

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES**

RUDOLPH M. FRANCHI, individually and on behalf of all others similarly situated, <i>et</i> <i>al.</i>	)	
	)	
Plaintiffs,	)	Case No. 22STCV09016 (Lead)
	)	Consolidated with Case No. 22STCV17107
v.	)	
	)	
BARLOW RESPIRATORY HOSPITAL,	)	
	)	
Defendant.	)	
	)	

**SECOND AMENDED SETTLEMENT AGREEMENT**

This Second Amended Settlement Agreement, effective as of the last date of execution hereof (the “Effective Date”), is made and entered into by and among the following Settling Parties (as defined below): (i) Rudolph M. Franchi and Carlos Aragon (“Representative Plaintiffs”), individually and on behalf of the Settlement Class (as defined below), by and through their respective counsel at Clayeo C. Arnold, Professional Corp., Chestnut Cambronne PA, Markovits, Stock & DeMarco, LLC, Milberg Coleman Bryson Phillips Grossman, PLLC, and Morgan & Morgan Complex Litigation Group (collectively, “Proposed Class Counsel” or “Class Counsel”); and (ii) Barlow Respiratory Hospital (“Barlow” and, together with Representative Plaintiffs, the “Parties”). The Second Amended Settlement Agreement is subject to Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof.

**I. THE LITIGATION**

This matter concerns a putative class action *Franchi, et al. v. Barlow Respiratory Hospital*, Los Angeles Superior Court Case No. 22STCV09016 (Lead), consolidated with Los Angeles Superior Court Case No. 22STCV17107 (the “Litigation”), which arises out of an alleged Data

Incident (as defined below) suffered by Barlow on or about August 27, 2021. Specifically, a third-party threat actor group allegedly gained unauthorized access to Barlow's systems and infected certain files with ransomware, which may have, but did not necessarily, include the personal identifiable information ("PII") and/or personal health information ("PHI") of certain Barlow patients, employees, and/or physicians.

Barlow notified approximately 10,761 patients of the Data Incident between December 2021 and March 2022, and 1,789 employees and physicians between October 2021 and March 2022. Representative Plaintiffs received their notice letters in or about March 2022.

Representative Plaintiff Rudolph M. Franchi filed his putative class action on March 14, 2022 in Los Angeles Superior Court, Case No. 22STCV09016, regarding the Data Incident (the "*Franchi* Action"). Two months later, on May 23, 2022, Representative Plaintiff Carlos Aragon filed his putative class action in Los Angeles Superior Court, Case No. 22STCV17107, regarding the Data Incident (the "*Aragon* Action"). On August 2, 2022, counsel for the Parties entered into a stipulation to relate the *Franchi* Action and the *Aragon* Action and to consolidate the actions into the first-filed case, Case No. 22STCV09016. Shortly thereafter, the Court entered an Order relating the *Franchi* Action and the *Aragon* Action and consolidating them into the first-filed case, Case No. 22STCV09016. On September 15, 2022, Representative Plaintiffs filed an amended, consolidated complaint (the "Consolidated Complaint").

Over the course of several months, the Parties engaged in settlement negotiations and a full-day mediation session with Bennett G. Picker, Esq. of Stradley Ronon Stevens & Young, LLP. As a result of those efforts, the Parties reached a settlement, which is memorialized in this Amended Settlement Agreement. Pursuant to the terms set forth below, this Amended Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against Barlow and the Released Persons (as defined below) relating to the Data Incident, by and on behalf of Representative Plaintiffs and the Settlement Class Members (collectively, the "Litigation").

## **II. CLAIMS OF REPRESENTATIVE PLAINTIFFS AND BENEFITS OF SETTLING**

Representative Plaintiffs believe the claims asserted in the Litigation, as set forth in the Consolidated Complaint, have merit. Representative Plaintiffs and Proposed Class Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Litigation against Barlow through motion practice, trial, and potential appeals. They have also considered the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation. Proposed Class Counsel are highly experienced in class action litigation and very knowledgeable regarding the relevant claims, remedies, and defenses at issue generally in such litigation and in this Litigation. They have determined that the settlement set forth in this Amended Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Representative Plaintiffs and the Settlement Class Members.

## **III. DENIAL OF WRONGDOING AND LIABILITY**

Barlow denies each and all of the claims and contentions alleged against it in the Litigation. Barlow denies all charges of wrongdoing or liability as alleged, or which could be alleged, in the Litigation. Nonetheless, Barlow has concluded that continuing with the Litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Amended Settlement Agreement. Barlow also has taken into account the uncertainty and risks inherent in any litigation. Barlow has, therefore, determined that it is desirable and beneficial that the Litigation be settled in the manner and upon the terms and conditions set forth in this Amended Settlement Agreement.

## **IV. TERMS OF SETTLEMENT**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Representative Plaintiffs, individually and on behalf of the Settlement Class Members, the Proposed Class Counsel, and Barlow that, subject to the approval of the Court, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and judgment shall be entered as to the Settling Parties and the Settlement Class Members, except those Settlement Class Members who timely opt-out of the Amended Settlement Agreement, upon and

subject to the terms and conditions of this Amended Settlement Agreement. The Settling Parties agree that, after entry of judgment, the Court will retain jurisdiction over the Settling Parties, the litigation, and the Amended Settlement Agreement solely for purposes of (i) enforcing this Agreement and/or judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-judgment matters as are permitted by law.

## 1. Definitions

As used in the Amended Settlement Agreement, the following terms have the meanings specified below:

1.1 “Agreement” or “Settlement Agreement” means this agreement.

1.2 “California Settlement Subclass” means all current and former Barlow Hospital patients whose PHI was potentially compromised in the Data Incident that occurred on or about August 27, 2021, and who were residing in the State of California at the time their PHI was potentially compromised in the Data Incident. The California Settlement Subclass specifically excludes: (i) Barlow and Barlow’s parents, subsidiaries, affiliates, officers and directors, and any entity in which Barlow has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) the attorneys representing the Parties in the Litigation; (iv) all judges assigned to hear any aspect of the Litigation, as well as their immediate family members; and (v) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident, or who pleads *nolo contendere* to any such charge.

1.3 “California Settlement Subclass Member(s)” means a Person(s) who falls within the definition of the California Settlement Subclass.

1.4 “Claims Administration” means the processing and payment of claims received from Settlement Class Members and California Settlement Subclass Members by the Claims Administrator, pursuant to the Notice Plan set forth in ¶ 3.2 and **Exhibit D**.

1.5 “Claims Administrator” means a company experienced in administering class action claims generally and specifically those of the type provided for and made in data breach

litigation, to be jointly agreed upon by the Settling Parties and approved by the Court.

1.6 “Claims Deadline” means the postmark deadline for valid claims pursuant to ¶ 2.4.

1.7 “Claim Form” means the form that the Settlement Class Member a must complete and submit on or before the Claim Deadline in order to be eligible for the benefits described herein. The Claim Form shall be reformatted by the Claims Administrator in order to permit the option of filing of claims electronically. The Claim Form shall require a sworn signature or electronic verification under penalty of perjury, but shall not require a notarization. The Claim Form template is attached as **Exhibit A** to this Settlement Agreement.

1.8 “Costs of Claims Administration” means all actual costs associated with or arising from Claims Administration.

1.9 “Court” means the Superior Court of the State of California, County of Los Angeles.

1.10 “Data Incident” means the ransomware attack suffered by Barlow on or about August 27, 2021, in which an unauthorized third-party threat actor group uploaded a virus onto Barlow’s systems, encrypting Barlow’s data, and allegedly accessed the PII and/or PHI of current and former Barlow patients, employees, and/or physicians.

1.11 “Dispute Resolution” means the process for resolving disputed Settlement Claims as set forth in this Agreement.

1.12 “Effective Date” means the first date by which all of the events and conditions specified in ¶ 1.14 and ¶ 9.1 herein have occurred and been met.

1.13 “Final” means the occurrence of all of the following events: (i) the settlement pursuant to this Settlement Agreement is approved by the Court; (ii) the Court has entered a Judgment (as that term is defined herein); and (iii) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorneys’ fee award or service

award made in this case shall not affect whether the Judgment is “Final” as defined herein or any other aspect of the Judgment.

1.14 “Judgment” means a judgment rendered by the Court, in the form attached hereto as **Exhibit F**, or a judgment substantially similar to such form.

1.15 “Long Notice” means the written long-form notice (including electronic notice) of the proposed class action settlement to be posted on the settlement website, substantially in the form as shown in **Exhibit C** attached hereto.

1.16 The “Notice Commencement Date” means the date by which notice of settlement to Settlement Class Members shall commence and shall be thirty (30) business days after the entry of the Preliminary Approval Order.

1.17 “Objection Date” means the date by which Settlement Class Members must mail to Class Counsel and counsel for Barlow their written objection to the Settlement for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes. The Objection Date shall be ninety (90) days after the Notice Commencement Date.

1.18 “Opt-Out Date” means the date by which requests for exclusion from the Settlement Class must be postmarked in order to be effective and timely. The postmark date shall constitute evidence of the date of mailing for these purposes. The Opt-Out Date shall be ninety (90) days after the Notice Commencement Date.

1.19 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.

1.20 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement and ordering that notice be provided to the Settlement Class and California Settlement Subclass.

1.21 “Plaintiffs’ Counsel” and “Proposed Class Counsel” means M. Anderson Berry and

Gregory Haroutunian of Clayco C. Arnold, Professional Law Corp.; Bryan L. Bleichner of Chestnut Cambronne PA; Dylan J. Gould of Markovits, Stock & DeMarco, LLC; John J. Nelson of Milberg Coleman Bryson Phillips Grossman, PLLC; and Francesca Kester of Morgan & Morgan Complex Litigation Group.

1.22 “Related Entities” means Barlow’s past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of Barlow’s predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in any of the actions in the Litigation, other than any Person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

1.23 “Released Claims” shall collectively mean any and all claims, causes of action, damages, and penalties that have been alleged in the operative Consolidated Complaint on behalf of any Settlement Class Member, or that could have been alleged on behalf of any Settlement Class Member because they reasonably arise out of the same set of facts as alleged in the operative Consolidated Complaint, including any claims that a Settlement Class Member is or in the future could be damaged based on access to their PII or PHI as a result of the Data Incident, including claims for Negligence, Common Law Invasion of Privacy, Cal. Const. Art. 1 § 1 Invasion of Privacy, Breach of Implied Contract, Violations of the California Confidentiality of Medical Information Act (Cal. Civ. Code § 56, *et seq.*), Violations of the California Consumer Privacy Act (Cal. Civ. Code § 1798, *et seq.*), Violations of the California Unfair Competition Law (Cal. Bus. & Prof. Code § 17200, *et seq.*), and Declaratory Relief. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement, and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

1.24 “Released Persons” means Barlow, its Related Entities, and each of its past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their

respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers.

1.25 “Reminder Notice” means a copy of the Short Form Notice (**Exhibit B**) that will be emailed to all Class Members with a known email address and mailed to the remaining Class Members for whom no known or valid email addresses exist. A copy will also be mailed to any Class Members that contact the help line requesting a paper notice or Claim Form. The Reminder Notice shall be issued fourteen (14) days before the Claim Deadline.

1.26 “Representative Plaintiffs” means Rudolph M. Franchi and Carlos Aragon.

1.27 “Settlement Claim” means a claim for settlement benefits made under the terms of this Settlement Agreement.

