (75) calendar days of the mailing of the Notice Form, the Settlement Administrator shall provide to counsel for the Parties a declaration from an appropriate agent or agents working for it, stating under penalty of perjury: (a) a listing of the total number of all individuals (identified by a unique identifier), who were mailed the Notice Form; (b) how many individuals timely and properly submitted the required Claim Form to receive a settlement payment and, if so, the amount of that payment; (c) the identity of all such individuals who validly and timely requested exclusion from the settlement; and (d) whether each such individual was a member of the Settlement Class. The names and addresses of those individuals who were issued Notice shall be maintained in a confidential manner, and used solely to confirm to individuals who inquire whether or not they were mailed Notice.

5. Settlement Administrator's Website

The Settlement Administrator shall maintain a website from the date that the Notice Form is mailed until at least 180 calendar days following the date of the Final Settlement Hearing. This website shall (i) provide a brief summary of who is to receive the Notice Form and the purpose of the Notice Form; (ii) provide members of the Settlement Class with access to downloadable copies of the Notice Form and the Claim Form they will be required to submit in order to receive a settlement payment; (iii) provide a mechanism for members of the Settlement Class to submit their Claim Form using a unique identifier included in their Notice Form and an electronic signature; and (iv) provide contact information for the Settlement Administrator. The Parties shall agree as to the URL and specific language and formatting of that website before it is operational.

IV. SETTLEMENT PAYMENTS

A. Maximum Gross Settlement Amount. The maximum gross monetary payment Defendant will make under this Agreement is \$5,900,000.00, which includes all payments to Plaintiffs (including Service Awards), payments to Participating Class Members, attorneys' fees

and costs (inclusive of all expenses and fees incurred through the conclusion of the settlement administration process), any employer-side payroll taxes associated with payment to Participating Class Members, and any other costs, expenses or fees related to the Action or Settlement. To the extent any Class Member does not timely submit a Claim Form (other than those individuals who previously opted into the Action) and/or excludes his/herself from the Settlement, their calculated Settlement Share will remain the property of Defendant; the amounts attributable to these Settlement Shares will not be included in the Gross Settlement Payment Defendant pays to the Settlement Administrator.

No later than fifteen (15) calendar days after the Effective Date, the Settlement Administrator shall establish the Settlement Fund, which will be maintained by the Settlement Administrator. Defendant will issue payment to the Settlement Administrator for the Gross Settlement Payment as described herein within the later of thirty (30) calendar days following: (i) the Effective Date; and/or (ii) the date upon which the Settlement Administrator provides Defendant with payment instructions including all details needed for Defendant to issue payment.

B. Methodology of Class Member Payments. Class Member settlement payments will be calculated using Defendant's payroll through June 17, 2023. Class Members' estimated settlement payments will be calculated based on the following claims: (1) unpaid overtime while classified as exempt, (2) unpaid pre- and post-shift time and time spent working during "lunch breaks"; and (3) failure to compensate at the appropriate premium rates by not incorporating monthly incentive, bonus, and/or commissions payments into those rates. Class Members' unpaid premium rates will be calculated based on Defendant's payroll records and Plaintiffs' declarations. Additionally, the same amount of allegedly unpaid time per shift will be applied for all relevant workweeks pursuant to § 95-25.6, § 95-25.13 of the NCWHA, which Plaintiffs contend permits

the recovery of straight-time for *all* hours worked below forty per week and time and one-half for hours worked above 40 per week, for the two-years preceding the filing of Plaintiffs' Complaint through the end date of the payroll information provided.

With respect to incentives, calculations will be as follows: (1) monthly incentives will be applied retroactively to the weeks the incentives covered, and then will include such remuneration to determine the appropriate promised regular and premium rates, where applicable. These amounts will be incorporated with base and premium compensation to determine the appropriate promised regular and premium rates. These rates will be applied to assumed hours worked (i.e. the previously reported hours plus the allegedly unpaid pre- and post-shift time) to calculate the amount that allegedly should have been paid to each Class Member in each week worked. The difference between the amount that allegedly should have been paid (as determined using the approach discussed in this Agreement) and the amount previously paid will be calculated for each individual, each week, and totaled.

