

EXHIBIT 1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO: 22-80418-CV-MIDDLEBROOKS

CITY OF ATLANTA POLICE OFFICERS'
PENSION PLAN and CITY OF ATLANTA
FIREFIGHTERS' PENSION PLAN,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

-V-

CELSIUS HOLDINGS, INC., JOHN
FIELDLY, and EDWIN NEGRON-
CARBALLO,

Defendants.

CLASS ACTION

STIPULATION OF SETTLEMENT

This Stipulation of Settlement dated August 2, 2023 (the "Stipulation") embodies a settlement (the "Settlement") made and entered into by and among the following parties: (i) Lead Plaintiffs City of Atlanta Police Officers' Pension Plan ("Atlanta Police Officers' Pension Plan") and City of Atlanta Firefighters' Pension Plan ("Atlanta Firefighters' Pension Plan") (collectively, "Lead Plaintiffs"), on behalf of themselves and each of the Settlement Class Members, and (ii) Defendants Celsius Holdings, Inc. ("Celsius"), John Fieldly, and Edwin Negron-Carballo (collectively, the "Defendants," and together, with Lead Plaintiffs, the "Settling Parties"), by and through their counsel of record in the above-captioned litigation pending in the United States District Court for the Southern District of Florida (the "Action"). Subject to the approval of the Court and the terms and conditions set forth in this Stipulation, this Stipulation is intended by the

Settling Parties to fully, finally, and forever resolve, discharge, settle, and dismiss with prejudice the Action, the Settlement Class's Released Claims, and the Defendants' Released Claims.¹

I. RECITALS

A. This Action is currently pending before the Honorable Donald M. Middlebrooks in the United States District Court for the Southern District of Florida and was brought on behalf of all Persons who purchased or otherwise acquired Celsius common stock at any time between August 12, 2021 and March 1, 2022, inclusive (the "Class Period").

B. The initial complaint in this Action was filed on March 16, 2022, against Defendants Celsius, John Fieldly, and Edwin Negron-Carballo in the Southern District of Florida. ECF No. 1.

C. On May 16, 2022, Lead Plaintiffs filed a Motion for Appointment as Lead Plaintiff and Approval of Lead Counsel. ECF No. 33.

D. On June 6, 2022, the Court granted Lead Plaintiffs' Motion and appointed Atlanta Police Officers' Pension Plan and Atlanta Firefighters' Pension Plan as Lead Plaintiffs, Grant & Eisenhofer P.A. as Lead Counsel, and Klausner Kaufman Jensen & Levinson as Liaison Counsel. ECF No. 41.

E. On July 8, 2022, Lead Plaintiffs filed an Amended Complaint for Violations of the Federal Securities Laws (the "Amended Complaint") in the Action. ECF No. 44. The Amended Complaint alleges that Defendants made materially false and misleading statements regarding Celsius's financial reporting during the Class Period and asserts claims under Section 10(b), Rule 10b-5, and Section 20(a) of the 1934 Act. *Id.*

¹ All capitalized terms not otherwise defined shall have the meanings ascribed to them in Section II.1 below.

F. On August 5, 2022, Defendants filed a Motion to Dismiss the Amended Complaint, (ECF No. 47), Lead Plaintiffs filed their opposition on August 26, 2022 (ECF No. 48), and Defendants filed their reply on September 9, 2022 (ECF No. 49).

G. On November 21, 2022, the Court entered an order pursuant 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules of the Southern District of Florida referring the Motion to Dismiss to United States Judge Bruce E. Reinhart for Report and Recommendation. ECF No. 51.

H. On December 13, 2022, counsel for the Settling Parties participated in a Zoom hearing on Defendants' Motion to Dismiss before Magistrate Judge Reinhart. ECF No. 54.

I. On February 13, 2023, Magistrate Judge Reinhart issued the Report and Recommendation on Defendants' Motion to Dismiss Amended Complaint (the "Report and Recommendation"). ECF No. 55. On March 22, 2023, the Court entered an Order adopting the Report and Recommendation, granting in part and denying in part Defendants' Motion to Dismiss. ECF No. 62.

J. On April 3, 2023, the Court entered an Order pursuant to 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules of the Southern District of Florida resetting the trial date and referring the case to United States Magistrate Judge William Matthewman for a scheduling conference. ECF No. 64.

K. On April 10, 2023, pursuant to Rule 16.1(b) of the Local Rules of the Southern District of Florida, Magistrate Judge Matthewman entered the Pretrial Scheduling Order and Order Referring Case to Mediation (the "Scheduling Order"), which set, among other things, the trial date and deadlines for discovery. ECF No. 75.

L. On May 18, 2023, Lead Plaintiffs filed a Motion for Class Certification (ECF No. 95) and Defendants filed their opposition on June 15, 2023 (ECF No. 100). Lead Plaintiffs' reply in further support of class certification was due July 20, 2023. *See* ECF No. 92.

M. On July 12, 2023, the Settling Parties and their counsel participated in a private mediation before Michael A. Hanzman of Bilzin Sumberg Baena Price & Axelrod LLP. During the mediation, Mr. Hanzman made a mediator's proposal to resolve the Action, which the Settling Parties each accepted on a double-blind basis on July 12, 2023. The Settling Parties thereafter executed a term sheet memorializing their agreement, which included, among other things, the Settling Parties' agreement to fully and finally resolve the Action in return for a settlement payment of \$7,900,000 for the benefit of the Settlement Class, subject to the negotiation of the terms of this Stipulation and approval by the Court (the "Term Sheet"). This Stipulation (together with the Exhibits hereto) reflects the final and binding agreement between the Settling Parties.

N. Lead Plaintiffs and Lead Counsel believe that the claims asserted in the Action have merit. However, they recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against Defendants through trial. Lead Plaintiffs and Lead Counsel also have taken into account the uncertain outcome and the risk of trial, especially in complex matters such as this Action, as well as the risks posed by the difficulties and delays relating to fact and expert discovery, summary judgment and trial, post-trial motions, and potential appeals of the Court's determination of said motions, or the verdict of a jury. Lead Plaintiffs and Lead Counsel also are aware of the defenses to the securities law claims asserted in the Action. Lead Plaintiffs and Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial benefits upon the Settlement Class in light of the circumstances present here. Based on their evaluation, Lead Plaintiffs and Lead Counsel have determined that

the Settlement set forth in this Stipulation is fair, reasonable, and adequate and in the best interests of the Settlement Class.

O. Defendants have expressly denied and continue to deny that they have committed or intended to commit any wrongdoing or violations of law as alleged in any complaint in the Action, and maintain that their conduct was at all times proper and in compliance with applicable provisions of law. Defendants have expressly denied and continue to deny specifically each and all of the claims and contentions alleged in the Action, including the alleged damages, along with all charges of wrongdoing or liability against them arising out of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Action. Defendants also have denied and continue to deny, *inter alia*, the allegations that Defendants made any material misstatements or omissions in any public statements through negligence, recklessness, scienter, or with other culpable intent; that any member of any class has suffered any damages; that the price of Celsius's stock was artificially inflated by reason of the alleged misrepresentations, omissions, or otherwise; or that the members of any class were harmed by the conduct alleged in the Action or that could have been alleged as part of the Action. Defendants believe that the allegations asserted by Lead Plaintiffs do not plead a cognizable claim of securities fraud. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Action.