1.28 “Settlement Class” means all persons residing in the United States whose PII and/or PHI was potentially compromised in the Data Incident that occurred on or about August 27, 2021, including, but not limited to, the California Settlement Subclass. The Settlement Class specifically excludes: (i) Barlow and Barlow’s parents, subsidiaries, affiliates, officers and directors, and any entity in which Barlow has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) the attorneys representing the Parties in the Litigation; (iv) all judges assigned to hear any aspect of the Litigation, as well as their immediate family members; and (v) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident, or who pleads *nolo contendere* to any such charge.

1.29 “Settlement Class Member(s)” means a Person(s) who falls within the definition of the Settlement Class.

1.30 “Settling Parties” means, collectively, Barlow and Representative Plaintiffs, individually and on behalf of the Settlement Class.

1.31 “Short Notice” means the postcard short form notice of the proposed class action settlement, substantially in the form as shown in **Exhibit B** attached hereto. The Short Notice will direct recipients to the settlement website and inform members of the Settlement Class of, among

other things, the Claims Deadline, the Opt-Out and Objection Deadlines, and the date of the Final Approval Hearing (if set prior to the Notice Commencement Date (as defined herein)). The Short Notice will be mailed to all Class Members and emailed to those Class Members with known email addresses.

1.32 “United States” as used in this Settlement Agreement includes the District of Columbia and all territories.

1.33 “Valid Claim” means a Settlement Claim in an amount approved by the Claims Administrator or found to be valid through the claims processing and/or Dispute Resolution process.

## **2. Settlement Benefits**

2.1 Expense and Lost-Time Reimbursement. All Settlement Class Members who submit a Valid Claim using the Claim Form (**Exhibit A** to this Settlement Agreement) are eligible to receive reimbursement for the following documented out-of-pocket losses and lost time, if not already reimbursed through any other source and caused by the Data Incident, not to exceed three hundred dollars and no cents (\$300.00) per Settlement Class Member: (i) unreimbursed costs to obtain credit reports; (ii) unreimbursed fees relating to a credit freeze; (iii) unreimbursed card replacement fees; (iv) unreimbursed late fees; (v) unreimbursed over-limit fees; (vi) unreimbursed interest on payday loans taken as a result of the Data Incident; (vii) unreimbursed bank or credit card fees; (viii) unreimbursed postage, mileage, and other incidental expenses resulting from lack of access to an existing account; (ix) unreimbursed costs associated with credit monitoring or identity theft insurance purchased prior to the Effective Date, with certification that it was purchased primarily as a result of the Data Incident; and (x) compensation for attested-to unreimbursed lost time spent monitoring accounts, reversing fraudulent charges, or otherwise dealing with the aftermath / clean-up of the breach, at the rate of twenty dollars and no cents (\$20.00) per hour for up to five (5) hours, but only if at least one (1) full hour was spent. Members of the Settlement Class must attest on the Claim Form to the time spent. No documentation other than a verified description of their actions shall be required for members of the Settlement Class

to receive compensation for attested time. The total of all amounts recovered under this ¶ 2.1 shall not exceed \$300.00 per Settlement Class Member.

2.2 Extraordinary Expense Reimbursement. Barlow shall reimburse, as provided for below, each Settlement Class Member in the amount of his or her proven loss, but not to exceed five thousand dollars and no cents (\$5,000.00) per claim (and only one claim per Settlement Class Member), for a monetary out-of-pocket loss that occurred as a result of the Data Incident if: (a) the loss is an actual, documented, and unreimbursed monetary loss; (b) the loss was substantially more likely than not caused by the Data Incident; (c) the loss occurred during the period from August 27, 2021, through and including the end of the Claims Deadline (see ¶ 2.4); (d) the loss is not an amount already covered by one or more of the categories in ¶ 2.1; and (e) the claimant made reasonable efforts to avoid or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring insurance and identity theft insurance as required under ¶ 2.4.4. The total of all amounts recovered under this paragraph shall not exceed \$5,000.00 per Settlement Class Member. Settlement Class Members with claims under this paragraph may also submit claims for benefits under ¶ 2.1.

2.3 California Statutory Claim Benefits. In addition to the above benefits, California Settlement Subclass Members are eligible for a separate, California statutory damages award. The amount awarded to California Settlement Subclass Members who submit a Valid Claim shall be one hundred twenty-five dollars and no cents (\$125.00). To redeem this \$125.00 benefit, California Settlement Subclass Members must submit a Claim Form (**Exhibit A** to this Settlement Agreement) and attest that they were a California resident at the time of the Data Incident about which they were notified by Barlow.

2.4 Claims Process. Settlement Class Members seeking reimbursement under ¶¶ 2.1 or 2.2, and California Settlement Subclass Members seeking reimbursement under ¶ 2.3, must complete and submit a valid, written Claim Form to the Claims Administrator, postmarked on or before the ninetieth (90<sup>th</sup>) day after the deadline for the completion of Notice to Settlement Class Members as set forth in ¶ 3.2 (the “Claims Deadline”). The Notice will specify this deadline and

other relevant dates described herein.

2.4.1 As proof of class membership, any Person filing a claim must attest that he or she is a Settlement Class Member and also submit either (1) a unique code to be provided by the Claims Administrator based on the approved list of class members to be sent direct Notice or (2) name and either the physical or email address the Settlement Class Member provided to Barlow for medical services or employment. In order to claim expense reimbursement, related documentation must be provided with the Claim Form, and the payment claimed pursuant to the Claim Form cannot have been reimbursed from any other source.

2.4.2 The Claim Form must be verified by the Settlement Class Member with a statement that his or her claim is true and correct, to the best of his or her knowledge and belief, and is being made under penalty of perjury. Notarization shall not be required. The Settlement Class Member must plausibly attest that the out-of-pocket expenses and charges claimed were both actually incurred and arose from the Data Incident. Failure to provide supporting attestation and documentation as requested on the Claim Form, and after a reasonable opportunity to cure after notice from the Claims Administrator (as described below in Section 2.6.2), shall result in denial of a claim. Disputes as to claims submitted under this paragraph are to be resolved pursuant to the provisions stated in ¶ 2.6.

2.4.3 Claimants seeking reimbursement for expenses or losses described in ¶¶ 2.1 or 2.2 must complete and submit the appropriate section of the Claim Form to the Claims Administrator, together with proof of such losses.

2.4.4 Nothing in this Settlement Agreement shall be construed to provide for a double payment for the same loss or injury that was reimbursed or compensated by any other source.

2.4.5 To be valid, claims must be complete and submitted to the Claims Administrator on or before the Claims Deadline. Mailed claims must be postmarked on or before the Claims Deadline in order to be valid.

2.4.6 No payment shall be made for emotional distress, personal/bodily injury, or punitive damages, as all such amounts are not recoverable pursuant to the terms of the Settlement Agreement.

2.4.7 Claimants seeking payment pursuant to ¶ 2.3 must also attest under penalty of perjury that claimant was a resident of the State of California at the time of the Data Incident about which they were notified by Barlow. Notarization shall not be required.

2.4.8 Identity-Theft Protection and Credit Monitoring. Settlement Class Members are eligible to receive two (2) years of identity-theft protection and credit monitoring services, which includes three bureau credit monitoring and alerts. This is in addition to the credit monitoring services previously offered to individuals who were notified of the Data Incident. Settlement Class Members must affirmatively request identity-theft protection services by indicating such request on the Claim Form, and codes will be sent either to an e-mail address provided by the Settlement Class Members or, if they do not have an e-mail address, mailed to the address provided on the Claim Form.

Protection and monitoring provided shall include, at a minimum:

- a) Credit monitoring at one of the three major credit reporting agencies: Equifax, Experian or TransUnion;
- b) Dark web monitoring;
- c) Identity restoration and recovery services;
- d) \$1,000,000 identity theft insurance with no deductible.

2.4.9 Settlement Class Members can enroll for these identity protection and credit monitoring services whether or not they are eligible for a monetary recovery under this Settlement.

## 2.5 Dispute Resolution for Claims.

2.5.1 The Claims Administrator, in its sole discretion to be reasonably exercised, will determine whether: (1) the claimant is a Settlement Class Member; (2) the claimant is a California Settlement Subclass Member; (3) the claimant has provided all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support the claimant's class membership and the expenses described in ¶¶

2.1 through 2.3; and (4) the information submitted could lead a reasonable person to conclude that it is more likely than not the claimant has suffered the claimed losses as a result of the Data Incident (collectively, “Facially Valid”). The Claims Administrator may, at any time, request from the claimant, in writing, additional information (“Claim Supplementation”) as the Claims Administrator may reasonably require in order to evaluate the claim, *e.g.*, documentation requested on the Claim Form, information regarding the claimed losses, available insurance and the status of any claims made for insurance benefits, and claims previously made for identity theft and the resolution thereof.

2.5.2 Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the claim is Facially Valid, the Claims Administrator shall request Claim Supplementation and give the claimant thirty (30) days to cure the defect before rejecting the claim. If the defect is not cured, then the claim will be deemed invalid and there shall be no obligation to pay the claim.

2.5.3 Following receipt of additional information requested as Claim Supplementation, the Claims Administrator shall have thirty (30) days to accept, in whole or lesser amount, or reject each claim. If, after review of the claim and all documentation submitted by the claimant, the Claims Administrator determines that such a claim is Facially Valid, then the claim shall be paid. If the claim is not Facially Valid because the claimant has not provided all information needed to complete the Claim Form and evaluate the claim, then the Claims Administrator may reject the claim without any further action.

2.5.4 Settlement Class Members shall have thirty (30) days from receipt of the offer to accept or reject any offer of partial payment received from the Claims Administrator. If a Settlement Class Member does not timely accept or reject an offer of partial payment, the Settlement Class Member will be deemed to have accepted such partial payment offer. If a Settlement Class Member rejects an offer from the Claims Administrator, the Claims Administrator shall have fifteen (15) days to reconsider its initial

adjustment amount and make a final, non-appealable determination. If the claimant approves the final determination, then the approved amount shall be the amount to be paid. If the claimant does not approve the final determination within thirty (30) days, then the dispute will be determined by the Claims Administrator within an additional ten (10) day period.

2.6 Settlement Expenses. All costs for notice to the Settlement Class as required under ¶¶ 3.1 and 3.2, and Costs of Claims Administration under ¶¶ 8.1 and 8.2, shall be paid by Barlow.

2.7 Settlement Class and California Settlement Subclass Certification. The Settling Parties agree, for purposes of this settlement only, to the certification of the Settlement Class and California Settlement Subclass. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class and California Settlement Subclass provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class and California Settlement Subclass had never been certified, without prejudice to any Person's or Settling Party's position on the issue of class certification or any other issue. The Settling Parties' agreement to the certification of the Settlement Class and California Settlement Subclass is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

2.8 Equitable Terms. In addition to the foregoing settlement benefits, Plaintiffs have received assurances that Barlow has implemented or will implement certain reasonable steps to adequately secure its systems and environments, including the following data security measures:

2.8.1 *Review of Policies and Procedures.* Barlow will periodically review and revise its policies and procedures addressing data security as reasonably necessary.

2.8.2 *Vulnerability Assessment.* Barlow will agree to implement automated vulnerability scanning tools that cover its systems and will set policies for prompt remediation.

2.8.3 *Firewall Implementation.* Barlow will agree to place all systems containing PII behind application firewalls.

2.8.4 *Limit Remote Access.* Barlow will agree that no users will be permitted to remotely access its networks without multi-factor authentication. This applies to any kind of remote access, including node-on-network and node-on-node. Barlow will configure all systems to alert on unsuccessful administrative account logins.