Defendant will provide the Administrator and Class Counsel with the information necessary to calculate these amounts within fifteen (15) business days after the Order Granting Preliminary Approval. Plaintiffs will provide Defendant and the Settlement Administrator with the calculation of allegedly unpaid wages for each Class Member as described above no later than fifteen (15) days following Defendant's production of the necessary information to calculate damage. Defendant shall review the calculations and approve or provide proposed revisions to Plaintiffs within five (5) business days of receiving same. The Parties will work together in good faith to finalize the proposed calculations.

C. Settlement Payments. Defendant will provide the Settlement Administrator the Class Member Information. Class Members, other than Named Plaintiffs and Opt-in Plaintiffs shall be entitled to receive payment under this Agreement only if they properly submit a Claim Form as described in Part III.E.(4) *infra*. Named and Opt-in Plaintiffs do not need to return a claim form to receive payment. Participating Class Members and Named Plaintiffs will be entitled to receive a share of the Net Settlement Amount, proportionate to their alleged estimated actual damages as compared to the total alleged estimated damages for the entire Settlement Class. Specifically, funds will be allocated on a pro rata basis.

D. Service Awards to Plaintiffs. Class Counsel will ask the Court to approve a Service Award to Cirillo in the amount of \$100,000.00 and to Stiles in the amount of \$50,000.00. Defendant will not oppose these requests. In addition to compensating Plaintiffs for serving as Named Plaintiffs in the Action, these Service Awards constitute consideration to Plaintiffs for their general release of claims. Further, the Service Award paid to Cirillo provides consideration to Cirillo for the dismissal of her FMLA claims, with prejudice.⁶ This Settlement is not contingent upon the Court's approval of the requested Service Awards. To the extent the Court reduces the requested Service Awards, the amount(s) will remain the property of Defendant. Plaintiffs will not be entitled to any Service Awards from Defendant unless the Court approves the Settlement.

The Settlement Administrator will treat any Service Awards as non-wage income and issue to Plaintiffs IRS Forms 1099, or the appropriate equivalent, other than half of the portion of Cirillo's Service Award that is consideration for the dismissal of her FMLA claim.

⁶ In addition to the settlement of the wage and hour claims that the Parties will ask the Court to approve, as previously noted, as part of the Settlement, the Parties also negotiated and resolved Cirillo's individual claims under the FMLA.

E. No Effect on Other Benefits. The payments paid to Participating Class Members and additional payments to the Plaintiffs do not create any credit or otherwise affect the calculation of benefits under, or contributions to, any benefit or compensation plan or program applicable to the Participating Class Members and/or Plaintiffs. No payment of wages made pursuant to the Settlement will be considered compensation or hours paid for purposes of such plans/programs, require any contribution or award under such plans/programs, or otherwise require or modify coverage, contributions, or benefits under such plans/programs. Participating Class Members and Plaintiffs will be deemed to have waived all such benefit, contribution or compensation plan or program claims, whether known or unknown, as part of this Settlement.

F. Tax Treatment. The Settlement Fund shall be a qualified settlement fund under 26 U.S.C. § 468B. The Parties agree that each Individual Settlement Amount to be issued to each Participating Class Member pursuant to this Agreement shall be separated into two amounts: fifty percent (50%) shall be allocated to the claims asserted in the litigation for unpaid wages; and fifty percent (50%) shall be allocated to the claims asserted in the litigation for liquidated damages and interest. The portion of each Individual Settlement Amount allocated to wages will be subject to authorized and/or required deductions, including but not limited to employee and employer-paid payroll tax withholdings required by law. The portion of each Individual Settlement Amount allocated to liquidated damages and interest shall be reported as non-wage income to the recipient. Named Plaintiffs' Service Awards shall be reported as non-wage income to the recipient. The Settlement Administrator will report the portion of the Individual Settlement Amount made to each Participating Class Member attributable to wages on an I.R.S. Form W-2, and the portion of the Individual Settlement Amount attributable to non-wages and any Service Awards on an I.R.S. Form 1099, if applicable. The Settlement Administrator shall be responsible for issuing the