P. Nonetheless, taking into account the uncertainty, risks, costs, and distraction inherent in any litigation, especially in complex cases such as this Action, Defendants have determined that it is desirable and beneficial that the Action be settled in the manner and upon the terms and conditions set forth in this Stipulation. Defendants have agreed to enter into this Stipulation solely to eliminate the uncertainty, burden, and expense of further litigation, and to put the Released Claims to rest, finally, and forever. As set forth in Paragraphs 8.1 and 9.3 below, this

Stipulation shall in no event be construed as or deemed to be evidence of an admission or concession by Defendants or any of the Released Parties with respect to any claim, nor of any fault or liability or wrongdoing or damage whatsoever.

II. TERMS OF THE STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Lead Plaintiffs (for themselves and the Settlement Class Members), and Defendants, by and through their respective counsel of record, that, subject to the approval of the Court, and in consideration of the benefits flowing to the Settling Parties from the Settlement set forth herein, the Action, the Released Claims, and all matters encompassed within the scope of the Releases set forth in this Stipulation shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice as to all Settling Parties upon and subject to the terms and conditions of this Stipulation, as follows.

1. Definitions

As used in this Stipulation, and any exhibits attached hereto and made a part hereof, the following terms have the meanings specified below. For avoidance of doubt, certain terms defined outside of this Section II.1 are defined here as well. In the event of any inconsistency between the definitions set forth below and the definitions set forth in any documents related to the Settlement, the definitions below control:

1.1 “Action” means *City of Atlanta Police Officers’ Pension Plan, et al., v. Celsius Holdings, Inc., et al.*, No. 22-80418-CV-MIDDLEBROOKS (S.D. Fla.).

1.2 “Authorized Claimant” means any Settlement Class Member who submits a valid Proof of Claim and Release Form and whose Claim has been allowed pursuant to the terms of this Stipulation and Plan of Allocation.

1.3 “CAFA” means Class Action Fairness Act of 2005, 28 U.S.C. § 1715 *et seq.*

1.4 “Claim,” “Claim Form,” or “Proof of Claim and Release Form” shall mean the form that a Person must complete and submit should that Person seek to share in the distribution of the Net Settlement Fund, which, subject to approval of the Court, shall be substantially in the form attached hereto as Exhibit A-3.

1.5 “Claimant” means a Person that submits a Proof of Claim and Release Form to the Claims Administrator seeking to be eligible to share in the Net Settlement Fund.

1.6 “Claims Administrator” means KCC LLC, the firm the firm retained by Lead Counsel, subject to approval of the Court, to provide all notices approved by the Court to potential Settlement Class Members in the Action and to administer the Settlement.

1.7 “Class Period” means the period between August 12, 2021 and March 1, 2022, inclusive.

1.8 “Court” means the United States District Court for the Southern District of Florida.

1.9 “Defendants” means Celsius and the Individual Defendants.

1.10 “Defendants’ Counsel” means Alston & Bird LLP, 90 Park Avenue, New York, NY 10016.

1.11 “Defendants’ Released Claims” means all claims and causes of action, of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, local, common, statutory, administrative, or foreign law, or any other law, rule, or regulation, at law or in equity, whether class or individual in nature, whether accrued or unaccrued, whether liquidated or unliquidated, whether matured or unmatured, that arise out of or relate to the institution, prosecution, or settlement of the claims against Defendants in the Action. Notwithstanding the foregoing, “Defendants’ Released Claims” does not include claims relating

to the enforcement of the Settlement or claims between Defendants and their insurance carriers, including claims for indemnification.

1.12 “Effective Date” means the first date by which all of the events specified in Paragraph 7.1 of this Stipulation have occurred and the Stipulation is conditioned on the occurrence of all of those events.

1.13 “Escrow Account” means the segregated and separate interest-bearing escrow account designated and controlled by the Escrow Agent into which the Settlement Amount will be deposited for the benefit of Settlement Class Members.

1.14 “Escrow Agent” means Huntington Bank or its successor(s).

1.15 “Exhibits” means the exhibits attached to this Stipulation.

1.16 “Final” means, with respect to the Judgment or any other judgment or order of the Court, that the Judgment or other judgment or order represents a final and binding determination of all issues within its scope and is not subject to further review on appeal or otherwise. Without limitation, the Judgment or other judgment or order becomes “Final” when the last of the following has occurred: (i) the expiration of the time to file a motion to reconsider, alter, or amend the Judgment or order without any such motion having been filed; (ii) the expiration of the time in which to appeal the Judgment or order has passed without any appeal having been taken; or (iii) if a motion to reconsider, alter, or amend is filed, or if an appeal is taken, immediately after the determination of that motion or appeal so that it is no longer subject to any further judicial review or appeal whatsoever, whether by reason of affirmance or dismissal by a court of last resort, lapse of time, voluntary dismissal of the appeal, or otherwise, in such a manner as to permit the consummation of the Settlement, in accordance with the terms and conditions of this Stipulation. For purposes of this paragraph, an “appeal” shall include any petition for a writ of certiorari or

other writ that may be filed in connection with approval or disapproval of this Settlement, but shall not include any appeal which concerns only the award of attorneys' fees and expenses, or any award to Lead Plaintiffs or the Plan of Allocation of the Settlement Fund.

1.17 "Individual Defendants" means John Fieldly and Edwin Negron-Carballo.

1.18 "Judgment" means the judgment and order of dismissal with prejudice to be entered by the Court upon approval of the Settlement, substantially in the form attached hereto as Exhibit B.

1.19 "Lead Counsel" means Grant & Eisenhofer, P.A., 485 Lexington Avenue, New York, NY 10017.

1.20 "Lead Plaintiffs" means City of Atlanta Police Officers' Pension Plan and City of Atlanta Firefighters' Pension Plan.

1.21 "Net Settlement Fund" means the portion of the Settlement Fund that shall be distributed to Authorized Claimants as allowed by this Stipulation, the Plan of Allocation, or the Court, after distribution of the amounts set forth in Paragraph 5.2(a)-(c) of this Stipulation.

1.22 "Notice" means the Notice of Pendency and Proposed Settlement of Class Action, which, subject to approval of the Court, shall be substantially in the form attached hereto as Exhibit A-1.

1.23 "Notice and Administration Costs" means the reasonable costs and expenses incurred in connection with providing notice to Settlement Class Members, providing the notice pursuant to CAFA, and administering the Settlement. Such amounts shall include, without limitation, the actual costs of printing, mailing, and publishing both the Notice and the Summary Notice; locating the Settlement Class Members; assisting with the submission of Claims;

administering and distributing the Net Settlement Fund to Authorized Claimants; processing Claim Forms; and paying escrow fees and costs, if any.