2.8.5 *Implement Password Policies.* Barlow will agree to verify that all default passwords are changed to follow password policies that comply with best practices.

2.8.6 *Employee Education and Training.* Barlow will maintain a program to educate and train its employees on the importance of the privacy and security of PII.

### **3. Order of Preliminary Approval and Publishing of Notice of Final Approval Hearing**

3.1. Proposed Class Counsel filed a motion for preliminary approval of the original Settlement Agreement and shall file a supplement to that motion, supporting preliminary approval of the Amended Settlement Agreement by October 18, 2023 with the Court, with this Settlement Agreement attached as an exhibit, requesting entry of a Preliminary Approval Order with, *inter alia*:

- a) certification of the Settlement Class for settlement purposes only pursuant to ¶ 2.7;
- b) preliminary approval of the Settlement Agreement as set forth herein;
- c) the scheduling of a Final Approval Hearing and briefing schedule for Motion For Final Hearing and Application for Class Representative Service Awards and Attorneys' Fees and Costs;
- d) appointment of Proposed Class Counsel as Class Counsel;
- e) appointment of Representative Plaintiffs as Class Representatives;
- f) approval of a customary form of short form notice to be mailed to all Class Members and emailed to those Class Members with known email addresses ("Short Notice") substantially similar to the ones attached hereto as **Exhibit B** and a

customary long form notice to be posted on the settlement website (“Long Notice”) in a form substantially similar to the one attached hereto as **Exhibit C**, which together shall include a fair summary of the Parties’ respective litigation positions, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt-out of the settlement, the process and instructions for making claims to the extent contemplated herein, and the date, time and place of the Final Approval Hearing;

- g) appointment of a Claims Administrator, or such other provider of claims administrative service, as may be jointly agreed to by the Settling Parties; and
- h) approval of a claim form substantially similar to that attached hereto as **Exhibit A**.

The Notice and Claim Form shall be reviewed by the Claims Administrator and may be revised as agreed upon by the Settling Parties prior to such submission to the Court for approval.

3.2 Barlow shall pay for all of the costs associated with the Claims Administrator, and for providing Notice to the Settlement Class in accordance with the Preliminary Approval Order, as well as the costs of such notice. Attorneys’ fees, costs, and expenses of Proposed Class Counsel, and service awards to Class Representatives, shall be paid by Barlow as set forth in ¶ 7 below, subject to Court approval. Notice shall be provided in English to Class Members as follows, and shall be subject to approval by the Court as meeting constitutional due process requirements (the “Notice Plan”):

3.2.1 Barlow will provide the list of Settlement Class Members with available last known mailing addresses and email address (if any) from its system to the Claims Administrator within ten (10) business days of the Preliminary Approval Order.

3.2.2 Notice by Mail and Email. Claims Administrator will work with Class Counsel and counsel for Barlow to format the Short Notice for mailing and emailing. Upon approval, Claims Administrator will coordinate the preparation of Short Notice proofs for Class Counsel and counsel for Barlow to review and approve.

3.2.3 On the Notice Commencement Date, Claims Administrator will commence mailing the Short Notice to all Settlement Class Members and emailing the Short Notice to those Settlement Class Members with a known email address.

3.2.4 Short Notices by mail will be sent by First-Class Mail to all physical addresses as noted above. In preparation for the notice mailing, within twenty (20) business days of the Preliminary Approval Order, Claims Administrator will send the Settlement Class Member data through the United States Postal Service's ("USPS") National Change of Address ("NCOA") database. The NCOA process will provide updated addresses for Settlement Class Members who have submitted a change of address with the USPS in the last forty eight (48) months, and the process will also standardize the addresses for mailing. Claims Administrator will then prepare a mail file of Settlement Class Members that are to receive the notice via First Class Mail.

3.2.5 Short Notices returned by the USPS with a forwarding address will be automatically re-mailed to the updated address provided by the USPS.

3.2.6 At the direction of Class Counsel and counsel for Barlow, Short Notices returned by the USPS undeliverable as addressed without a forwarding address will be sent through an advanced address search process in an effort to find a more current address for the record. If an updated address is obtained through the advanced search process, Claims Administrator will re-mail the notice to the updated address. The deadlines for the Objection Date and Opt-Out Date account for thirty (30) extra days for that Person to mail to Class Counsel and counsel for Barlow their written objection to the Settlement for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

3.2.7 Short Notices returned by email will be automatically mailed to the Person's known physical address, and will follow the same mailing process discussed in ¶¶ 3.2.1 through 3.2.6. The deadlines for the Objection Date and Opt-Out Date account for thirty (30) extra days for that Person to mail to Class Counsel and counsel for Barlow their written

objection to the Settlement for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

3.2.8 Settlement Website. Claims Administrator will work with Class Counsel and counsel for Barlow to create a dedicated settlement website. The settlement website URL will be determined and approved by Class Counsel and counsel for Barlow, and will be accessible to the Settlement Class Members on the Notice Commencement Date. The settlement website will contain a summary of the Settlement, will allow Settlement Class Members to contact the Claims Administrator with any questions or changes of address, provide notice of important dates such as the Final Approval Hearing, Claims Deadline, Objection Date, and Opt-Out Date, and provide Settlement Class Members who file Claim Forms online the opportunity to select an electronic payment method or payment by check. The settlement website will also contain relevant case documents including the Consolidated Complaint, the Settlement Agreement, the Long Notice, the Claim Form, the Preliminary Approval Order, Final Approval Order, and Judgment.

3.2.9 Toll-Free Number. Claims Administrator will also establish a toll-free number for the settlement, which will be available to the Settlement Class Members on the Notice Commencement Date. The toll-free number will allow Settlement Class Members to call and obtain information about the settlement through an Interactive Voice Response System and live operators.

3.2.10 Reminder Notices. As required under ¶ 1.25, fourteen (14) days before the Claim Deadline, Claims Administrator will send Reminder Notices. The Reminder Notice will be sent to Settlement Class Members who have not yet submitted a Claim Form and have not opted out of the settlement. The Reminder Notice will be sent to all Settlement Class Members with a known email address and mailed to the remaining Settlement Class Members for whom no known or valid email addresses exist.

3.2.11 The Notice and Claim Form approved by the Court may be adjusted by the Claims Administrator, respectively, in consultation and agreement with the Settling

Parties, as may be reasonable and not inconsistent with such approval. Within thirty (30) business days after the entry of the Preliminary Approval Order and to be substantially completed not later than forty-five (45) business days after entry of the Preliminary Approval Order, and subject to the requirements of this Agreement and the Preliminary Approval Order, the Claims Administrator will provide notice to the Settlement Class via the Notice Plan.

3.3 Proposed Class Counsel and Barlow's counsel shall request that after notice is completed, the Court hold a hearing (the "Final Approval Hearing") and grant final approval of the settlement set forth herein.

#### **4. Opt-Out Procedures**

4.1 Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator. Settlement Class Members will only be able to submit an opt-out request on their own behalf; mass or class opt-outs will not be permitted. The written notice must clearly manifest a Person's intent to be excluded from the Settlement Class. To be effective, written notice must be postmarked no later than the Opt-Out Date, as defined in ¶ 1.19.

4.2 All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class, as set forth in ¶ 4.1 above, referred to herein as "Opt-Outs," shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class in the manner set forth in ¶ 4.1 above shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.

4.3 In the event that within ten (10) days after the Opt-Out Date as approved by the Court, there have been more than 250 timely and valid Opt-Outs submitted, Barlow may, by notifying Proposed Class Counsel in writing, void this Settlement Agreement. If Barlow voids the Settlement Agreement pursuant to this paragraph, Barlow shall be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of Proposed Class

Counsel and incentive awards.

## **5. Objection Procedures**

5.1 Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date or may orally object at the Final Approval Hearing. Such written notice shall state: (i) the objector's full name, address, telephone number, and email address (if any); (ii) the case name and docket number, *Franchi, et al. v. Barlow Respiratory Hospital*, Los Angeles Superior Court Case No. 22STCV09016 (Lead), consolidated with Los Angeles Superior Court Case No. 22STCV17107; (iii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of original notice of the Data Incident or a statement explaining why the objector believes he or she is a Settlement Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of all counsel representing the objector in connection with the objection; (vi) a statement whether the objector and/or his or her counsel will personally appear at the Final Approval Hearing; and (vii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative. Notwithstanding the foregoing, any Settlement Class Member who timely submits a written notice of objection or attends the Final Approval Hearing may so state their objection at that time, subject to the Court's approval. To be timely, written notice of an objection that substantially complies with 5.1(i)-(vii) must be mailed, with a postmark date no later than the Objection Date, to Proposed Class Counsel and to Barlow's counsel as set forth below. For all objections mailed to Proposed Settlement Class Counsel and counsel for Barlow, Proposed Settlement Class Counsel will file them with the Court with the Motion for Final Approval of the Settlement:

*Upon Proposed Class Counsel at:*

**CLAYEO C. ARNOLD, A PROFESSIONAL CORP.**

M. Anderson Berry  
865 Howe Avenue  
Sacramento, CA 95825

*Upon Barlow's counsel at:*

**BAKER & HOSTETLER LLP**

Bethany G. Lukitsch  
11601 Wilshire Boulevard, Suite 1400  
Los Angeles, CA 90025

5.2 Although the Court's stated policy is to hear from any class member who attends the Final Approval Hearing and asks to speak regarding his or her objection to the settlement, the Parties reserve the right to challenge the objection of any Settlement Class Member who fails to comply with the requirements for objecting in ¶ 5.1 as having waived and forfeited any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement, and assert that such Settlement Class Member is bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of ¶ 5.1. Without limiting the foregoing, any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or the Judgment to be entered upon final approval shall be pursuant to appeal under the California Rules of Appellate Procedure and not through a collateral attack.

**6. Releases**

6.1 Upon the Initial Payment Date (as defined in ¶ 8.2), each Settlement Class Member, including Representative Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims. Further, upon the Initial Payment Date, and to the fullest extent permitted by law, each Settlement Class Member, including Representative Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be

permanently barred from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any Released Claim is asserted.

6.2 Upon the Initial Payment Date, Barlow shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged, Representative Plaintiffs, each and all of the Settlement Class Members, Proposed Class Counsel and Plaintiffs' Counsel, of all claims based upon or arising out of the institution, prosecution, assertion, settlement, or resolution of the Litigation or the Released Claims, except for enforcement of the Settlement Agreement. Any claims based upon or arising out of any debtor-creditor, employment, contractual, or other business relationship with such Persons that are not based upon or do not arise out of the institution, prosecution, assertion, settlement, or resolution of the Litigation or the Released Claims are specifically preserved and shall not be affected by the preceding sentence.

7. Notwithstanding any term herein, neither Barlow nor its Related Parties shall have or shall be deemed to have released, relinquished or discharged any claim or defense against any Person other than Representative Plaintiffs, each and all of the Settlement Class and California Settlement Subclass members, and Proposed Settlement Class Counsel. **Plaintiffs' Counsel's Attorneys' Fees, Costs, and Expenses; Service Award to Representative Plaintiffs**

7.1 The Settling Parties did not discuss the payment of attorneys' fees, costs, expenses and/or service award to Representative Plaintiffs, as provided for in ¶¶ 7.2 and 7.3, until after the substantive terms of the settlement had been agreed upon, other than that Barlow would pay reasonable attorneys' fees, costs, expenses, and service awards to Representative Plaintiffs as may be agreed to by Barlow and Proposed Class Counsel and/or as ordered by the Court. Barlow and Proposed Settlement Class Counsel then negotiated and agreed to the procedure described in ¶ 7.2.