settlement checks, less required withholdings and deductions, to each Participating Class Member and mailing the settlement checks, Form W-2s, and Form 1099s to each such individual. The Settlement Administrator shall be responsible for paying and reporting the taxes on all amounts paid to the Named Plaintiffs, the Opt-in Plaintiffs and other Participating Class Members to the appropriate taxing authorities. The Settlement Administrator shall also be responsible for calculating the employer's share of all required payroll taxes on the Individual Settlement Amounts, deducting this amount from the Gross Settlement Payment, and paying and reporting those taxes to the appropriate taxing authorities.

G. Payments to Be Made

1. Payments to Participating Class Members. In order to be considered a Participating Class Member and recover their allocated Settlement Share, except as provided in this Agreement, a Settlement Class Member must timely submit a Claim Form (and not exclude himself/herself from the Settlement). Within (45) calendar days after the Effective Date, the Settlement Administrator will tender payment via check mailed via first class mail to each Participating Class Member in the amounts equaling their Settlement Share. The checks remitting these payments shall include the following language below the line for the recipient to endorse the check:

I acknowledge that I have released any and all state and federal wage and hour claims, including claims under the North Carolina Wage and Hour Act and the federal Fair Labor Standards Act.

The Settlement Administrator will treat all Individual Settlement Amounts as 50% wage income and 50% non-wage income and shall equally divide and report them to appropriate taxing authorities on I.R.S. Forms W-2 and 1099, or the appropriate equivalent, where applicable. The

Settlement Administrator will withhold from such payments all federal, state, local, and other taxes and withholdings ordinarily borne by employees.

Neither Defendant, Defense Counsel, Plaintiffs' Attorneys, Class Counsel, Plaintiffs, nor the Settlement Administrator shall have any liability for lost or stolen settlement checks, for forged signatures on settlement checks, or for unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a Participating Class Member notifies the Settlement Administrator that he or she believes that a settlement check has been lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the settlement check in question has not been cashed prior to the stop payment order, the Settlement Administrator will issue a replacement check, from which the fees associated with the stop payment order will first be deducted. Any Participating Class Member who receives a re-issued check will have either 15 calendar days to cash such re-issued check from the date of its mailing, or 180 days from the date of the original check, whichever is longer.

The Settlement Administrator will issue to each Participating Class Member the appropriate tax forms from the Settlement Fund. These tax forms may be issued and mailed to Participating Class Members at the same time as the settlement payment is mailed, or at an appropriate time thereafter.

2. Settlement Administrator's Payment of Named Plaintiffs' Service Awards. The Named Plaintiffs' Service Awards, if authorized by the Court, will be paid by the Settlement Administrator from the Gross Settlement Payment. The Settlement Administrator will pay the Named Plaintiffs' Service Awards ordered by the Court directly to the individuals ordered by the Court to receive such payments within five (5) calendar days after Defendant deposits these amounts into the Settlement Fund.

Each Named Plaintiff who is entitled to receive a Service Award will have 180 calendar days from the date on which the Service Award check is mailed to cash his or her Service Award check. If any Service Award check is not cashed in that period of time, that Service Award check will be voided, and a stop-payment will be placed on the Service Award check.

At an appropriate time following the issuance of such Named Plaintiffs' Service Awards, the Settlement Administrator will issue to each recipient an I.R.S. Form 1099 that accounts for the payment of the Named Plaintiffs' Service Awards.

