

Exhibit D

EXECUTION COPY

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JENNIFER NOSALEK, RANDY
HIRSCHORN, and TRACEY HIRSCHORN,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

MLS PROPERTY INFORMATION
NETWORK, INC., ANYWHERE REAL
ESTATE INC. (F/K/A REALOGY
HOLDINGS CORP.), CENTURY 21 REAL
ESTATE LLC, COLDWELL BANKER
REAL ESTATE LLC, SOTHEBY'S
INTERNATIONAL REALTY AFFILIATES
LLC, BETTER HOMES AND GARDENS
REAL ESTATE LLC, ERA FRANCHISE
SYSTEMS LLC, HOMESERVICES OF
AMERICA, INC., BHH AFFILIATES, LLC,
HSF AFFILIATES, LLC, RE/MAX LLC,
POLZLER & SCHNEIDER HOLDINGS
CORPORATION, INTEGRA
ENTERPRISES CORPORATION, RE/MAX
OF NEW ENGLAND, INC., RE/MAX
INTEGRATED REGIONS, LLC, AND
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 1:20-cv-12244-PBS
Judge Patti B. Saris

AMENDED STIPULATION AND SETTLEMENT AGREEMENT

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This Amended Stipulation and Settlement Agreement (“Agreement”) is made and entered into on September 1, 2023 (the “Execution Date”), by and between Plaintiffs Jennifer Nosalek, Randy Hirschorn, and Tracey Hirschorn (“Plaintiffs”), on behalf of themselves and all Settlement Class Members and Releasing Parties as defined herein, and MLS Property Information Network, Inc. (“MLS PIN”). The Parties intend this Agreement to fully, finally, and forever resolve, discharge, and settle the Released Claims as defined herein, upon and subject to the terms and conditions hereof.

1. RECITALS

WHEREAS, Plaintiffs have filed the above-captioned putative class action (the “Action”) against MLS PIN; Anywhere Real Estate Inc. (f/k/a Realogy Holdings Corp.), and its wholly owned subsidiaries, Century 21 Real Estate LLC, Coldwell Banker Real Estate LLC, Sotheby’s International Realty Affiliates LLC, Better Homes and Gardens Real Estate LLC, and ERA Franchise Systems LLC; HomeServices of America, Inc., and its wholly owned subsidiaries, BHH Affiliates, LLC and HSF Affiliates, LLC; RE/MAX LLC, and its wholly owned subsidiaries, Polzler & Schneider Holdings Corporation, Integra Enterprises Corporation, RE/MAX of New England, Inc., and RE/MAX Integrated Regions, LLC (and any other successor entities); and Keller Williams Realty, Inc. asserting claims for violation of Section 1 of the Sherman Act, 15 U.S.C § 1;

WHEREAS, Plaintiffs contend that they and the Settlement Class have suffered damages, and may in the future suffer additional damages, as a result of MLS PIN’s (and the other Defendants’) alleged conduct;

WHEREAS, MLS PIN denies Plaintiffs’ allegations and maintains that it has meritorious defenses to the claims of liability and damages made by Plaintiffs in the Action and all charges of

liability and damages against it arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Action;

WHEREAS, Plaintiffs' Counsel has significant experience litigating class action cases, having represented plaintiffs in numerous putative class actions brought in this District and elsewhere;

WHEREAS, Plaintiffs' Counsel have concluded, after due investigation and after carefully considering the relevant circumstances, including, without limitation, the claims asserted in the Action, the legal and factual defenses thereto, and the applicable law, that: (1) it is in the best interests of the Settlement Class to enter into this Agreement in order to avoid the uncertain outcome and attendant risks of litigation and to assure that the substantial benefits reflected herein, including the value of the settlement relief MLS PIN will provide under this Agreement and the cooperation MLS PIN will provide to the Plaintiffs under this Agreement, are obtained for the Settlement Class; and (2) the settlement set forth in this Agreement is fair, reasonable, and adequate and in the best interests of the Settlement Class;

WHEREAS, MLS PIN, while continuing to deny that it is liable for the claims asserted against it in the Action, has nevertheless agreed to enter into this Agreement to avoid the further risk, expense, inconvenience, and distraction of burdensome and protracted litigation, and thereby to resolve this controversy, to avoid the risks inherent in complex litigation, and to obtain complete dismissal of the Action as to MLS PIN and a release of the claims as set forth herein;