7.2 Proposed Class Counsel has agreed to request, and Barlow has agreed to pay, subject to Court approval, the amount of three hundred ten thousand dollars and no cents

(\$310,000.00) to Proposed Class Counsel for attorneys' fees and costs and expenses. Proposed Class Counsel, in their sole discretion, shall allocate and distribute the amount of attorneys' fees, costs, and expenses awarded by the Court among Plaintiffs' Counsel.

7.3 Subject to Court approval, Barlow has agreed to pay a service award in the amount of two thousand dollars and no cents (\$2,000.00) to each of the Representative Plaintiffs.

7.4 Barlow shall pay the Court-approved amount of attorneys' fees, costs, expenses, and service awards to Representative Plaintiffs to an account established by Proposed Class Counsel upon the Initial Payment Date, regardless of any appeal that may be filed or taken by any Settlement Class Member or third party. Proposed Class Counsel will repay to Barlow the amount of the award of attorneys' fees and costs in the event that the final approval order and final judgment are not upheld on appeal and, if only a portion of fees or costs (or both) is upheld, Proposed Class Counsel will repay to Barlow the amount necessary to ensure the amount of attorneys' fees or costs (or both) comply with any Court order.

7.5 Proposed Class Counsel shall thereafter distribute the award of attorneys' fees, costs, and expenses among Proposed Class Counsel and service award to Representative Plaintiffs consistent with ¶¶ 7.2 and 7.3. If this Settlement Agreement is terminated or otherwise does not become Final (*e.g.*, disapproval by the Court or any appellate court), Barlow shall have no obligation to pay attorneys' fees, costs, expenses, or service awards and shall only be required to pay costs and expenses related to notice and administration that were already incurred. Under no circumstances will Proposed Class Counsel or any Settlement Class Member be liable for any costs or expenses related to notice or administration.

7.6 The amount(s) of any award of attorneys' fees, costs, and expenses, and the service award to Representative Plaintiffs, are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs, expenses, and/or service award ordered by the Court to Proposed Class Counsel or Representative Plaintiffs shall affect whether the Judgment is Final or constitute

grounds for cancellation or termination of this Settlement Agreement.

## **8. Administration of Claims**

8.1 The Claims Administrator shall administer and calculate the claims submitted by Settlement Class Members under ¶ 2. Proposed Class Counsel and Barlow shall be given weekly reports as to both claims and distribution. The Claims Administrator's determination of the validity or invalidity of any such claims shall be binding, subject to the dispute resolution process set forth in ¶ 2.5. All claims agreed to be paid in full by Barlow shall be deemed valid.

8.2 Payment of Valid Claims, whether via mailed check or electronic distribution, shall be made within forty-five (45) days of the Effective Date ("Initial Payment Date"), or within thirty (30) days of the date that the claim is approved, whichever is later. If this Settlement Agreement is terminated or otherwise does not become Final (*e.g.*, disapproval by the Court or any appellate court) prior to the payment of Valid Claims, Barlow shall have no obligation to pay such claims and shall only be required to pay costs and expenses related to notice and administration that were already incurred.

8.3 All Settlement Class Members who fail to timely submit a claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

8.4 No Person shall have any claim against the Claims Administrator, Barlow, Proposed Class Counsel, Plaintiffs, Plaintiffs' Counsel, and/or Barlow's counsel based on distributions of benefits to Settlement Class Members.

## **9. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination**

9.1 The Effective Date of the settlement shall be conditioned on the occurrence of all of the following events:

- a) the Court has entered the Order of Preliminary Approval and Publishing of Notice of a Final Approval Hearing, as required by ¶ 3.1;

- b) Barlow has not exercised its option to terminate the Settlement Agreement pursuant to ¶ 4.3;
- c) the Court has entered the Judgment granting final approval to the settlement as set forth herein; and
- d) the Judgment has become Final, as defined in ¶ 1.14.

9.2 If all of the conditions specified in ¶ 9.1 hereof are not satisfied, the Settlement Agreement shall be canceled and terminated subject to ¶ 9.4 unless Proposed Class Counsel and Barlow's counsel mutually agree in writing to proceed with the Settlement Agreement.

9.3 Within seven (7) days after the Opt-Out Date, the Claims Administrator shall furnish to Proposed Class Counsel and to Barlow's counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

9.4 In the event that the Settlement Agreement is not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (b) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or service awards shall constitute grounds for cancellation or termination of the Settlement Agreement. Further, notwithstanding any statement in this Settlement Agreement to the contrary, Barlow shall be obligated to pay amounts already billed or incurred for costs of notice to the Settlement Class, Claims Administration, and Dispute Resolution above and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation.

## **10. Miscellaneous Provisions**

10.1 The Settling Parties (i) acknowledge that it is their intent to consummate this agreement; and (ii) agree to cooperate in good faith to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement, and to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.

10.2 The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis. It is agreed that neither Party shall have any liability to one another as it relates to the Litigation, except as set forth herein.

10.3 Neither the Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Persons; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Any of the Released Persons may file the Settlement Agreement and/or the Judgment in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

10.4 The Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

10.5 The exhibits to this Settlement Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Agreement.

10.6 The Settlement Agreement, together with the exhibits attached hereto, constitutes the entire agreement among the Settling Parties regarding the payment of the Litigation settlement and supersedes all previous negotiations, agreements, commitments, understandings, and writings between Barlow and Representative Plaintiffs in connection with the payment of the Litigation settlement. Except as otherwise provided herein, each party shall bear its own costs. This Settlement Agreement supersedes all previous agreements made between Barlow and Representative Plaintiffs.

10.7 Proposed Class Counsel, on behalf of the Settlement Class, is expressly authorized by Representative Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.

10.8 Each counsel or other Person executing the Settlement Agreement on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

10.9 The Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court.

10.10 The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties.

10.11 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement, and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Settlement Agreement. The Court shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement

by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Claims Administrator. As part of its agreement to render services in connection with this Settlement, the Claims Administrator shall consent to the jurisdiction of the Court for this purpose.

10.12 The Settlement Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of California, and the rights and obligations of the parties to the Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of California.

10.13 As used herein, “he” means “he, she, or it;” “his” means “his, hers, or its;” and “him” means “him, her, or it.” “She” means “she, he, or it;” “hers” means “hers, his, or its;” and “her” means “her, him, or it.” “It” means “it, he, or she, him, or her;” and “its” means “its, his, or hers.”

10.14 All dollar amounts are in United States dollars (USD).

10.15 Cashing a settlement check is a condition precedent to any Settlement Class Member’s right to receive settlement benefits. All settlement checks shall be void one hundred eighty (180) days after issuance and shall bear the language: “This check must be cashed within 180 days, after which time it is void.” If a check becomes void, the Settlement Class Member shall have until two hundred seventy (270) days after the Initial Payment Date to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Settlement Class Member’s right to receive monetary relief shall be extinguished, and Barlow shall have no obligation to make payments to the Settlement Class Member for expense reimbursement under ¶ 2.1 to ¶ 2.3 or any other type of monetary relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than two hundred seventy (270) days from the Initial Payment Date, requests for re-issuance need not be honored after such checks become

void.

10.16 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

**AGREED TO BY:**

DocuSigned by:

*Amit Mohan*

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Amit Mohan, President and Chief  
Executive Officer of Barlow, on behalf of  
**BARLOW RESPIRATORY HOSPITAL**

c/o

*Bethany G. Lukitsch*

Bethany G. Lukitsch  
**BAKER & HOSTETLER LLP**  
11601 Wilshire Boulevard, Suite 1400  
Los Angeles, CA 90025  
Email: blukitsch@bakerlaw.com

*Counsel for Barlow*

*Rudolph Franchi*

Rudolph M. Franchi, Representative Plaintiff

Carlos Aragon, Representative Plaintiff

c/o

M. Anderson Berry  
Gregory Haroutunian  
**CLAYEO C. ARNOLD,  
A PROFESSIONAL CORP.**  
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*Bryan L. Bleichner*

Bryan L. Bleichner  
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**AGREED TO BY:**

\_\_\_\_\_  
Amit Mohan, President and Chief  
Executive Officer of Barlow, on behalf of  
**BARLOW RESPIRATORY HOSPITAL**

c/o

\_\_\_\_\_  
Bethany G. Lukitsch  
**BAKER & HOSTETLER LLP**  
11601 Wilshire Boulevard, Suite 1400  
Los Angeles, CA 90025  
Email: blukitsch@bakerlaw.com

*Counsel for Barlow*

\_\_\_\_\_  
Rudolph M. Franchi, Representative Plaintiff

  
\_\_\_\_\_  
Carlos Aragon Haro (Nov 27, 2023 17:25 PST)

\_\_\_\_\_  
Carlos Aragon, Representative Plaintiff

c/o

\_\_\_\_\_  
M. Anderson Berry  
Gregory Haroutunian  
**CLAYEO C. ARNOLD,**  
**A PROFESSIONAL CORP.**  
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Email: bbleichner@chestnutcambronne.com

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**AGREED TO BY:**

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Amit Mohan, President and Chief  
Executive Officer of Barlow, on behalf of  
**BARLOW RESPIRATORY HOSPITAL**

c/o

\_\_\_\_\_  
Bethany G. Lukitsch  
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Email: blukitsch@bakerlaw.com

*Counsel for Barlow*

\_\_\_\_\_  
Rudolph M. Franchi, Representative Plaintiff

\_\_\_\_\_  
Carlos Aragon, Representative Plaintiff

c/o

  
\_\_\_\_\_  
M. Anderson Berry  
Gregory Haroutunian  
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*Dylan Gould*

Dylan J. Gould (*pro hac vice*)

**MARKOVITS, STOCK & DEMARCO,  
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*John J. Nelson*

John J. Nelson

**MILBERG COLEMAN BRYSON  
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Email: jnelson@milberg.com

AND

*Francesca Kester*

Francesca Kester (*pro hac vice*)

**MORGAN & MORGAN  
COMPLEX LITIGATION GROUP**

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Tampa, FL 33602

Telephone: (813) 223-5505

Email: fkester@forthepeople.com

***Counsel for Proposed Representative  
Plaintiffs and Class Counsel***

# **EXHIBIT A**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

*Franchi et al. v. Barlow Respiratory Hospital*  
Case No. 22STCV09016 (Lead) – Consolidated with Case No: 22STCV17107

## Barlow SETTLEMENT CLAIM FORM

**This Claim Form should be filled out online or submitted by mail if you were notified by mail of the Data Incident announced by Barlow Respiratory Hospital (“Barlow”) in 2021. All Settlement Class members are eligible to receive two years of credit monitoring services provided by Kroll. If you had unreimbursed out-of-pocket expenses, unreimbursed extraordinary monetary losses, or lost time dealing with the aftermath of the Data Incident, you may get a check if you fill out this Claim Form, if the Settlement is approved, and if you are found to be eligible for a payment.**

The Settlement Notice describes your legal rights and options. To obtain the Settlement Notice and find more information regarding your legal rights and options, please visit the official Settlement Website, [INSERT WEBSITE], or call toll-free [INSERT PHONE #].

If you wish to submit a claim for a settlement benefit electronically, you may go online to the Settlement Website, [INSERT], and follow the instructions on the “Submit a Claim” page.