3. Payment of the Settlement Administrator's Expenses. The portion of the Settlement Expenses required by the Settlement Administrator to process the initial mailing of the Notice and Claim Forms and the setting up of the website will be paid by Plaintiffs' Counsel as Plaintiffs' Litigation Expenses. The remaining Settlement Expenses will be paid solely from the Gross Settlement Payment. The Settlement Administrator shall determine the total amount of the Settlement Expenses prior to calculating the amount of the settlement payments to be made to the Participating Class Members and mailing the Notice of Settlement. Payment to the Settlement Administrator for any outstanding Settlement Expenses will be taken from the Maximum Gross Settlement Payment within five (5) calendar days after Defendant deposits the amount into the qualified settlement fund. Disputes of any kind relating to the Settlement Administrator will be resolved pursuant to the dispute resolution procedures set forth in this Agreement, if they cannot be resolved informally by the Parties. The Settlement Administrator will regularly report to the Parties, in written form, the substance of the work performed, including all amounts paid under this Agreement.

H. Cy Pres Amount. Within 190 calendar days after the Settlement Administrator mails the settlement checks, the Settlement Administrator shall prepare and send to Defense

Counsel and Class Counsel an accounting of the settlement distribution that identifies any checks issued but not cashed. Within five (5) business days of providing this accounting to Defense Counsel and Class Counsel, the Settlement Administrator shall issue a check equivalent to the value of the uncashed checks, if any, to North Carolina Justice Center. The Settlement Administrator will also manage and administer compliance with any applicable laws relating to unclaimed property. Class Members who do not cash their checks nevertheless remain bound by the Settlement, including the release of claims set forth in this Agreement.

V. PLAINTIFFS' ATTORNEYS' FEES AND PLAINTIFFS' LITIGATION EXPENSES

Class Counsel will ask the Court to approve payment to Class Counsel in the amount of one third of the Maximum Gross Settlement Amount (\$1,966,666.66) to cover attorneys' fees, costs, and expenses. Defendant will not oppose this request. This Settlement is not contingent upon the Court's approval of such requested payment. Class Counsel will not be entitled to any payment from Defendant unless the Court approves the Settlement.

Plaintiffs' Attorneys' Fees and Plaintiffs' Litigation Expenses, as authorized by the Court, will be paid by the Settlement Administrator from the Gross Settlement Amount within five (5) calendar days after Defendant deposits these amounts into the Settlement Fund. The Settlement Administrator will issue an I.R.S. Form 1099 to Plaintiffs' Attorneys' firm for the payments to Plaintiffs' Attorneys' firm. Plaintiffs' Attorneys' firm will provide the Settlement Administrator with completed I.R.S. Form W-9 prior to the deadline for the Settlement Administrator to pay Plaintiffs' Attorneys' Fees and Plaintiffs' Litigation Expenses. If the Court disapproves any portion of Class Counsel's requested fees or expenses, the disapproved monies will be used to enhance, on a *pro rata* basis, the Settlement Shares allocated to Class Members. Any reduction by the Court in the requested amount of Plaintiffs' Attorneys' Fees and Plaintiffs' Litigation

Expenses by the Court is not a basis for Plaintiffs to void, rescind, or terminate this Agreement.

Payment of the Plaintiffs' Attorneys' Fees and Plaintiffs' Litigation Expenses as set forth in this Agreement, and payment of Settlement Expenses, shall constitute full satisfaction of any and all obligations by Defendant to pay any person, attorney, or law firm (including but not limited to Plaintiffs' Attorneys) for attorneys' fees, expenses, or costs incurred on behalf all members of the Settlement Class. Upon Defendant's payment of Plaintiffs' Attorneys' Fees and Plaintiffs' Litigation Expenses hereunder, and payment of Settlement Expenses, Named Plaintiffs, Opt-in Plaintiffs, the Participating Class Members shall release Defendant from any and all claims for attorneys' fees, expenses, and costs relating to the Action.

Plaintiffs' Attorneys' Fees, Plaintiffs' Litigation Expenses, and the Settlement Expenses, shall be paid solely from the Maximum Gross Settlement Amount.