1.24 “Person” means an individual, corporation, limited liability corporation, professional corporation, partnership, limited partnership, limited liability company, limited liability partnership, association, joint stock company, joint venture, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business, legal, or other entity, and including any of their heirs, successors, representatives, or assigns.

1.25 “Plaintiffs’ Counsel” means Lead Counsel and other counsel of record for Lead Plaintiffs or the Settlement Class in the Action.

1.26 “Plan of Allocation” means a plan or formula to be proposed by Lead Plaintiffs for allocating the Net Settlement Fund whereby the Net Settlement Fund shall be distributed to Authorized Claimants. Any Plan of Allocation is not part of this Stipulation, and the Released Defendant Parties shall have no responsibility or liability with respect to the Plan of Allocation.

1.27 “Related Parties” means, as applicable, each and all of a Person’s respective former, present, and future parents, subsidiaries, divisions, joint ventures and joint venturers, affiliates, and each and all of their respective present and former employees, members, partnerships and partners, principals, agents, officers, directors, controlling shareholders, attorneys, advisors, accountants, auditors, financial or investment advisors or consultants, banks or investment bankers, personal or legal representatives, insurers, co-insurers, reinsurers, related or affiliated entities, predecessors, successors, spouses, children, immediate family members, estates, heirs, executors, trusts, trustees, administrators, agents, representatives, and assigns, in their capacity as such, and any entity in which a Person has a controlling interest.

1.28 “Released Defendant Parties” means each and all of the Defendants and each and all of their Related Parties.

1.29 “Released Plaintiff Parties” means Plaintiffs’ Counsel, and Lead Plaintiffs and all other Settlement Class Members.

1.30 “Released Parties” means the Released Defendant Parties and the Released Plaintiff Parties.

1.31 “Releases” means the releases set forth in Paragraph 4 of this Stipulation.

1.32 “Releasing Plaintiff Party” means Lead Plaintiffs, each Settlement Class Member, and to the fullest extent permissible under law, the Related Parties of each.

1.33 “Released Claims” shall refer to the Settlement Class’s Released Claims and the Defendants’ Released Claims.

1.34 “Settlement” means the settlement between Lead Plaintiffs, on behalf of themselves and the Settlement Class, and Defendants on the terms and conditions set forth by this Stipulation.

1.35 “Stipulation” means this Stipulation of Settlement entered into between Lead Plaintiffs and Defendants on the date identified on the first page hereof.

1.36 “Settlement Amount” means the principal amount of Seven Million, Nine-Hundred Thousand United States Dollars (US \$7,900,000.00), to be deposited into the Escrow Account pursuant to Paragraph 2.1 of this Stipulation.

1.37 “Settlement Class” means all Persons who, directly or through an intermediary, purchased or otherwise acquired Celsius common stock at any time during the Class Period. Excluded from the Settlement Class are: (i) Defendants and any individual who was an officer or director of Celsius during the Class Period; (ii) their immediate family members (as defined in 17 C.F.R. §229.404 (Instruction (1)(a)(iii))), legal representatives, heirs, agents, affiliates, successors,

or assigns; (iii) any entity in which Defendants or any individual who was an officer or director of Celsius during the Class Period has, or had during the Class Period, a controlling interest; and (v) any affiliate of Celsius. Also excluded from the Settlement Class are any Persons who exclude themselves by submitting a request for exclusion that is accepted by the Court.

1.38 “Settlement Class Member” means a Person who falls within the definition of the Settlement Class as set forth above and who does not submit a request for exclusion from the Settlement Class that is accepted by the Court.

1.39 “Settlement Class’s Released Claims” means any and all claims, demands, rights, causes of action, and liabilities of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, local, common, statutory, administrative, or foreign law, or any other law, rule, or regulation, at law or in equity, asserted or unasserted, suspected or unsuspected, fixed or contingent, foreseen or unforeseen, liquidated or unliquidated, accrued or unaccrued, matured or unmatured, whether or not concealed or hidden, whether class, derivative or individual in nature, which now exist, heretofore or previously existed, or may hereafter exist, and including but not limited to any claims based on allegations of fraud, nondisclosure, or misrepresentation, whether individual, derivative, representative, legal, equitable, or any other type, in any other capacity, that Lead Plaintiffs or any other Settlement Class Member (i) asserted in the Action, (ii) could have been asserted in the Action, or in any other proceeding or forum, that concern, arise out of, refer to, are based upon, or are related in any manner to (a) the allegations, transactions, facts, matters, occurrences, representations, statements, misrepresentations, events, acts, or omissions alleged in the Action, or (b) the purchase, sale, holding, or acquisition of Celsius’s stock during the Class Period (August 12, 2021 through March 1, 2022, inclusive), or (iii) relate to the Action or the Settlement except to the extent explicitly preserved in the remainder

of this paragraph. Notwithstanding the foregoing, “Settlement Class’s Released Claims” does not include (i) any claims relating to the enforcement of the Settlement, or (ii) derivative claims currently pled on behalf of Celsius as of the date of this agreement in the actions captioned (a) *Lampert v. Fieldly, et al.*, No. 3:23-cv-00017 (D. Nev.); (b) *Hammond v. Fieldly, et al.*, No. 3:23-cv-80797 (S.D. Fla.); (c) *Ingrao v. Fieldly, et al.*, No. A-23-873736-C (Nev. Dist. Ct.); and (d) *Hepworth v. Fieldly, et al.*, No. 3:23-cv-81020 (S.D. Fla.).

1.40 “Settlement Fund” means the Settlement Amount, together with all interest and income earned thereon after being deposited into the Escrow Account, and which may be reduced by payments or distributions as provided for herein or by Court order.

1.41 “Settlement Fairness Hearing” shall mean the hearing to be held by the Court to determine whether the Settlement is fair, reasonable, and adequate and should be approved.

1.42 “Settling Parties” means Defendants and Lead Plaintiffs, on behalf of themselves and the other Settlement Class Members.

1.43 “Summary Notice” means the Summary Notice, which, subject to approval of the Court, shall be substantially in the form attached hereto as Exhibit A-2, including as translated into foreign languages.

1.44 “Supplemental Agreement” means the agreement described in Paragraph 7.3.

1.45 “Tax” or “Taxes” means any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund as described in Paragraph 2.9 and all taxes imposed on payments by the Settlement Fund, including withholding taxes.

1.46 “Tax Expenses” means the expenses and costs incurred by Lead Counsel in connection with the calculation and payment of Taxes or the preparation of tax returns and related

documents, including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs relating to filing (or failing to file) the returns described in Paragraph 2.9.