If you wish to submit a claim for a settlement benefit via standard mail, you need to provide the information requested below and mail this Claim Form to [INSERT], postmarked by [INSERT MONTH AND DAY], 2023. Please print clearly in blue or black ink.

### 1. CLASS MEMBER INFORMATION

*Required Information:*

First: \_\_\_\_\_ M: \_\_\_\_\_ Last: \_\_\_\_\_

Address 1: \_\_\_\_\_

Address 2: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Country: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

## 2. BENEFIT ELIGIBILITY INFORMATION

To prepare for this section of the Claim Form, please review the Settlement Notice and the Settlement Agreement (available for download at [INSERT WEBSITE]) for more information on who is eligible for a benefit and the nature of the expenses or losses that can be claimed.

To help us determine if you are entitled to a settlement benefit, please provide as much information as possible.

### A. Verification of Class Membership

In order to allow the Claims Administrator to confirm your membership in the Class, you must provide either:

(1) The unique identifier provided in the Notice you received by mail or e-mail;

or

(2) name and physical address you provided to Barlow for insurance, healthcare, or employment related purposes.

Thus, please **EITHER**:

(1) Provide the unique identifier provided in the Notice you received:  
\_\_\_\_\_.

**OR**

(2) Provide your name \_\_\_\_\_ and physical address you provided to Barlow for insurance, healthcare, or employment related purposes:  
\_\_\_\_\_.

**UPLOAD DOCUMENT** [SETTLEMENT ADMINISTRATOR TO ADD]

### B. Out-Of-Pocket Expenses

Check the box for each category of out-of-pocket expenses or lost time that you incurred as a result of the Data Incident. Please be sure to fill in the total amount you are claiming for each category and attach the required documentation as described in **bold type** (if you are asked to provide account statements as part of required proof for any part of your claim, you may redact unrelated transactions and all but the first four and last four digits of any account number). Please round total amounts down or up to the nearest dollar.

#### I. Ordinary Expenses Resulting from the Data Incident (Including Lost Time)

Between one (1) and five (5) hours of documented time spent monitoring accounts or otherwise dealing with the aftermath / clean-up of the Data Incident on or after August 27, 2021, and before the Claims Deadline (round up to the nearest hour and check only one box).

- 1 Hour       2 Hours       3 Hours       4 Hours       5 Hours

Examples: You spent at least one (1) full hour calling customer service lines, writing letters or e-mails, or on the internet in order to get fraudulent charges reversed or in updating automatic payment programs because your card number changed. Please note that the time that it takes to fill out this Claim Form is not reimbursable and should not be included in the total number of hours claimed.

Check all activities, below, which apply.

- Time spent obtaining credit reports.
- Time spent dealing with a credit freeze.
- Time spent dealing with bank or credit card fees.
- Time on the internet updating automatic payment programs due to new card issuance.
- Time spent dealing with fraudulent transactions.
- Time spent monitoring accounts.
- Time spent working with credit reporting bureaus regarding correction of credit reports.
- Other. Provide description(s) here:

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**To recover for lost time under this section, you must select one of the boxes above or provide a narrative description of the activities performed during the time claimed, and you must have at least one hour of lost time in order to claim this benefit.**

**Attestation (You must check the box below to obtain compensation for lost time)**

- I attest that I spent the number of hours claimed above making reasonable efforts to deal with the Data Incident.**
- Unreimbursed fees or other charges from your bank or credit card company incurred on or after August 27, 2021, and before [INSERT DATE] (the “Claims Deadline”) due to the

Data Incident.

DATE	DESCRIPTION	AMOUNT

Examples: Unreimbursed overdraft fees, over-the-limit fees, late fees, or charges due to insufficient funds or interest.

**[UPLOAD DOCUMENTS] Required: You must submit reasonable documentation supporting the above losses such as a copy of a bank or credit card statement or other proof of claimed fees or charges (you may redact unrelated transactions and all but the first four and last four digits of any account number).**

- Unreimbursed fees relating to your account being frozen or unavailable incurred on or after August 27, 2021, and before the Claims Deadline due to the Data Incident.

DATE	DESCRIPTION	AMOUNT

Examples: You were charged interest by a payday lender due to card cancellation or due to an over-limit situation, or you had to pay a fee for a money order or other form of alternative payment because you could not use your debit or credit card, and these charges and payments were not reimbursed.

**[UPLOAD DOCUMENTS] Required: You must submit reasonable documentation supporting the above losses such as a copy of receipts, bank statements, credit card statements, or other proof that you had to pay these fees (you may redact unrelated transactions and all but the first four and last four digits of any account number).**

- Unreimbursed fees or other charges relating to the reissuance of your credit or debit card incurred on or after August 27, 2021, and before the Claims Deadline due to the Data Incident.

DATE	DESCRIPTION	AMOUNT

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Examples: Unreimbursed fees that your bank charged you because you requested a new credit or debit card.

**[UPLOAD DOCUMENTS] Required: You must submit reasonable documentation supporting the above losses such as a copy of a bank or credit card statement or other receipt showing these fees (you may redact unrelated transactions and all but the first four and last four digits of any account number).**

- Other unreimbursed incidental telephone, internet, mileage or postage expenses directly related to the Data Incident incurred on or after August 27, 2021, and before the Claims Deadline due to the Data Incident.

DATE	DESCRIPTION	AMOUNT

Examples: Unreimbursed long distance phone charges, cell phone charges (only if charged by the minute), or data charges (only if charged based on the amount of data used).

**[UPLOAD DOCUMENTS] Required: You must submit reasonable documentation supporting the above losses such as a copy of the bill from your telephone company, mobile phone company, or internet service provider that shows the charges (you may redact unrelated transactions and all but the first four and last four digits of any account number).**

- Credit Reports or credit monitoring charges purchased on or after August 27, 2021, and before the Claims Deadline due to the Data Incident, but not previously covered by Barlow. This category is limited to services purchased primarily as a result of the Data Incident and if purchased on or after August 27, 2021, and before the Claims Deadline, but not previously covered by Barlow.

To obtain reimbursement under this category, you must attest to the following:

- I purchased credit reports on or after August 27, 2021, and before the Claims Deadline, primarily due to the Data Incident and not for other purposes, but not previously covered by Barlow.

DATE	COST


Examples: The cost of a credit report(s) that you purchased after hearing about the Data Incident.

**[UPLOAD DOCUMENT] Required: You must submit reasonable documentation supporting the above losses such as a copy of a receipt or other proof of purchase for each product or service purchased (you may redact unrelated transactions). To recover costs of credit monitoring services activated between August 27, 2021 and the Claims Deadline incurred as a result of the Incident, you must submit either (1) a receipt showing a one-year subscription to a credit monitoring service between August 27, 2021 and the Claims Deadline incurred as a result of the Incident; or (2) at least three receipts showing consecutive monthly payments to a credit monitoring service during the same period of time and an attestation that you intend to continue subscribing to such service through at least one year after the Claims Deadline.**

II. Extraordinary Expenses

If you have expenses related to the Data Incident that are more than the value or different than the type of ordinary expenses covered in the categories in Section I above, you may be entitled to compensation for your extraordinary expenses. To obtain reimbursement under this category, you must attest to the following:

I incurred out-of-pocket unreimbursed expenses that occurred substantially more likely than not as a result of the Data Incident during the time period on or after August 27, 2021, through the end of the Claims Deadline other than those expenses covered by one or more of the categories above, and I made reasonable efforts to avoid, or seek reimbursement for the loss, including but not limited to exhausting all available credit monitoring insurance and identity theft insurance.

Unreimbursed fraudulent charges incurred on or after August 27, 2021, and before the Claims Deadline due to the Data Incident.

DATE	DESCRIPTION	AMOUNT

Examples: Fraudulent charges that were made on your credit or debit card account and that were not reversed or repaid even though you reported them to your bank or credit card company. *Note: Most banks are required to reimburse customer in*

*full for fraudulent charges on payment cards that they issue.*

**[UPLOAD DOCUMENTS] Required: The bank statement or other documentation reflecting the fraudulent charges, as well as documentation reflecting the fact that the charge was fraudulent (you may redact unrelated transactions and all but the first four and last four digits of any account number). If you do not have anything in writing reflecting the fact that the charge was fraudulent (e.g., communications with your bank or a police report), please identify the approximate date that you reported the fraudulent charge, to whom you reported it, and the response.**

Date reported: \_\_\_\_\_

Description of the person(s) to whom you reported the fraud:

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- Check this box to confirm that you have exhausted all applicable insurance policies, including but not limited to credit monitoring insurance and identity theft insurance, and that you have no insurance coverage for these fraudulent charges.
- Between one (1) and five (5) hours of documented time spent remedying actual documented fraud relating to the Data Incident on or after August 27, 2021, and before the Claims Deadline (round up to the nearest hour and check only one box), which has not already been claimed in Section I, above.
- 1 Hour       2 Hours       3 Hours       4 Hours       5 Hours

Examples: You spent at least one (1) full hour calling customer service lines, writing letters or e-mails, or on the internet in order to get fraudulent charges reversed or in updating automatic payment programs because your card number changed. Please note that the time that it takes to fill out this Claim Form is not reimbursable and should not be included in the total number of hours claimed.

Check all activities, below, which apply.

- Calling bank/credit card customer service lines regarding fraudulent transactions.
- Writing letters or e-mails to banks/credit card companies in order to have fraudulent transactions reversed.
- Time on the internet verifying fraudulent transactions.
- Time on the internet updating automatic payment programs due to new card issuance.

- Calling credit reporting bureaus regarding fraudulent transactions and/or credit monitoring.
- Writing letters or e-mails to credit reporting bureaus regarding correction of credit reports.
- Other. Provide description(s) here:

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**To recover for lost time under this section, you must provide documentation substantiating or establishing the fraudulent activity, you must select one of the boxes above or provide a narrative description of the activities performed during the time claimed, and you must have at least one hour of lost time in order to claim this benefit.**

- Other unreimbursed out-of-pocket expenses that were incurred on or after August 27, 2021, and before the Claims Deadline as a result of the Data Incident that are not accounted for in your response above.

DATE	DESCRIPTION	AMOUNT

Examples: This category includes any other unreimbursed expenses or charges that are not otherwise accounted for in your answers to the questions above, including any expenses or charges that you believe were the result of an act of identity theft.

**[UPLOAD DOCUMENTS] Required: Describe the expense, why you believe that it is related to the Data Incident, and provide as much detail as possible about the date you incurred the expense(s) and the company or person to whom you had to pay it. Please provide copies of any receipts, police reports, or other documentation supporting your claim. The Claims Administrator may contact you for additional information before processing your claim.**

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- Check this box to confirm that you have exhausted all credit monitoring insurance and identity theft insurance you might have for these other unreimbursed out-of-pocket expenses before submitting this Claim Form.

### III. Credit Monitoring

All Settlement Class Members who submit a valid claim are eligible to receive two (2) years of credit monitoring and restoration protections (“Credit Monitoring Protections”) provided by Kroll and paid for by Barlow.

Do you wish to sign up for free Credit Monitoring Protections through Kroll?

- Yes, I want to sign up to receive free Credit Monitoring Protections.

Email Address: \_\_\_\_\_

If you select “yes” for this option, you will need to follow instructions and use an activation code that you receive after the Settlement is final. Credit Monitoring Protections will not begin until you use your activation code to enroll. Activation instructions will be provided to your email address or, if you do not have an email address, to your home address.

### IV. California Statutory Claim Benefits

- You were a resident of the State of California and a current or former patient of Barlow’s at the time of the Data Incident, which is subject to Barlow’s confirmation that you were a current or former patient at said time.