VI. CONSIDERATION BY PLAINTIFFS/CLASS MEMBERS

A. Release by Participating Class Members. All Participating Class Members (including Plaintiffs) release and forever discharge Defendant Releasees from any and all wage and hour related claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or unknown, anticipated or unanticipated, suspected or unsuspected, arising under any and all federal, state, and local laws, including any and all statutory and common law theories regarding wages, through the Final Approval Date ("Released Claims"). Except as noted herein, and to the extent allowed by applicable law, the Released Claims specifically include, but are not limited to, claims under the FLSA and NCWHA, both as amended, and their implementing regulations, including, but not limited to, claims for unpaid overtime, premium, or minimum wages; failure to properly calculate the regular rate of pay; failure to

compensate for all time worked; failure to pay commissions; and failure to pay or reimburse for business expenses.

B. General Release of Claims by Named Plaintiffs. Named Plaintiffs, release Defendant Releasees from any and all legally waivable claims, obligations, causes of action, actions, demands, rights, and liabilities of every kind, nature and description, whether known or unknown, anticipated or unanticipated, arising on or prior to the date Plaintiffs execute the Agreement. Without limiting the generality of the foregoing, this release shall include, but not be limited to, any and all claims under the Americans With Disabilities Act of 1990; Title VII of the Civil Rights Act of 1964; Age Discrimination in Employment Act; Older Workers Benefit Protection Act; Fair Labor Standards Act; Equal Pay Act; Family and Medical Leave Act; North Carolina Wage and Hour Act; North Carolina Equal Employment Practices Act; North Carolina Persons with Disabilities Protection Act; North Carolina Retaliatory Employment Discrimination Act; any and all other federal, state, and local statutes, ordinances, regulations, rules and other laws, all as amended; and any and all claims based on constitutional, statutory, common law or regulatory grounds; as well as all claims based on theories of wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel, intentional and/or negligent infliction of emotional distress. This release covers any and all claims for legal, equitable, and/or other relief, no matter how denominated, including, but not limited to, claims for back pay, front pay, overtime pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages, punitive damages, damages for pain and suffering, and attorneys' fees and costs. Notwithstanding the foregoing, Plaintiffs do not release any claims that the law does not permit them to release.

C. Claims Released by Class Members Who Do Not Become Participating Class Members. Members of the Class who do not return a Claim Form (and who are not Named or Opt-In Plaintiffs) and fail to opt-out or exclude themselves from the Settlement will release any claims they have against Defendant under the NCWHA relating to the payment or non-payment of allegedly promised wages prior to the date the Court issues an Order granting Final Approval.

D. Covenant Not to Sue Individually or as Part of a Class or Collective. By agreeing to a “covenant not to sue,” Cirillo and Stiles each promise not to file any lawsuits against Defendant Releasees for any of the claims released in this Agreement. Specifically, Cirillo and Stiles agree never to sue Defendant Releasees in any forum for claims, laws, or theories covered by this Agreement. Cirillo and Stiles each agree that any such claim, if filed, will be immediately dismissed with prejudice upon request.

Cirillo and Stiles further waive any rights they might otherwise have to receive notice of any class or collective action raising claims or theories covered by this Agreement. In the event Cirillo or Stiles is included or identified as a member, or potential member, of such class or collective action in any proceeding against Defendant Releasees, they agree to exclude themselves from the action immediately upon learning of their inclusion.

If Cirillo or Stiles sue or file any such claim against Defendant Releasees or join a collective action and/or fail to promptly exclude themselves from any class action, Cirillo and/or Stiles will be liable to Defendant Releasees for reasonable attorneys’ fees and costs incurred in defending against such suit or claim, to the maximum extent permitted by law.