1.47 “Unknown Claims” means (i) any Settlement Class’s Released Claim that Lead Plaintiffs or any other Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of the release, which, if known by him, her, or it, might have affected his, her, or its decision with respect to this Settlement with and release of the Released Defendant Parties, or might have affected his, her, or its decision not to object to this Settlement or seek exclusion from this Settlement, and (ii) any Defendants’ Released Claim that any Defendant does not know or suspect to exist in his or its favor at the time of the release, which, if known by him, or it, might have affected his, or its decision with respect to this Settlement with and release of the Released Plaintiff Parties and the Settlement Class Members, or might have affected his, or its decision not to object to this Settlement or seek exclusion from this Settlement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiffs and Defendants shall expressly waive, and each of the Settlement Class Members shall be deemed to have waived, and by operation of the Judgment shall have waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides, in relevant part:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Lead Plaintiffs and the other Settlement Class Members may hereafter discover facts in addition to or different from those which they know or believe to be true with respect to the subject matter of the Settlement Class’s Released Claims, but, upon the Effective Date, Lead Plaintiffs shall

expressly, and each other Settlement Class Member, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all of the Settlement Class's Released Claims, whether known claims or Unknown Claims, suspected or unsuspected, contingent or non-contingent, disclosed or undisclosed, matured or unmatured, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, without regard to the subsequent discovery or existence of such different or additional facts. Defendants may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Defendants' Released Claims, but, upon the Effective Date, Defendants shall expressly, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Defendants' Released Claims, whether known claims or Unknown Claims, suspected or unsuspected, contingent or non-contingent, disclosed or undisclosed, matured or unmatured, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiffs and Defendants acknowledge, and the Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and an essential term of the Settlement of which this release is a part.

2. The Settlement

a. The Settlement Fund

2.1 In consideration for the full settlement of the claims asserted in the Action against Defendants and for the Releases specified in Paragraph 4 below, Celsius shall deposit or cause to be deposited within fourteen (14) business days following the later of (i) the entry of the Preliminary Approval Order by the Court, or (ii) the receipt by Defendants of all information

necessary to effectuate a transfer of funds, including the bank name, ABA routing number and account number, and a completed IRS Form W-9 for the Escrow Account, including an address and tax ID number, the Settlement Amount into the Escrow Account on behalf of Defendants, all of which the Settling Parties agree are good and valuable consideration. No Defendant other than Celsius shall have any responsibility for, or any liability whatsoever with respect to, depositing or causing to be deposited the Settlement Amount. The Settlement Amount may be deposited by wire transfer, or in any other manner agreed upon by the Escrow Agent and Celsius. Within five (5) business days of execution of this Stipulation, the Escrow Agent will furnish to Celsius adequate payment instructions consisting of wire transfer instructions, instructions for payment by check, and a completed IRS Form W-9 for the Settlement Fund, including an address and tax IS number.

2.2 Other than the obligation of Celsius to deposit or cause the deposit of the Settlement Amount pursuant to Paragraph 2.1, the Released Defendant Parties shall have no obligation to make any other deposits or payments pursuant to this Stipulation, and shall have no responsibility, obligation, or liability with respect to the Escrow Account or the monies maintained in the Escrow Account or the administration of the Settlement, including, without limitation, any responsibility or liability related to any fees, Taxes, Tax Expenses, investment decisions, maintenance, supervision, or distribution of any portion of the Settlement Amount.

2.3 The Escrow Agent shall invest the Settlement Fund deposited pursuant to Paragraph 2.1 hereof in short-term United States Agency or Treasury Securities or other instruments backed by the full faith and credit of the United States Government, or fully insured by the United States Government or an agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. The Released

Defendant Parties shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions or the actions of the Escrow Agent, or any transactions executed by the Escrow Agent.

2.4 The Escrow Agent shall not disburse the Settlement Fund except: (i) as provided in this Stipulation; (ii) as directed by an order of the Court; or (iii) with the written agreement of both Lead Counsel and Defendants' Counsel.

2.5 Subject to further order(s) or directions as may be made by the Court, or as provided in this Stipulation, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of this Stipulation. The Released Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the actions of the Escrow Agent, or any transaction executed by the Escrow Agent.

2.6 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Stipulation or further order(s) of the Court or, in the event that this Settlement is not approved or is terminated, canceled, or fails to become effective, pursuant to Paragraph 7.4 below.

2.7 Notwithstanding the fact that the Effective Date has not occurred, the Escrow Agent, without further approval of Defendants or the Court, may withdraw up to \$500,000 from the Settlement Fund to pay any reasonable Notice and Administration Costs actually incurred.

2.8 The Settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, no Defendant, or any other Person or entity who or which paid any portion of the Settlement Amount on behalf of Defendants, shall have any revisionary interest in or right to the return of the Settlement Fund or any portion thereof for any reason whatsoever (including, without

limitation, the number of Proof of Claim and Release Forms submitted, the collective amount of recognized claims of Authorized Claimants, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants from the Net Settlement Fund), except as set forth in Paragraph 7.4 below.

b. Taxes; Qualified Settlement Fund

2.9 The Settling Parties and the Escrow Agent agree to treat the Settlement Fund as being at all times a “Qualified Settlement Fund” within the meaning of Treasury Regulation §1.468B-1. The Settling Parties and the Escrow Agent further agree that the Settlement Fund shall be established pursuant to the Court’s subject matter jurisdiction within the meaning of Treasury Regulation §1.468B-1(c)(1).

- (a) In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph 2.9, including the “relation-back election” (as defined in Treasury Regulation §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.
- (b) For the purpose of §1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” (as defined in Treasury Regulation §1.468B-2(k)(3)) shall be the Escrow Agent. Lead Counsel shall be solely responsible for filing or causing to be filed all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns

described in Treasury Regulation §1.468B-2(k)), on a timely and proper basis. Such returns (as well as the elections described in Paragraph 2.9(a) hereof) shall be consistent with this Paragraph 2.9 and in all events shall reflect that all Taxes (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in Paragraph 2.9(c) hereof.

- (c) All (i) Taxes (including any estimated Taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Defendant Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes, and (ii) Tax Expenses, including expenses and costs incurred in connection with the operation and implementation of this Paragraph 2.9 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this Paragraph 2.9(c)), shall be paid out of the Settlement Fund; in all events the Released Defendant Parties shall have no liability or responsibility whatsoever for the Taxes or the Tax Expenses. Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything

herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treasury Regulation §1.468B-2(1)(2)) and the Released Defendant Parties are not responsible, nor shall they have any liability, therefor. The Settling Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Paragraph 2.9.

3. Class Certification, Notice of Order and Settlement Hearing

3.1 Solely for purposes of the Settlement and subject to approval by the Court, the Settling Parties stipulate to: (a) certification of the Action as a class action, pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, brought on behalf of the Settlement Class; (b) appointment of Lead Plaintiffs as Class Representatives for the Settlement Class; and (c) appointment of Lead Counsel as Class Counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure. The certification of the Settlement Class shall be binding only for purposes of the Settlement, and only if the Judgment becomes Final and the Effective Date occurs. Should the Settlement Class not be certified or should any court amend the definition of the Settlement Class, each of the Settling Parties reserves the right to terminate the Settlement in accordance with Paragraph 7.4 hereof.