#### **Attestation (You must check the box below to obtain compensation for California statutory claim benefits)**

- I declare under penalty of perjury under the laws of the State of California that I was a resident of California and a current or former patient of Barlow’s at the time of the Data Incident.**

### C. Certification

I attest that the information supplied in this Claim Form by the undersigned is true and correct to the best of my recollection, and that this form was executed at \_\_\_\_\_ [City], \_\_\_\_\_ [State] on the date set forth below.

I understand that I may be asked to provide supplemental information by the Claims Administrator before my claim will be considered complete and valid.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

D. Submission Instruction

Once you have completed all applicable sections, please mail this Claim Form and all required supporting documentation to the address provided below, postmarked by \_\_\_\_\_, **2023**.

*Franchi, et al v. Barlow Respiratory Hospital*

[INSERT CLAIMS ADMINISTRATOR  
MAILING INFORMATION]

# **EXHIBIT B**

**Notice of Pendency and Proposed Settlement of Class Action**

*Franchi et al. v. Barlow Respiratory Hospital*, Los Angeles Superior Court Case No. 22STCV09016 (Lead) – Consolidated with Case No. 22STCV17107

**If you were notified of a Data Incident impacting Barlow Respiratory Hospital's System in 2021, you may be eligible for a payment from a class action settlement.**

A Settlement has been reached in a class action lawsuit ("Lawsuit") about a data incident that occurred on August 27, 2021, which potentially exposed personally identifiable information ("PII") and/or protected health information ("PHI") of Barlow Respiratory Hospital's ("Barlow") patients and employees (the "Data Incident"). The Lawsuit alleges that Barlow was responsible for the Data Incident because it did not take appropriate care to protect PII and PHI it collected. Barlow denies the claims and denies any wrongdoing.

**Barlow records show you are a likely member of the Settlement Class (a nationwide employee and patient class) and/or California Settlement Subclass (a California patient subclass), which consists of those individuals who were potentially affected by the Data Incident.** The Settlement will reimburse eligible Settlement Class members who submit claims for: (1) unreimbursed, documented out-of-pocket expenses and compensation for lost time that resulted from the Data Incident, up to a maximum of \$300 per person; (2) unreimbursed, documented extraordinary expenses that were caused by the Data Incident, up to a maximum of \$5,000 per person; and (3) two years of 3B credit monitoring and identity theft insurance through Kroll. Additionally, eligible California Settlement Subclass members who submit claims and were residing in California, and were current or former patients of Barlow's, at the time their PII/PHI was allegedly compromised will receive \$125, subject to Barlow confirmation.

**If you are a Settlement Class and/or California Settlement Subclass member and you want to receive any benefits from the Settlement, you must complete and submit a Claim Form along with any required supporting information. Claim Forms can be found and completed on this website: [www.SettlementURL.com](http://www.SettlementURL.com). The deadline to submit a Claim Form is **Month 00, 2023**.**

Settlement Class Members may also request exclusion from the Settlement or object to it. Requests for exclusion are due by **Month 00, 2023**. Settlement Class Members who do not request exclusion can object to the Settlement. Objections are due by **Month 00, 2023**. The Court will hold a Final Settlement Approval Hearing on **Month 00, 2023 at 00:00 a.m.** at the Los Angeles Superior Court, Spring Street Courthouse, 312 North Spring St., Los Angeles, CA 90012, Department 17, to consider whether to approve the Settlement. The Court will hear objections, determine if the Settlement is fair, and consider Class Counsel's request for attorneys' fees, costs, and expenses of \$310,000 and service awards of up to \$2,000 for each of the Representative Plaintiffs. You or your own lawyer may ask to appear at the hearing to be heard by the Court, but you do not have to. The motion for attorneys' fees, costs, and expenses, and service awards for the Representative Plaintiffs, will be posted on [www.SettlementURL.com](http://www.SettlementURL.com) after it is filed with the Court.

**The Court has appointed the following Class Counsel to represent the Settlement Class and California Settlement Subclass in this Lawsuit: M. Anderson Berry of Clayco C. Arnold, APLC, 865 Howe Ave., Sacramento, CA 95825, (916) 777-7777; and John J. Nelson of Milberg Coleman Bryson Phillips Grossman, PLLC, 280 S. Beverly Hills, CA 90212, (917) 471-1894.**

**This is only a summary.** For detailed information visit [www.SettlementURL.com](http://www.SettlementURL.com) or call **1-000-000-0000**. You may also contact the Settlement Administrator at [Barlow.Settlement.Administrator, PO Box 0000, City, State, Zip](mailto:Barlow.Settlement.Administrator@PO.Box.0000.City.State.Zip).

# **EXHIBIT C**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

***Franchi et al. v. Barlow Respiratory Hospital***  
**Case No. 22STCV09016 (Lead) – Consolidated with Case No: 22STCV17107**

**If you are an individual whose personal information was potentially compromised in the Data Incident suffered by Barlow Respiratory Hospital on or about August 27, 2021, a Class Action Settlement may affect your rights.**

***A California State Superior Court authorized this Notice. You are not being sued.  
This is not a solicitation from a lawyer.***

- A Settlement has been reached in a class action lawsuit concerning Barlow Respiratory Hospital and a ransomware incident (the “Data Incident”) that occurred on or about August 27, 2021. In the Data Incident, a third-party threat actor group allegedly gained unauthorized access to Barlow’s systems and infected certain files with ransomware, which may have, but did not necessarily, include the personal identifiable information and/or protected health information of certain Barlow patients, employees, and/or physicians.
- The lawsuit is titled *Franchi, et al. v. Barlow Respiratory Hospital*, Case No. 22STCV09016 and is pending in the Superior Court of the State of California in and for the Los Angeles County. The lawsuit asserts claims related to the Data Incident. The Defendant in the lawsuit is Barlow Respiratory Hospital. Defendant denies it is or can be held liable for the claims made in the lawsuit. The Settlement does not establish who is correct, but rather is a compromise between the Parties to end the lawsuit.
- Members of the Settlement Class are all individuals whose personal information was compromised in the Data Incident suffered by Barlow Respiratory Hospital on or about August 27, 2021. The Settlement Class specifically excludes: (i) Barlow and Barlow’s parents, subsidiaries, affiliates, officers and directors, and any entity in which Barlow has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) the attorneys representing the Parties in the Litigation; (iv) all judges assigned to hear any aspect of the Litigation, as well as their immediate family members; and (v) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident, or who pleads *nolo contendere* to any such charge.
- Settlement Class Members are eligible to receive up to \$300 per person, in reimbursement for Out-of-Pocket Losses stemming from the Data Incident, for persons who file a Valid Claim, as further described below. The Settlement also provides up to \$5,000 for proven monetary Extraordinary Expenses for Settlement Class Members who have incurred Extraordinary Expenses and who submit a Valid Claim. In addition, California Settlement Subclass Members are eligible for a separate, California statutory damages award in the amount of \$125. To redeem this benefit, California Settlement Subclass Members must submit a Claim Form and attest that they were a California resident at the time of the Data Incident. Settlement Class Members are eligible to receive two (2) years of identity-theft protection and credit monitoring services, which includes three bureau credit monitoring and alerts. This is in addition to the credit monitoring services previously offered to individuals who were notified of the Data Incident.

- Your legal rights are affected regardless of whether you act or do not act. Please read this Notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	This is the only way you may receive benefits from this Settlement. The deadline to submit a Claim Form is <b>(Claims Deadline)</b> .
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT</b>	By asking to be excluded, you will not share in this Settlement. This is the only option that allows you to keep any rights to sue Defendant about the same legal claims in this lawsuit. The deadline to exclude from the Settlement is <b>(Exclusion Deadline)</b> .
<b>OBJECT TO THE SETTLEMENT</b>	Write to the Court explaining why you do not agree with the Settlement. The deadline to object is <b>(Objection Deadline)</b> . You may also elect to personally appear and orally state your objection at the Final Approval Hearing.
<b>ATTEND THE FINAL APPROVAL HEARING</b>	You may ask the Court for permission for you or your attorney to speak about your objection at the Final Approval Hearing. The Final Approval Hearing will be held on <b>_____</b> .
<b>DO NOTHING</b>	By doing nothing, you forfeit the opportunity to receive any compensation and you give up any rights to sue Defendant, and certain parties related to Defendant, about the claims that have been or could have been asserted based on the facts alleged in this lawsuit.

- These rights and options—and the deadlines to exercise them—are explained in this Notice. For complete details, please see the Settlement Agreement, whose terms control, available at **<<Settlement Website>>**.
- The Court in charge of this case still has to decide whether to approve the Settlement. No Settlement benefits or payments will be provided unless the Court approves the Settlement and it becomes Final.

## BASIC INFORMATION

### 1. What is this Notice and why should I read it?

The Court authorized this Notice to inform you about a proposed Settlement with Defendant. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. You may be eligible to receive a cash payment, identity-theft protection and credit monitoring as part of the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

Judge Maren Nelson of the Superior Court of the State of California in and for the Los Angeles County is overseeing this class action. The case is called *Franchi, et al. v. Barlow Respiratory Hospital*, Case No. 22STCV09016.

Rudolph Franchi and Carlos Aragon are the Representative Plaintiffs or Settlement Class Representatives. The company they sued, Barlow Respiratory Hospital, is the Defendant.

### 2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Rudolph Franchi and Carlos Aragon—sue on behalf of a group of people who have similar claims. Together, this group is called a “Settlement Class” and consists of “Settlement Class Members.” In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class. After the Parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement and recognized it as a case that should be treated as a class action for settlement purposes.

## THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

### 3. What is this lawsuit about?

The Plaintiffs claim that Defendant experienced a targeted ransomware attack that allowed access to Defendant’s computer systems and data, which resulted in the compromise of personal identifiable information and protected health information belonging to current and former patients, as well as employees and physicians.

Defendant denies that it is or can be held liable for the claims made in the lawsuit. More information about the complaint in the lawsuit and Defendant’s responses can be found in the “Court Documents” section of the settlement website at <<Settlement Website>>.

### 4. Why is there a Settlement?

The Court has not decided whether the Plaintiffs or Defendant should win this case. Instead, both sides agreed to this Settlement. That way, they can avoid the uncertainty, risks, and expense

of ongoing litigation, and Settlement Class Members will get compensation now rather than years later—if ever. The Representative Plaintiffs and Plaintiffs’ Counsel, attorneys for the Settlement Class Members, agree the Settlement is in the best interests of the Settlement Class Members. The Settlement is not an admission of wrongdoing by Defendant.

## WHO’S INCLUDED IN THE SETTLEMENT?

### 5. How do I know if I am in the Settlement Class?

You are part of the Settlement as a Settlement Class Member if your personal information was compromised in the Data Incident suffered by the Barlow Respiratory Hospital on or about August 27, 2021. Eligible Settlement Class Members will have been mailed notice of their eligibility and Settlement Class membership will be verified against that mailed list. If you are still not sure whether you are included, you can contact the Claims Administrator by calling toll-free at XXX-XXX-XXXX or by visiting the settlement website at <<Settlement Website>>.

This Settlement Class does not include: Barlow and Barlow’s parents, subsidiaries, affiliates, officers and directors, and any entity in which Barlow has a controlling interest; (ii) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (iii) the attorneys representing the Parties in the Litigation; (iv) all judges assigned to hear any aspect of the Litigation, as well as their immediate family members; and (v) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident, or who pleads *nolo contendere* to any such charge.