E. Named Plaintiffs’ Agreement Not to Seek or Accept Further Employment. As further consideration for the promises set forth in this Agreement, Named Plaintiffs, who are not currently employed by Defendant Releasees, agree not to apply for or accept employment with

Defendant Releasees. Named Plaintiffs further agree that in the event they apply for such employment, Defendant Releasees may reject such application(s) legitimately and lawfully pursuant to this Agreement. Named Plaintiffs further agree that if they become employed by Defendant Releasees without having obtained a written waiver of this provision by an officer of Defendant Releasees, Named Plaintiff(s) will resign their employment when asked to do so in writing by an officer of Defendant Releasees.

VII. COMMUNICATIONS REGARDING THE SETTLEMENT/PUBLIC COMMENT AND NON-DISCLOSURE

After the Court has issued an Order Granting Preliminary Approval, the Parties may communicate about this Agreement with third parties as follows:

A. Class Counsel may update their firm's website's discussion of this Action to note simply that the Action has been resolved and to include a link to the Settlement Administrator's website.

B. Defendant shall not internally initiate communications to Class Members in any way (i.e., writing or verbal). If Defendant receives questions from a Class Member about the Settlement or how to submit a claim, Defendant will refer the Class Member to the Notice Form they received, the Administrator, or Class Counsel.

C. Class Counsel, Defense Counsel, Defendant, and the Named Plaintiffs agree that they shall not discuss, answer questions about, promote, or publicize the Settlement, this Agreement and its terms, or the negotiations leading to this Agreement with anyone other than the Court or those individuals necessary to effectuate the terms of the Agreement. Notwithstanding this provision, Class Counsel are permitted to disclose the terms of this Agreement to the extent necessary when responding to inquiries by Named Plaintiffs, Opt-In Plaintiffs, or Class Members.

D. Class Counsel, Defense Counsel, Defendant, and the Named Plaintiffs further agree that the terms of this Agreement, the negotiations leading to the execution of this Agreement, and this Agreement itself shall not at any time, both prior to and after final approval, be discussed with or publicized or promoted to the media (including without limitation, any newspapers, magazines, radio programs, social media, or Internet news sites or blogs), legal community (including, without limitation, legal periodicals and publications, or the public at large), or anyone else without the advance written consent of the other party.

E. Notwithstanding the foregoing, Class Counsel, Defense Counsel, Defendant, Plaintiffs, and Participating Class Members shall also have the right to disclose this Agreement as may be required under federal or state tax and/or securities laws or under generally accepted accounting principles and may disclose in legal proceedings a summary of the terms of this Agreement. The Parties further agree and acknowledge that nothing herein shall prevent Class Counsel from referring or citing to the Action and the pleadings and other papers filed in obtaining approval of this Settlement in any court filings and proceedings in other cases for the purposes of demonstrating their experience and adequacy as class counsel.

VIII. TERMINATION OF THE SETTLEMENT AGREEMENT

A. Grounds for Settlement Termination. Class Counsel or Defense Counsel may terminate the Agreement if the Court declines to enter an Order Granting Preliminary Approval or an Order Granting Final Approval in substantially the same form as that submitted by the Parties, the Agreement does not become final for any other reason, or a Court of Appeals reverses the entry of an Order Granting Final Approval or a final judgment in this Litigation, provided that the Parties agree to work cooperatively and in good faith to address and resolve any concerns identified by the Court in declining to enter an Order Granting Preliminary Approval, an Order Granting Final Approval, or a judgment in the form submitted by the Parties. Notwithstanding the foregoing, the

Court's reduction and/or denial of the Service Awards or the Plaintiffs' Attorneys' fees and/or Plaintiffs' Litigation Expenses requested by Plaintiffs shall not be grounds for termination of this Agreement.

B. Procedures for Termination. To terminate this Agreement on one of the grounds specified above, the terminating counsel (i.e., Class Counsel or Defense Counsel) shall give written notice to the opposing counsel no later than fifteen (15) business days after the Court acts.