3.2 Within five (5) business days after execution of this Stipulation, Lead Counsel shall submit this Stipulation and the Exhibits attached thereto to the Court and shall move for entry of an order (the "Preliminary Approval Order"), substantially in the form of Exhibit A attached hereto, requesting, among other things, the preliminary approval of the Settlement set forth in this

Stipulation and approval for mailing of the Notice, substantially in the form attached hereto as Exhibit A-1; approval of the publication of the Summary Notice, substantially in the form of attached hereto as Exhibit A-2; and approval of the form and content of the Proof of Claim and Release Form, substantially in the form contained in Exhibit A-3 attached hereto. The Notice shall include the general terms of the Settlement set forth in this Stipulation, the Proposed Plan of Allocation, the general terms of the Fee and Expense Application, as defined in Paragraph 6.1 hereof, and the date of the Settlement Fairness Hearing, as defined below.

3.3 It shall be solely Lead Counsel's responsibility to disseminate the Notice and Summary Notice to the Settlement Class in accordance with this Stipulation and as ordered by the Court. Settlement Class Members shall have no recourse as to the Released Defendant Parties with respect to any claims they may have that arise from any actual or alleged failure of the notice process.

3.4 Lead Counsel shall request that, after the Notice is first disseminated to the Settlement Class, and not earlier than ninety (90) calendar days after the dates on which the appropriate Federal official and State official are served with the notice required pursuant to the CAFA, the Court hold the Settlement Fairness Hearing and approve the Settlement of the Action as set forth herein. At or after the Settlement Fairness Hearing, Lead Counsel also shall request that the Court approve the proposed Plan of Allocation and the Fee and Expense Application.

3.5 Any Settlement Class Member who wishes to opt out of the Settlement Class must submit a timely written request for exclusion on or before the opt out date, in the manner specified in the Court's Preliminary Approval Order. Group opt outs, including "mass" or "class" opt outs, are prohibited. Any Settlement Class Member who does not submit a timely written request for

exclusion that is accepted by the Court will be bound by all proceedings, orders and judgments in the Action, whether or not he, she, or it timely submits a Proof of Claim and Release Form.

3.6 Any Settlement Class Member who wishes to object to the fairness, reasonableness or adequacy of the Settlement or the Fee and Expense Application, must do so timely and in the manner specified in the Court's Preliminary Approval Order.

3.7 If the Court enters the Preliminary Approval Order, to the extent that the Action is not stayed pursuant to the Preliminary Approval Order, the Settling Parties will jointly move the Court to stay all proceedings and deadlines other than necessary to effectuate the Settlement.

3.8 Defendants shall work with the Claims Administrator to provide the notice required under the CAFA. Any and all costs incurred by the Claims Administrator in providing CAFA notice shall be reimbursed from the Settlement Amount.

4. Releases

4.1 As of the Effective Date, each and every Releasing Plaintiff Party, whether or not such Releasing Plaintiff Party executes and delivers the Proof of Claim and Release Form or shares in the Settlement Fund, (i) shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever waived, released, discharged, and dismissed each and every one of the Settlement Class's Released Claims (including, without limitation, any Unknown Claims) against each and every one of the Released Defendant Parties; and (ii) shall forever be barred and enjoined from commencing, instituting, prosecuting, maintaining, or enforcing any and all of the Settlement Class's Released Claims (including, without limitation, any Unknown Claims) against any and all of the Released Defendant Parties in any court of law or equity, arbitration, tribunal, or administrative forum.

4.2 The Proof of Claim and Release Form to be executed by Lead Plaintiffs and the Settlement Class Members shall release the Settlement Class's Released Claims against the

Released Defendant Parties and shall be substantially in the form contained in Exhibit A-3 attached hereto.

4.3 As of the Effective Date, the Released Defendant Parties shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever waived, released, discharged, and dismissed each and every one of Defendants' Released Claims against each and every one of the Released Plaintiff Parties and shall forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any and all of the Defendants' Released Claims against any and all of the Released Plaintiff Parties.

5. Administration and Calculation of Claims, Final Awards, and Supervision and Distribution of the Settlement Fund

5.1 The Claims Administrator, subject to such supervision and direction of Lead Counsel and the Court as may be necessary or as circumstances may require, shall administer and calculate the Claims submitted by the Claimants, and shall oversee distribution of the Net Settlement Fund to Authorized Claimants pursuant to the Plan of Allocation.

5.2 The Settlement Fund shall be applied as follows:

- (a) to pay all Notice and Administration Costs;
- (b) to pay all Taxes and Tax Expenses described in Paragraph 2.9 hereof;
- (c) to pay attorneys' fees and expenses of Lead Plaintiffs' Counsel and reimbursement of Lead Plaintiffs' reasonable costs and expenses pursuant to PSLRA, 15 U.S.C. §77z-1(a)(4) and/or 15 U.S.C. §78u-4(a)(4), if and to the extent allowed, as ordered by the Court (the "Fee and Expense Award");
and
- (d) to distribute the Net Settlement Fund to Authorized Claimants as allowed by this Stipulation, the Plan of Allocation, or the Court.

5.3 Upon the Effective Date and thereafter, and in accordance with the terms of this Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with Paragraphs 5.7-5.14 below.

5.4 Each Person claiming to be an Authorized Claimant shall be required to submit to the Claims Administrator a completed Proof of Claim and Release Form (substantially in the form of Exhibit A-3 attached hereto), signed under penalty of perjury and supported by such documents as are specified in the Proof of Claim and Release Form and as are reasonably available to such Person, and postmarked (if mailed) or received (if submitted electronically) no later than one hundred twenty (120) calendar days after the Notice Date (as defined in Exhibit A attached hereto), or such other time as may be set by the Court (the “Bar Date”).

5.5 Except as otherwise ordered by the Court, all Settlement Class Members who fail to submit a Proof of Claim and Release Form on or before the Bar Date, or such other period as may be ordered by the Court, or who submit a Proof of Claim and Release Form that is rejected, shall be forever barred from receiving any payments pursuant to this Stipulation and the Settlement set forth herein, but will in all other respects be subject to and bound by the provisions of this Stipulation, the Releases contained herein, and the Judgment, and will be barred from bringing any action against the Released Parties concerning the Released Claims. Notwithstanding the foregoing, Lead Counsel shall have the discretion (but not the obligation) to accept late-submitted claims for processing by the Claims Administrator so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby. No Person shall have any claim against Lead Counsel, the Claims Administrator, any Settlement Class Member, or any of the Released Defendant Parties by reason of the exercise or non-exercise of such discretion.

5.6 Each Proof of Claim and Release Form shall be submitted to and reviewed by the Claims Administrator, under the supervision of Lead Counsel, who shall determine, in accordance with this Stipulation and the approved Plan of Allocation, the extent, if any, to which each Proof of Claim and Release Form shall be allowed, subject to review by the Court pursuant to Paragraph 5.8 below.