## THE SETTLEMENT BENEFITS

### 6. What does the Settlement provide?

This Settlement provides reimbursement for the following documented out-of-pocket losses and lost time, if not already reimbursed through any other source and caused by the Data Incident, not to exceed three hundred dollars (\$300) per Settlement Class Member: (i) unreimbursed costs to obtain credit reports; (ii) unreimbursed fees relating to a credit freeze; (iii) unreimbursed card replacement fees; (iv) unreimbursed late fees; (v) unreimbursed over-limit fees; (vi) unreimbursed interest on payday loans taken as a result of the Data Incident; (vii) unreimbursed bank or credit card fees; (viii) unreimbursed postage, mileage, and other incidental expenses resulting from lack of access to an existing account; (ix) unreimbursed costs associated with credit monitoring or identity theft insurance purchased prior to the Effective Date, with certification that it was purchased primarily as a result of the Data Incident; and (x) compensation for attested-to unreimbursed lost time spent monitoring accounts, reversing fraudulent charges, or otherwise dealing with the aftermath / clean-up of the breach, at the rate of twenty dollars (\$20) per hour for up to five (5) hours, but only if at least one (1) full hour was spent. Members of the Settlement Class must attest on the Claim Form to the time spent. No documentation other than a verified description of their actions shall be required for members of the Settlement Class to receive compensation for attested time. The total of all amounts recovered under this shall not exceed \$300 per Settlement Class Member.

Additionally, Barlow shall reimburse, as provided for below, each Settlement Class Member in the amount of his or her proven loss, but not to exceed five thousand dollars (\$5,000) per claim (and only one claim per Settlement Class Member), for a monetary out-of-pocket loss that

occurred as a result of the Data Incident if: (a) the loss is an actual, documented, and unreimbursed monetary loss; (b) the loss was substantially more likely than not caused by the Data Incident; (c) the loss occurred during the period from August 27, 2021, through and including the end of the Claims Deadline (d) the loss is not an amount already covered by one or more of the categories in the above paragraph, and (e) the claimant made reasonable efforts to avoid or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring insurance and identity theft insurance. The total of all amounts recovered under this paragraph shall not exceed \$5,000 per Settlement Class Member. Settlement Class Members with claims under this paragraph may also submit claims for benefits for documented out-of-pocket losses and lost time.

In addition to the above benefits, California Settlement Subclass Members are eligible for a separate, California statutory damages award. The amount awarded to California Settlement Subclass Members who submit a Valid Claim shall be one hundred twenty-five dollars (\$125). To redeem this \$125 benefit, California Settlement Subclass Members must submit a Claim Form and attest that they were a California resident at the time of the Data Incident about which they were notified by Barlow.

Settlement Class Members are eligible to receive two (2) years of identity-theft protection and credit monitoring services, which includes three bureau credit monitoring and alerts. This is in addition to the credit monitoring services previously offered to individuals who were notified of the Data Incident. Settlement Class Members must affirmatively request identity-theft protection services by indicating such request on the Claim Form, and codes will be sent either to an e-mail address provided by the Settlement Class Members or, if they do not have an e-mail address, mailed to the address provided on the Claim Form. Protection and monitoring provided shall include, at a minimum:

- a) Credit monitoring at one of the three major credit reporting agencies: Equifax, Experian or TransUnion;
- b) Dark web monitoring;
- c) Identity restoration and recovery services;
- c) \$1,000,000 identity theft insurance with no deductible.

Settlement Class Members can enroll for these identity protection and credit monitoring services whether or not they are eligible for a monetary recovery under this Settlement.

## HOW TO GET BENEFITS

### 7. How do I make a Claim?

To qualify for a Settlement benefit, you must complete and submit a Claim Form. Settlement Class Members who want to submit a Claim must fill out and submit a Claim Form online at <<Settlement Website>> or by USPS mail. Claim Forms are only available through the settlement website at <<Settlement Website>>.

Claims will be subject to a verification process. You will need the Class Member ID provided on the front of your Short Notice to fill out a Claim Form. **All Claim Forms must be received online or postmarked on or before <<Claim Deadline>>.**

### 8. When will I get my payment?

The hearing to consider the fairness of the Settlement is scheduled for <<Hearing Date>> at **TIME**. If the Court approves the Settlement, eligible Settlement Class Members whose Claims were approved by the Claims Administrator will be sent payment after all appeals and other reviews, if any, are completed. Please be patient. Eligible claims will be paid to Settlement Class Members electronically unless a Settlement Class Member chooses to receive payment by written check. All checks will expire and become void 180 days after they are issued. If a check becomes void, the Settlement Class Member shall have until two hundred seventy days after the Initial Payment Date to request re-issuance.

## THE LAWYERS REPRESENTING YOU

### 9. Do I have a lawyer in this case?

Yes, the Court has appointed M. Anderson Berry and Gregory Haroutunian of Clayco C. Arnold, A Professional Corp., Bryan L. Bleichner of Chestnut Cambronne PA; Dylan J. Gould of Markovits, Stock & DeMarco, LLC; John J. Nelson of Milberg Coleman Bryson Phillips Grossman, PLLC; and Francesca Kester of Morgan & Morgan Complex Litigation Group as “Plaintiffs’ Counsel” to represent the Settlement Class.

#### Should I get my own lawyer?

You don’t need to hire your own lawyer because Plaintiffs’ Counsel is working on your behalf. These lawyers and their firms are experienced in handling similar cases. You will not be charged for these lawyers. You can ask your own lawyer to appear in Court for you, at your own cost, if you want someone other than Plaintiffs’ Counsel to represent you.

## **10. How will the lawyers be paid?**

Plaintiffs' Counsel has agreed to request, and Barlow has agreed to pay, subject to Court approval, the amount of three hundred ten thousand dollars (\$310,000) to Plaintiffs' Counsel for attorneys' fees and costs and expenses. Plaintiffs' Counsel, in their sole discretion, shall allocate and distribute the amount of attorneys' fees, costs, and expenses awarded by the Court among Plaintiffs' Counsel. The Defendant shall pay the Court-approved amount of attorney's fees, costs, expenses and service awards to Representative Plaintiffs to an account established by Plaintiffs' Counsel within 45 days after the entry of an order of Final Approval (the "Initial Payment Date"), regardless of any appeal that may be filed or taken by and Settlement Class Member or third party.

Plaintiffs' Counsel will also request Service Award Payments of up to \$2,000 for each of the Plaintiff Representatives. The Court will determine the proper amount of any attorneys' fees, costs, and expenses to award Plaintiffs' Counsel and the proper amount of any service award to the Plaintiff Representatives. The Court may award less than the amounts requested. Whether the Settlement will be finally approved does not depend on whether or how much the Court awards in attorneys' fees, costs, and expenses or service awards.

## **YOUR RIGHTS AND OPTIONS**

### **11. What claims do I give up by participating in this Settlement?**

If you do not exclude yourself from the Settlement, you will not be able to sue the Defendant or certain entities related to Defendant about the issues in this case, and you will be bound by all decisions made by the Court in this case, the Settlement, and its included release. The release releases:

any and all claims, causes of action, damages, and penalties that have been alleged in the operative Consolidated Complaint on behalf of any Settlement Class Member, or that could have been alleged on behalf of any Settlement Class Member because they reasonably arise out of the same set of facts as alleged in the operative Consolidated Complaint, including any claims that a Settlement Class Member is or in the future could be damaged based on access to their PII or PHI as a result of the Data Incident, including claims for Negligence, Common Law Invasion of Privacy, Cal. Const. Art. 1 § 1 Invasion of Privacy, Breach of Implied Contract, Violations of the California Confidentiality of Medical Information Act (Cal. Civ. Code § 56, *et seq.*), Violations of the California Consumer Privacy Act (Cal. Civ. Code § 1798, *et seq.*), Violations of the California Unfair Competition Law (Cal. Bus. & Prof. Code § 17200, *et seq.*), and Declaratory Relief. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement, and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

This is true regardless of whether you submit a Claim Form. You can read the Settlement Agreement at <<Settlement Website>>. However, you may exclude yourself from the Settlement (see Question 14). If you exclude yourself from the Settlement, you will not be bound by any of the terms of the Settlement.

## **12. What happens if I do nothing at all?**

If you do nothing, you will receive no payment under the Settlement for any losses incurred as a result of the Data Incident. You will be in the Settlement Class, and if the Court approves the Settlement, you will also be bound by all orders and judgments of the Court, the Settlement, and its included Release. You will be deemed to have participated in the Settlement and will be subject to the provisions of Section 11 above. Unless you exclude yourself, you won't be able to file a lawsuit or be part of any other lawsuit against Defendant or certain entities related to the Defendants for the claims or legal issues resolved in this Settlement.

## **13. What happens if I ask to be excluded?**

If you exclude yourself from the Settlement, you will receive no benefits or payment under the Settlement. However, you will not be in the Settlement Class and will not be legally bound by the Court's judgments related to the Settlement Class and Defendant in this class action.

## **14. How do I ask to be excluded?**

You can ask to be excluded from the Settlement. To do so, you must send a letter or exclusion form stating: (1) the name of the proceeding, *Franchi, et al. v. Barlow Respiratory Hospital*, Case No. 22STCV09016. (2) your full name; (3) your current address; (4) your personal signature; and (5) the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication. You must mail your exclusion request, postmarked no later than <<Exclusion Date>>, to the following address:

*Franchi et al. v. Barlow Respiratory Hospital*  
c/o Kroll Settlement Administration LLC  
P.O. Box XXXXX  
New York, NY XXXXX-XXXX

You cannot exclude yourself by phone or email. Each individual who wants to be excluded from the Settlement must submit his or her own exclusion request. No group opt-outs shall be permitted.

## **15. If I don't exclude myself, can I sue Defendant for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims being resolved by this Settlement even if you do nothing.

## **16. If I exclude myself, can I get anything from this Settlement?**

No. If you exclude yourself, do not submit a Claim Form to ask for a payment.

## **17. How do I object to the Settlement?**

If you do not exclude yourself from the Settlement Class, you can object to the Settlement if you do not agree with any part of it. You can give reasons why you think the Court should deny approval of the Settlement by filing an objection. The objection may be in writing unless you personally appear and orally state your objection at the Final Approval Hearing. All written objections must include (i) the objector’s full name, address, telephone number, and email address (if any); (ii) the case name and docket number, *Franchi, et al. v. Barlow Respiratory Hospital*, Los Angeles Superior Court Case No. 22STCV09016 (Lead), consolidated with Los Angeles Superior Court Case No. 22STCV17107; (iii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of original notice of the Data Incident or a statement explaining why the objector believes he or she is a Settlement Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of all counsel representing the objector in connection with the objection; (vi) a statement whether the objector and/or his or her counsel will personally appear at the Final Approval Hearing; and (vii) the objector’s signature or the signature of the objector’s duly authorized attorney or other duly authorized representative.