C. Effect of Termination. In the event that this Agreement is canceled, rescinded, terminated, voided, or nullified, however that may occur, or the Settlement of the Action is barred by operation of the law, is invalidated, is not approved or otherwise is ordered not to be carried out by any court:

1. The Agreement shall have no force or effect, and no Party shall be bound by any of its terms;
2. Defendant shall have no obligation to make any payments to any Plaintiffs, any Class Member, or Class Counsel, but the Parties shall be jointly and equally responsible for paying the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the Agreement has been terminated;
3. Any Order granting Preliminary Approval, Order granting Final Approval and/or judgment, including any order certifying any class for purposes of settlement, shall be vacated;
4. The Agreement and all negotiations, statements, and proceedings relating thereto, shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the Settlement;

5. Neither this Agreement, nor any ancillary documents, actions, statements, or filings in furtherance of settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action.

IX. OTHER SETTLEMENT PROVISIONS

A. No Representations. Except as expressly stated in this Agreement, no Party has made any statement or representation to any other Party regarding this Agreement, and, in entering into this Settlement, neither Party relies on any statement, representation, or promise not described in this Agreement.

B. Attached Exhibits. All exhibits attached to the Agreement, and referenced herein, are incorporated into the Agreement by such references and are a material party of this Agreement.

C. Consent. Each Party has carefully read and understands this Agreement and has received independent legal advice with respect to the Agreement. Prior to the execution of this Agreement, each Party reviewed and executed the Agreement after independent investigation and without fraud, duress, or undue influence.

D. Successors. This Agreement shall inure to the benefit of and be binding upon each Party's heirs, successors, and assigns.

E. No Assignments. No Party has assigned or transferred, or purported to assign or transfer, to any other person or entity any rights or interests pertaining to this Action, this Settlement, or this Agreement.

F. No Publicity. Plaintiffs and Class Counsel agree that, other than communications necessary to obtain approval of and to administer this Settlement and for Class Counsel to update her firm's website to note the Action has been settled as discussed above, they will keep the fact

and terms of this Agreement confidential and will not communicate with any member of the media about it.

G. Confidential Information. Class Counsel will destroy all confidential documents and information provided by Defendant within thirty (30) calendar days of the Effective Date and will certify to Defense Counsel destruction of same. Class Counsel further agrees that no information provided by Defendant shall be used for any purpose other than prosecution and settlement of the Action.

The Settlement Administrator will (i) hold Class Member information in strict confidence and not disclose or divulge Class Member information to anyone except as provided in this Agreement (this includes not posting on its website the names or any other identifying information concerning Class Members, or any information relating to this Agreement), (ii) maintain Class Member information in secure facilities, and (iii) use Class Member information exclusively for or to assist in administration of this Settlement and for no other purpose. The Settlement Administrator will certify to all counsel that it has destroyed all Class Member information and information relating to this Agreement within thirty (30) days of issuing the *cy pres* payments.

H. Negotiated Agreement. This Agreement constitutes a negotiated contract and is the result of negotiation among the Parties. In interpreting this Agreement, there shall not be any presumption of interpretation against any Party.

I. No Admissions. This Agreement is the result of a compromise between the Parties, and nothing in this Agreement constitutes an admission of liability or of the propriety of class or collective action certification by Defendant with regard to the subject matter of the Action.

J. Final Approval Not Obtained. If the Court declines to approve this Settlement, this Agreement will be null and void and each Party shall return to the *status quo ante*, including,

but not limited to, permitting Defendant the right to pursue fully any and all defenses to Plaintiffs' claims, including to oppose any motion for class or conditional certification. If the Court declines to approve this Settlement, all Claim Forms will be deemed stricken in their entirety (including their function as consents to join the FLSA collective) and the Class Administrator will notify those who submitted the Claim Forms. The Parties agree this Agreement shall not be used in any way by any Party in any future proceedings in this Action other than to enforce the Agreement.