5.7 Proof of Claim and Release Forms that do not meet the submission requirements may be rejected. Prior to rejecting a Proof of Claim and Release Form in whole or in part, the Claims Administrator shall communicate with the Claimant in writing to give the Claimant the chance to remedy any curable deficiencies in the Proof of Claim and Release Form submitted. The Claims Administrator, under the supervision of Lead Counsel, shall notify, in a timely fashion and in writing, all the Claimants whose Claims the Claims Administrator proposes to reject in whole or in part for curable deficiencies, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be rejected has the right to a review by the Court if the submitter so desires and complies with the requirements of Paragraph 5.8 below.

5.8 If any Claimant whose timely Claim has been rejected in whole or in part for curable deficiency desires to contest such rejection, the Claimant must, within twenty (20) calendar days after the date of mailing of the notice required in Paragraph 5.7 above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a timely Claim cannot be otherwise resolved, Lead Counsel shall thereafter present the Claimant's request for review to the Court.

5.9 Each Claimant who does not submit a timely written request for exclusion from the Settlement Class that is accepted by the Court shall be deemed to have submitted to the jurisdiction

of the Court with respect to the Claimant's Claim, including, but not limited to, the Releases provided for herein and in the Judgment, and the Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to the Claimant's status as a Settlement Class Member and the validity and amount of the Claimant's Claim. In connection with processing the Proofs of Claim and Release, no discovery shall be allowed on the merits of the Action or the Settlement. All proceedings with respect to the administration, processing, and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court, but shall not, in any event, delay or affect the finality of the Judgment. All Settlement Class Members, other Claimants, and parties to this Settlement expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations.

5.10 The Claims Administrator shall calculate the claims of Authorized Claimants in accordance with the Plan of Allocation approved by the Court. Following the Effective Date, the Claims Administrator shall send to each Authorized Claimant his, her, or its *pro rata* share of the Net Settlement Fund. No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.

5.11 If there is any balance remaining in the Net Settlement Fund after a reasonable period of time following the date of the initial distribution of the Net Settlement Fund, Lead Counsel shall, if feasible, economical, and equitable, redistribute such balance among Authorized Claimants who negotiated the checks sent to them in the initial distribution and who would receive at least \$10.00. These redistributions shall be repeated until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance shall then be donated to a 501(c)(3)

non-profit organization selected by Lead Counsel, and unaffiliated with Plaintiffs' Counsel, Lead Plaintiffs, Defendants, and Defendants' Counsel, subject to approval by the Court.

5.12 The Released Defendant Parties shall have no liability, obligation, or responsibility whatsoever with respect to: (i) any act, omission, or determination by the Escrow Agent, Lead Counsel, Lead Plaintiffs, or the Claims Administrator, or any of their Related Parties, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, supervision, or distribution of the Settlement Fund; (iii) the Plan of Allocation; (iv) the determination, or administration of the Claims submitted by Claimants, including any calculations; (v) any loss suffered by, or fluctuation in the value of, the Settlement Fund; or (vi) the payment or withholding of Taxes or Tax Expenses, or any expenses or losses incurred in connection therewith. No Person shall have any claim of any kind against the Released Defendant Parties or Defendants' Counsel with respect to the matters set forth above; and the Settlement Class Members, Lead Plaintiffs, and Plaintiffs' Counsel release the Released Defendant Parties from any and all liability and claims arising from or with respect to the administration, investment, or distribution of the Settlement Fund. The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of the Released Defendant Parties harmless for any Taxes owed with respect to interest earned on the Settlement Fund after deposit into the Escrow Account and related expenses of any kind whatsoever (including, without limitation, Taxes payable by reason of any such indemnification), as well as for any claims related to the Plan of Allocation, the administration of the Settlement, the investment of the Settlement Fund, the processing of claims, or the disbursement of the Settlement Fund or the Net Settlement Fund. Defendants shall notify the Escrow Agent promptly if Defendants receive notice of any claim for which they intend to seek indemnification.

5.13 Defendants shall have no role in adjudicating, or right to review, any claims submitted by Settlement Class Members for participation in distribution of the Settlement Fund.

5.14 It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an Authorized Claimant's Claim set forth therein, is not a part of this Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation, and any order or proceeding relating to the Plan of Allocation, or any objection to, motion regarding, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Stipulation or affect the finality of the Court's Judgment approving this Stipulation and the Settlement set forth herein, or any other orders entered pursuant to this Stipulation. Settlement Class Members and Defendants shall be bound by the terms of this Stipulation, irrespective of whether the Court disapproves or modifies the Plan of Allocation.

5.15 No Person shall have any claim against Lead Plaintiffs, Plaintiffs' Counsel, the Defendants, Defendants' Counsel, any of the other Released Parties, or the Claims Administrator based on distributions made substantially in accordance with the Settlement, this Stipulation, and the Plan of Allocation, or otherwise as further ordered by the Court.

6. Plaintiffs' Counsel's Attorneys' Fees and Expenses

6.1 Lead Counsel may submit an application or applications, on behalf of all Plaintiffs' Counsel, for an award from the Settlement Fund (the "Fee and Expense Application") for: (a) attorneys' fees; (b) reimbursement of expenses or costs Plaintiffs' Counsel incurred in connection with prosecuting the Action; and (c) any interest on such attorneys' fees and expenses awarded by the Court, at the same rate and for the same periods as earned by the Settlement Fund (until paid). The Fee and Expense Application shall be in a total amount not to exceed 25% of the

Settlement Fund. In addition, the Fee and Expense Application may include a request for reimbursement of Lead Plaintiffs' reasonable costs and expenses pursuant to the PSLRA, 15 U.S.C. §77z-1(a)(4) and/or 15 U.S.C. §78u-4(a)(4), in connection with its representation of the Settlement Class. The Fee and Expense Award (whether payable to Lead Counsel or Lead Plaintiffs) shall be payable solely out of the Settlement Fund. Defendants shall take no position with respect to the Fee and Expense Application.

6.2 The Fee and Expense Award shall be paid to Lead Counsel from the Settlement Fund, as ordered, immediately upon the Court's entry of an order granting the Fee and Expense Award. This provision shall apply notwithstanding timely objections to, potential for appeal from, or collateral attack on, either the Settlement, the Plan of Allocation, or the Fee and Expense Award. Lead Counsel shall thereafter allocate the attorneys' fees granted in the Fee and Expense Award among the other Plaintiffs' Counsel in a manner that Lead Counsel in good faith believes reflects the contributions of such counsel to the prosecution and resolution of the Action.