To be timely, written notice of an objection in the appropriate form must be mailed, with a postmark date no later than <<Objection Date>>, to Plaintiffs’ Counsel and to Barlow’s counsel as set forth below. For all objections mailed to Plaintiffs’ Counsel and counsel for Barlow, Plaintiffs’ Counsel will file them with the Court with the Motion for Final Approval of the Settlement:

Plaintiff’s Counsel	Defense Counsel
<p>M. Anderson Berry  <b>Clayco C. Arnold, A Professional Corp.</b>            865 Howe Avenue            Sacramento, CA 95825</p>	<p>Bethany G. Lukitsch  <b>Baker &amp; Hostetler LLP</b>            11601 Wilshire Boulevard, Suite 1400            Los Angeles, CA 90025</p>

**18. What’s the difference between objecting and excluding myself from the Settlement?**

Objecting simply means telling the Court that you don’t like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class is telling the Court that you don’t want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**THE COURT’S FINAL APPROVAL HEARING**

**19. When and where will the Court hold a hearing on the fairness of the Settlement?**

The Court will hold the Final Approval Hearing on **Hearing Date and Time** at the **Courthouse Address**. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement,

including those related to the amount requested by Plaintiffs' Counsel for attorneys' fees, costs, and expenses and the Service Award Payments to the Settlement Class Representatives.

**Note:** The date and time of the Final Approval Hearing are subject to change by Court Order. Any changes will be posted at the settlement website, <<Settlement Website>>, or through the Court's publicly available docket. You should check the settlement website to confirm the date and time have not been changed.

## 20. Do I have to come to the hearing?

No. Plaintiff's Counsel will answer any questions the Court may have, but you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. You may also pay a lawyer to attend on your behalf at your own expense, but you don't have to.

## 21. May I speak at the Hearing?

Yes. If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the Final Approval Hearing concerning any part of the proposed Settlement.

### GETTING MORE INFORMATION

## 22. Where can I get additional information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which is available at <<Settlement Website>>.

YOU MAY CONTACT THE CLAIMS ADMINISTRATOR ONLINE AT <<Settlement Website>>, BY CALLING TOLL-FREE AT, XXX-XXX-XXXX OR WRITING TO:

*Franchi et al. v. Barlow Respiratory Hospital*  
c/o Kroll Settlement Administration LLC  
P.O. Box XXXXX  
New York, NY XXXXX-XXXX

**PLEASE DO NOT CALL THE COURT, THE CLERK OF THE COURT, THE JUDGE, OR THE DEFENDANT WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.**

# **EXHIBIT D**

1  
2  
3 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
4 **COUNTY OF LOS ANGELES**

5  
6 RUDOLPH M. FRANCHI, individually and on  
behalf of all others similarly situated, *et al.*

7 Plaintiffs,

8 v.

9 BARLOW RESPIRATORY HOSPITAL,

10 Defendant.

Case No. 22STCV09016 (Lead)  
Consolidated with Case No. 22STCV17107

**DECLARATION OF  
SCOTT M. FENWICK OF KROLL  
SETTLEMENT ADMINISTRATION  
LLC IN CONNECTION WITH  
PRELIMINARY APPROVAL OF  
SETTLEMENT**

11  
12  
13 I, Scott M. Fenwick, hereby declare:

14 1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”),<sup>1</sup> the  
15 proposed Claims Administrator to be appointed in the above-captioned case, whose principal office  
16 is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania 19103. I am over 21 years  
17 of age and am authorized to make this declaration on behalf of Kroll and myself. The following  
18 statements are based on my personal knowledge and information provided by other experienced Kroll  
19 employees working under my general supervision. This declaration is being filed in connection with  
20 preliminary approval of the settlement.

21 2. Kroll has extensive experience in class action matters, having provided services in  
22 class action settlements involving antitrust, securities, labor and employment, consumer and  
23 government enforcement matters. Kroll has provided class action services in over 3,000 settlements  
24 varying in size and complexity over the past 50 years.

25 3. Kroll is prepared to provide a full complement of notification and claims  
26 administration services in connection with that certain Settlement Agreement entered into in

27  
28 <sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the  
Settlement Agreement.

1 connection with the above-captioned matter, including (a) receiving and analyzing the list of  
2 Settlement Class Members to be provided; (b) establishing a dedicated settlement website; (c)  
3 establishing a toll-free telephone number; (d) establishing a post office box for the receipt of mail; (e)  
4 preparing and sending Short Notices and Reminder Notices; (f) receiving and processing Claim  
5 Forms; (g) receiving and processing requests for exclusion; and (h) such other tasks as Class Counsel  
6 or counsel for Barlow (collectively “Counsel”) or the Court requests Kroll to perform.

7 4. It is Kroll’s understanding that it will be provided with a list of Settlement Class  
8 Members covered under the Settlement Agreement (the “Class List”), and the Class List is to contain  
9 a combination of names, addresses, email addresses, and other data elements pertinent to the  
10 administration of the settlement.

11 5. Outside of the provision of notice and claims administration services pursuant to  
12 existing or proposed service agreements, Kroll has no relationship with Counsel involved in this  
13 matter.

#### 14 **Notice by Email**

15 6. In preparation for disseminating notices by email, Kroll will work with Counsel to  
16 finalize the language for the email form of the Short Notice (“Email Notice”). Once the Email Notice  
17 is approved, Kroll will create an Email Notice template in preparation for the email campaign. Kroll  
18 will prepare a file with all Settlement Class Member email addresses provided in the Class List and  
19 upload the file to an email campaign platform. Kroll will prepare email proofs for Counsel’s review  
20 and final approval. The proofs/test emails for approval will include the body of the email and subject  
21 line. Once the proofs/test emails are approved, the Email Notice campaign will begin on the Notice  
22 Commencement Date as directed in the Settlement Agreement.

23 7. Kroll will track and monitor emails that are rejected or “bounced back” as  
24 undeliverable. At the conclusion of the email campaign, Kroll will provide a report with the email  
25 delivery status of each record. The report will include the number of records that had a successful  
26 Email Notice delivery, and a count of the records where delivery failed. Kroll will also update its  
27 administration database with the appropriate status of the email campaign for each of the Settlement  
28 Class Member records.

**Notice by Mail**

8. Kroll will work with Counsel to format the Short Notice for mailing. Upon approval, Kroll will coordinate the preparation of Short Notice proofs for Counsel to review and approve.

9. On the Notice Commencement Date, Kroll will commence mailing the Short Notice to all Settlement Class Members with a physical mailing address provided in the Class List.

10. Short Notice postcards will be sent by first-class mail to all physical addresses as noted above. In preparation for the postcard notice mailing, within twenty (20) business days of the Preliminary Approval Order, Kroll will send the Class List through the United States Postal Service's ("USPS") National Change of Address ("NCOA") database. The NCOA process will provide updated addresses for Settlement Class Members who have submitted a change of address with the USPS in the last 48 months, and the process will also standardize the addresses for mailing. Kroll will then prepare a mail file of Settlement Class Members that are to receive the notice via first-class mail.

11. Short Notices returned by the USPS with a forwarding address will be automatically re-mailed to the updated address provided by the USPS.

12. At the direction of Counsel, Short Notices returned by the USPS undeliverable as addressed without a forwarding address will be sent through an advanced address search process in an effort to find a more current address for the record. If an updated address is obtained through the advanced search process, Kroll will re-mail the postcard notice to the updated address.

**Settlement Website**

13. Kroll will work with Counsel to create a dedicated settlement website. The settlement website URL will be determined and approved by Counsel. The settlement website will contain a summary of the settlement, allow Settlement Class Members to contact the Claims Administrator with any questions or changes of address, provide notice of important dates such as the Final Approval Hearing, Claims Deadline, Objection Date, and Opt-Out Date, and provide Settlement Class Members who file Claim Forms online the opportunity to select an electronic payment method, including Venmo, Zelle, Paypal, ACH, or payment by check. The settlement website will also contain relevant case documents including the Consolidated Complaint, the Settlement Agreement, the Long Notice, the Claim Form, and the Preliminary Approval Order.

1 **Toll-Free Telephone Number**

2 14. Kroll will also establish a toll-free telephone number for the settlement. The toll-free  
3 telephone number will allow Settlement Class Members to call and obtain information about the  
4 settlement through an Interactive Voice Response System and live operators.

5 **Reminder Notices**

6 15. As required under Section 3.2.10 of the Settlement Agreement, fourteen (14) days  
7 before the Claim Deadline, Kroll will send Reminder Notices. The Reminder Notice will be sent to  
8 Settlement Class Members who have not yet submitted a Claim Form and have not opted out of the  
9 settlement. The Reminder Notice will be emailed to all Settlement Class Members with a known  
10 email address and mailed to the remaining Settlement Class Members for whom no known or valid  
11 email addresses exist. A copy will also be mailed to any Class Members that contact the toll-free  
12 telephone number requesting a paper notice or Claim Form.

13 **Administration Cost**

14 16. Based on Kroll's current understanding of the class size and requested settlement  
15 administration services, estimated costs for both notice to the Settlement Class and Costs of Claims  
16 Administration are approximately \$68,000, which includes fees and costs for direct notice and claims  
17 administration under the settlement. The current estimate is subject to change depending on factors  
18 such as the actual Settlement Class size and/or any settlement administration scope change not  
19 currently under consideration.

20 **Data Use Limitation**

21 17. Kroll will solely use Settlement Class Member data for notice and settlement  
22 administration, award calculations, and issuing settlement payments for Valid Claims.

23 **Technical Controls, Data Security**

24 18. Kroll is an industry leader in data security. Kroll is CCPA, HIPAA, and GDPR  
25 compliant and maintains numerous industry certifications related to data security, including SOC2  
26 and ISO 2700 certification. Kroll has technical, physical, and procedural protocols and safeguards in  
27 place to ensure the security and privacy of Settlement Class Member data. These include standards  
28 related to data retention and document destruction; fully redundant environmental systems and  
redundant storage; regular audits; and documented plans for both incident and crisis response,

1 including breach protocols and physical controls. Kroll’s information security program includes  
2 vulnerability management, compliance, security monitoring and security engineering supported by a  
3 team of information security professionals, including a Chief Information Security Officer and Chief  
4 Privacy Officer.

5 **Business/Liability Insurance**

6 19. Kroll maintains standard business insurance, including professional liability  
7 insurance, cyber insurance, and crime insurance.

8 **Crisis and Risk Management**

9 20. Kroll has defined and tested incident response and disaster recovery plans that it  
10 employs across the organization. Should an incident occur, Kroll will take immediate action, which  
11 will include notification to clients and claimants of the incident consistent with privacy laws and  
12 regulations or as otherwise provided in any contractual agreements with its clients. Kroll also has  
13 detailed vendor on-boarding and management policies.

14 **Physical Access Controls**

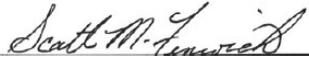
15 21. Security keycard access is required to enter Kroll’s facilities. Additionally, keycard  
16 access is required for employees to use the facility elevators and to enter Kroll’s office spaces.

17 **Data Collection, Retention and Destruction**

18 22. Kroll only requires the collection of data necessary to effectively administer the  
19 settlement. If personally identifiable information (“PII”) (e.g., Social Security Numbers, account  
20 information, dates of birth, etc.) are not necessary for administration, Kroll will not request such PII.  
21 Kroll does not and will not share Settlement Class Member data with third parties unless authorized  
22 or directed to do so by the Parties or the Court. Internally, access to data is limited to only those  
23 employees working on the particular matter. In addition, Kroll has standard practices for data  
24 retention and destruction. However, to the extent there are data retention and destruction  
25 requirements specific to the settlement that differ from Kroll’s standard policies, Kroll will follow the  
26 settlement guidelines.  
27  
28

1 **Certification**

2 I declare under penalty of perjury under the laws of the State of California that the above is  
3 true and correct to the best of my knowledge and that this declaration was executed on October 18,  
4 2023, in Inver Grove Heights, Minnesota.

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7 Scott M. Fenwick  
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