K. Duty to Defend. The Parties will abide by all terms of this Agreement in good faith, will fully support the Agreement's approval and enforcement, and will defend the Agreement from any legal challenge, whether by appeal or collateral attack. If the Court does not approve the Settlement, the Parties will work in good faith to modify the Settlement terms as reasonably necessary to obtain Court approval. If an appeal leads to reversal of approval of this Settlement, then the Parties agree that the claims will be reinstated and Action shall continue.

L. Warranty of Authority. Each signatory below warrants and represents that he/she is competent and authorized to enter into this Agreement on behalf of the Party for whom he/she purports to sign.

M. Applicable Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of North Carolina without giving effect to choice of law principles.

N. Administration and Execution. The Parties will work in good faith to prepare and execute any documents reasonably necessary to consummate, evidence, or confirm the terms of the Agreement and to ensure the prompt approval and administration of this Settlement. This document may be executed in counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument.

O. Binding Effect. This Agreement is binding upon and shall inure to the benefit of Named Plaintiffs, Defendant, and Defendant Releasees.

P. Modification. This Agreement, any of its parts, may be amended, modified, or waived only by an express written instrument signed by all signatories below or their successors in interest.

Q. No Reliance on Representations or Extrinsic Evidence. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other oral or written representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence.

R. Notices, Demands, and Communications Concerning the Settlement. Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by First Class U.S. Mail, addressed as follows:

To Plaintiffs, Named Plaintiffs, Opt-in Plaintiffs, Class Members: to Class Counsel; to Defendant and Defendant Releasees: to Defense Counsel.

The communications to counsel, however, may be sent via email.

S. Integration Clause. This Agreement (including its exhibits) constitutes the entire agreement of the Parties and fully supersedes any and all prior agreements or understandings, written or oral, between the Parties pertaining to the subject matter hereof, including, but not limited to, any and all written and oral agreements reached between the Parties during the mediation that resulted in this Agreement.

T. Bar of Other Proceedings. Pending the Court's final determination as to whether the Settlement should be approved, Member of the Settlement Class and all persons purporting to act on their behalf, including Class Counsel, are enjoined from commencing or prosecuting (either directly, representatively, or in any other capacity) against the Defendant Releasees any action, arbitration, or proceeding in any tribunal asserting any of the claims released in this Agreement.


U. Dismissal with Prejudice. Upon final approval of the Settlement, the Parties agree the Court will dismiss the Action, and Plaintiffs' claims therein, in their entirety and with prejudice. The Parties will request that the Court retain jurisdiction to enforce this Agreement.

V. Conditions Precedent. This Settlement is conditioned on: (i) the Court's entry of the Final Approval Order; and (ii) passage of the Effective Date.

W. Dispute Procedure, Retention by the Court of Jurisdiction Over Settlement. Except as otherwise set forth herein, in the event of a dispute concerning the proper interpretation of the Agreement, the enforcement of this Agreement, the Parties' rights or obligations under the Agreement, or any alleged breach of the terms of the Agreement, notice must be mailed or emailed to counsel for the opposing party within fifteen (15) calendar days after the Party was made aware of the dispute. After receipt of such notice, the Parties shall meet and confer in a good faith attempt to resolve the matter. No Party will turn to the Court until after the Parties have attempted in good faith to resolve their dispute, and in no event any sooner than ten (10) calendar days after notice of a dispute is provided as discussed in this Section. The Parties shall request the Court to retain exclusive jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of the Agreement and to hear and adjudicate any dispute or litigation arising from the Agreement. All Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the terms of this Agreement.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties and their counsel execute this Agreement on the dates indicated below:

Dated: Jul 11, 2023


Danielle Cirillo (Jul 11, 2023 16:25 EDT)

Plaintiff Danielle Cirillo

Dated: Jul 11, 2023



Sabrina Stiles (Jul 11, 2023 19:52 MDT)

Plaintiff Sabrina Stiles

Dated: 07/10/2023



Cloud Software Group, Inc., successor-in-interest to Citrix Systems, Inc.