6.3 In the event that the Judgment or the order granting the Fee and Expense Award is reversed or modified, or if this Stipulation is canceled or terminated for any reason, then Lead Counsel shall, in an amount consistent with such reversal or modification, refund such attorneys' fees and expenses to the Settlement Fund, plus the interest earned thereon, within seven (7) calendar days after (i) Lead Counsel receives a notice from Defendants' Counsel or otherwise of the cancelation or termination of the Settlement; or (ii) any order from a court of competent jurisdiction reducing or reversing the Fee and Expense Award. Each Plaintiffs' Counsel shall be jointly and severable liable for any refunds or repayments to the Settlement Fund required pursuant to this paragraph. Each Plaintiffs' Counsel, as a condition of receiving such fees or expenses on behalf of itself and each partner and/or shareholder of it, agrees that its law firm and its partners

and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

6.4 The procedure for and the allowance or disallowance by the Court of the Fee and Expense Application is not a part of this Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation, and any order or proceeding relating to the Fee and Expense Application, or any objection to, motion regarding, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Stipulation, or the Releases contained herein, or any other orders entered pursuant to this Stipulation, or affect or delay the finality of the Judgment approving this Stipulation and the Settlement of the Action.

6.5 Any Fee and Expense Award shall be paid solely from the Settlement Fund. The Released Defendant Parties shall have no responsibility for any payment of attorneys' fees and/or expenses (including Taxes) to Lead Counsel, or any other counsel to Lead Plaintiffs, or service award to any plaintiff. Likewise, the Released Defendant Parties shall have no responsibility or liability whatsoever with respect to the allocation of any Fee and Expense Award by Lead Counsel and/or any Person who may assert some claim thereto, or any Fee and Expense Award that the Court may grant in the Action, and the Released Defendant Parties take no position with regard to such matters.

7. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

7.1 The Effective Date of this Stipulation shall be the date on which all of the following events shall have occurred and is conditioned on the occurrence of all of the following events:

- (a) execution of this Stipulation;

- (b) the Court has entered the Preliminary Approval Order, substantially in the form of Exhibit A hereto;
- (c) the Settlement Amount has been deposited into the Escrow Account in accordance with the provisions of Paragraph 2.1 above;
- (d) Defendants have not exercised their option to terminate this Stipulation pursuant to Paragraph 7.3 hereof;
- (e) the Court has entered the Judgment, substantially in the form of Exhibit B attached hereto, including, *inter alia*, the dismissal of the Action with prejudice, following notice to the Settlement Class and the Settlement Hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure; and
- (f) the Judgment has become Final, as defined in Paragraph 1.14 hereof.

7.2 Upon the Effective Date, any and all remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished. If all of the conditions specified in Paragraph 7.1 hereof are not met, then this Stipulation shall be canceled and terminated subject to Paragraph 7.4 hereof unless Lead Counsel and Defendants' Counsel on behalf of their respective clients mutually agree in writing to proceed with the Settlement.

7.3 If Persons who otherwise would be Settlement Class Members have timely and validly requested exclusion from the Settlement Class in accordance with the provisions of the Preliminary Approval Order and the Notice given pursuant thereto, and if the total number of Persons who would otherwise be Settlement Class Members who purchased or otherwise acquired more than a certain percentage of Celsius common stock subject to this Stipulation exclude themselves from the Settlement Class, as set forth in a separate Supplemental Agreement

Regarding Requests for Exclusion (the “Supplemental Agreement”) executed between Lead Counsel and Defendants’ Counsel, then Defendants shall have the option to terminate this Stipulation in accordance with the procedures set forth in the Supplemental Agreement. Unless the Court directs otherwise, the Supplemental Agreement will not be filed with the Court unless and until a dispute between Lead Plaintiffs and Defendants concerning its interpretation or application arises. If submission of the Supplemental Agreement is required for resolution of a dispute or is otherwise ordered by the Court, the Settling Parties will seek to have the Supplemental Agreement submitted to the Court *in camera* or filed under seal.

7.4 Unless otherwise ordered by the Court, if the event the Effective Date does not occur or this Stipulation shall terminate, be canceled, or otherwise not remain or become effective for any reason, including, without limitation, in the event the Judgment is reversed or vacated or materially altered following any appeal taken therefrom, or it is successfully collaterally attacked, then within ten (10) business days after written notification of such event is sent by Defendants’ Counsel or Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest) and all payments disbursed, less Taxes, Tax Expenses, and Notice and Administration Costs which have been properly disbursed pursuant to Paragraph 2.7 (up to the dollar limit provided in Paragraph 2.7) and Paragraph 2.9 hereof, shall be refunded by the Escrow Agent to Celsius pursuant to written instructions from Defendants’ Counsel. The Escrow Agent or their designees shall apply for any tax refund owed on the Settlement Fund and pay the proceeds to Celsius pursuant to written instructions from Defendants’ Counsel, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund.

7.5 If the event Effective Date does not occur or this Stipulation shall terminate, be canceled, or otherwise not either remain or become effective for any reason, including, without

limitation, in the event the Judgment is reversed or vacated or materially altered following any appeal taken therefrom, or it is successfully collaterally attacked, then the Settling Parties shall be restored to their respective positions in the Action as of July 11, 2023. In such event, the terms and provisions of this Stipulation, with the exception of Paragraphs 1.1-1.47, 2.2, 2.4-2.9, 6.3-6.5, 7.4-7.5, 8.1, 9.3-9.27 hereof, shall have no further force and effect with respect to the Settling Parties and shall not be used in this Action or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*, and Defendants retain all of their defenses and the Settling Parties shall be deemed to return to their status as of July 12, 2023. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or the Fee and Expense Award, shall constitute grounds for cancellation or termination of this Stipulation.

7.6 The Judgment shall contain a bar order consistent with the PSLRA, 15 U.S.C. § 78u-4(f)(7).

8. No Admission of Wrongdoing

8.1 Neither the Settlement, the Term Sheet, this Stipulation (whether or not consummated), including the Exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Term Sheet, this Stipulation, and the Settlement, nor any proceedings, communications, drafts, documents, or agreements taken pursuant to or in connection with this Stipulation, and/or approval of the Settlement (including any arguments proffered in connection therewith):

- (a) shall be offered or received against any Defendant as evidence of or construed as or deemed to be evidence of any presumption, concession, or

admission by any Defendant of the truth of any allegations by Lead Plaintiffs or any Settlement Class Member, including any alleged damages, or the validity of any claim that has been or could have been asserted in the Action, or the deficiency of any defense that has been or could have been asserted in the Action or in any other litigation, including, but not limited to, litigation of the Released Claims, or of any liability, negligence, fault, harm, scienter, or wrongdoing of any kind of any of the Defendants or in any way referred to for any other reason as against any of the Defendants, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

- (b) shall be offered or received against or to the prejudice of any Defendant as evidence of a presumption, concession, or admission of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by any Defendant, or against Lead Plaintiffs or any Settlement Class Member as evidence of any infirmity in the claims of Lead Plaintiffs and the Settlement Class;
- (c) shall be offered or received against any Defendant as evidence of a presumption, concession, or admission of any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against any of the parties to this Stipulation, in any other civil, criminal, or administrative action or proceeding; provided, however, that if this

Stipulation is approved by the Court, Defendants and their Related Parties may refer to it to effectuate the release granted them hereunder; or

- (d) shall be construed against Defendants, Lead Plaintiffs, or the Settlement Class as evidence of a presumption, concession, or admission that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial or in any proceeding other than this Settlement.

9. Miscellaneous Provisions

9.1 The Settling Parties (a) acknowledge that it is their intent to consummate this Stipulation; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of this Stipulation expeditiously.

9.2 The Settling Parties intend this Settlement to be a final and complete resolution and compromise of all disputes between them with respect to the Action and the Released Claims, whether known claims or Unknown Claims, and this Stipulation shall be constructed and interpreted so as to effective that intent.

9.3 The Settlement shall not be deemed an admission by any Settling Party or any of the Released Parties as to the merits of any claim or defense. The Settling Parties and their counsel agree that they shall not assert any claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense, or settlement of the Action, and the Judgment shall contain a finding that all Settling Parties and their counsel complied with the requirements of Rule 11 with respect to the institution, prosecution, defense, and resolution of the Action. The Settling Parties agree that the Settlement Amount and the other terms of the Settlement were negotiated in good faith and at arm's-length by the Settling Parties and reflect a settlement that

was reached voluntarily after consultation with competent legal counsel and not in reliance on any statements by Defendants. The Settling Parties further agree that the Settlement Amount was negotiated and agreed without any discussion of Lead Counsel's attorneys' fees and expenses.

9.4 All agreements made and orders entered during the course of the Action relating to the confidentiality of documents and information shall survive this Stipulation.

9.5 The Released Parties may file this Stipulation and/or the Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

9.6 All of the Exhibits to this Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

9.7 This Stipulation 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.

9.8 No waiver of any term or provision of this Stipulation, including a waiver of any breach or default, shall be valid or effective unless in writing and signed by or on behalf of all Settling Parties or their respective successors-in-interest. No waiver of any term or provisions of this Stipulation, including a waiver of any breach or default, shall be construed as a waiver of the same or any other term or provision or of any previous or subsequent breach of this Stipulation.

9.9 This Stipulation and the Exhibits attached hereto (together with the Supplemental Agreement referred to in Paragraph 7.3) constitute the entire agreement among the Settling Parties and supersede any prior or contemporaneous written or oral agreements or understandings between the Settling Parties, including the Term Sheet. No representations, warranties, or inducements have been made to any Settling Party concerning this Stipulation or its Exhibits other than the

representations, warranties, and covenants contained and memorialized in such documents. The Settling Parties agree that no prior drafts or unexecuted versions of the Term Sheet, this Stipulation, its Exhibits, and the Supplemental Agreement or communications between the Settling Parties shall be construed as evidence of the Settling Parties' intent or understanding of this Stipulation, its Exhibits, and the Supplemental Agreement.

9.10 It is understood by the Settling Parties that, except for the matters expressly represented herein, the facts or law with respect to which this Stipulation is entered into may turn out to be other than or different from the facts now known to each Settling Party or believed by such Settling Party to be true; each Settling Party therefore expressly assumes the risk of the facts or law turning out to be so different, and agrees that this Stipulation shall be in all respects effective and not subject to termination by reason of any such different facts or law.

9.11 Except as otherwise provided herein (or, as between Defendants, in any separate agreements between them), each Settling Party shall bear its own costs.

9.12 The Settlement is not conditioned upon the settlement or approval of settlement of any derivative suits or other suits.

9.13 If any provision of this Stipulation shall be determined to be invalid, void, or illegal, such provision shall be construed and amended in a manner that would permit its enforcement, but in no event shall such provision affect, impair, or invalidate any other provision hereof.

9.14 Neither the Settlement Class Members nor Defendants shall be bound by this Stipulation if the Court modifies material terms thereof, provided, however, that it shall not be a basis for Settlement Class Members to terminate the Settlement if the Court modifies any proposed Plan of Allocation or criteria for allocation of the Net Settlement Fund amongst Authorized Claimants, or if the Plan of Allocation is modified on appeal. Nor shall it be a basis to terminate

the Settlement if the Court disapproves of or modifies the terms of this Stipulation with respect to the Fee and Expense Application, the Fee and Expense Award, or the distribution of the Net Settlement Fund. Notwithstanding any such modification of the terms or Plan of Allocation or this Stipulation with respect to the Fee and Expense Application or Fee and Expense Award, Released Defendant Parties shall be entitled to all benefits of the Settlement and shall not, under any circumstances, be called upon to contribute additional funds to the Settlement Fund.

9.15 Lead Counsel, on behalf of the Settlement Class, is expressly authorized by Lead Plaintiffs to take all appropriate action required or permitted to be taken by the Settlement Class pursuant to this Stipulation to effectuate its terms and also is expressly authorized to enter into any modifications or amendments to this Stipulation on behalf of the Settlement Class that it deems appropriate.

9.16 Lead Plaintiffs and Lead Counsel, on behalf of Plaintiffs' Counsel, represent and warrant that none of Lead Plaintiffs' claims or causes of action referred to in this Action or this Stipulation has been assigned, encumbered, or in any manner transferred in whole or in part.

9.17 Each counsel or other Person executing this Stipulation or any of its Exhibits on behalf of any Settling Party hereby warrants that such Person has the full authority to do so.

9.18 All notices, requests, demands, claims, and other communications hereunder shall be in writing and shall be deemed duly given via email as set forth below:

If to Lead Plaintiffs or to Lead Counsel:

Daniel L. Berger
GRANT & EISENHOFER P.A.
485 Lexington Avenue, 29th Floor
New York, NY 10017
dberger@gelaw.com

If to the Defendants or to Defendants' Counsel:

Joseph G. Tully
ALSTON & BIRD LLP
90 Park Avenue
New York, New York 10016
joe.tully@alston.com

9.19 This Stipulation 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.

9.20 This Stipulation shall be binding upon, and inure to the benefit of, the heirs, successors, and assigns of the Settling Parties.

9.21 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Stipulation, and all Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Stipulation.

9.22 Pending approval of the Court of this Stipulation and its Exhibits, all proceedings in this Action shall be stayed, and all Settlement Class Members shall be barred and enjoined from prosecuting any of the Released Claims against any of the Released Defendant Parties.

9.23 This Stipulation and the Exhibits hereto shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of Florida, and the rights and obligations of the parties to this Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Florida, without giving effect to that State's choice-of-law principles, except to the extent that federal law requires that federal law govern.

9.24 Nothing in this Stipulation, or the negotiations relating thereto, is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, attorney-client privilege, joint defense privilege, or work product protection.

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

9.26 This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties and the Settling Parties have contributed substantially and materially to the preparation of this Stipulation.


9.27 Unless otherwise provided, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation without further order of the Court.

IN WITNESS WHEREOF, the parties hereto have caused this Stipulation to be executed,
by their duly authorized attorneys, dated August 2, 2023.


/s/ _____

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