WHEREAS, Plaintiffs, for themselves individually and on behalf of the Settlement Class, and MLS PIN agree that neither this Agreement nor any statement made in negotiation thereof shall be deemed or construed to be an admission or evidence of any violation of any statute, law,

or regulation or of any liability or wrongdoing by MLS PIN or of the truth of any of the claims or allegations alleged in the Action;

WHEREAS, this Agreement is the product of arm's-length negotiations between Plaintiffs' Counsel and MLS PIN's Counsel, and this Agreement embodies all of the terms and conditions of the settlement agreed upon between the Parties, both for themselves individually and on behalf of the Settlement Class;

NOW, THEREFORE, in consideration of the covenants, terms, and releases in this Agreement, it is agreed, by and among Plaintiffs (individually and on behalf of the Settlement Class) and MLS PIN that, subject to the approval of the Court, the Action shall be settled, compromised, and dismissed with prejudice as to MLS PIN and the other Released Parties only, without costs, except as stated herein, and releases be extended, as set forth in this Agreement.

2. DEFINITIONS

As used in this Agreement, the following capitalized terms have the meanings specified below:

(a) Action: *Nosalek, et al. v. MLS Property Information Network, Inc., et al.*, Case No. 1:20-cv-12244-PBS, pending in the United States District Court for the District of Massachusetts.

(b) Agreement or Settlement Agreement: This Amended Settlement Agreement and all of the attached exhibits.

(c) Alternative Judgment: A Final Judgment and Order of Dismissal entered by the Court but in a form that materially differs from the one proposed by the Parties.

(d) Buyer-Broker Commission: A commission paid by a Seller or Seller-Broker to a Buyer-Broker pursuant to the Buyer-Broker Commission Rule.

(e) Buyer-Broker: A real estate broker who or which procures a buyer of Residential Real Estate and is offered and/or paid a Buyer-Broker Commission with regard to a Listing pursuant to the Buyer-Broker Commission Rule.

(f) Buyer-Broker Commission Rule: The practice of the Seller-Broker offering Buyer-Brokers a Buyer-Broker Commission in connection with a Listing and any action required or taken pursuant to Section 5.0 of the Rules and Regulations.

(g) Class Notice: The notice of proposed settlement to be provided to the Settlement Class as provided in this Agreement and the Preliminary Approval Order.

(h) Court: The United States District Court for the District of Massachusetts.

(i) Defendants: MLS Property Information Network, Inc.; Anywhere Real Estate Inc. (f/k/a Realty Holdings Corp.), and its wholly owned subsidiaries, Century 21 Real Estate LLC, Coldwell Banker Real Estate LLC, Sotheby's International Realty Affiliates LLC, Better Homes and Gardens Real Estate LLC, and ERA Franchise Systems LLC; HomeServices of America, Inc., and its wholly owned subsidiaries, BHH Affiliates, LLC and HSF Affiliates, LLC; RE/MAX LLC, and its wholly owned subsidiaries, Polzler & Schneider Holdings Corporation, Integra Enterprises Corporation, RE/MAX of New England, Inc., and RE/MAX Integrated Regions, LLC; and Keller Williams Realty, Inc.

(j) Effective Date: *See* Paragraph 6.

(k) Execution Date: September 1 _____, 2023.

(l) Fairness Hearing: The hearing(s) to be held by the Court to determine whether the settlement set forth in this Agreement shall receive final approval pursuant to Federal Rule of Civil Procedure 23.

(m) Fee and Expense Application: *See* Paragraph 11.

(n) Fee and Expense Award: Any amounts the Court may order that Plaintiffs' Counsel shall receive from the Settlement Fund pursuant to a Fee and Expense Application.

(o) Final Judgment and Order of Dismissal: The order of the Court, substantially in the form attached hereto as **Exhibit 2**, finally approving the settlement set forth in this Agreement and dismissing the Action against MLS PIN with prejudice.

(p) Listing: Residential Real Estate for which all necessary data, information and images have been inputted into Pinergy.

(q) MLS PIN: MLS Property Information Network, Inc., and its predecessors and successors.

(r) MLS PIN's Counsel: Brennan, Recupero, Cascione, Scungio & McAllister, LLP, and Locke Lord LLP.

(s) Notice Administrator: A third party that may be retained to manage and administer the process by which the Class will be notified of this Agreement.

(t) Parties: Plaintiffs and MLS PIN.

(u) Person(s): An individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, municipality, state, state agency, any entity that is a creature of any state, any government or any political subdivision, authority, office, bureau or agency of any government, and any business or legal entity, and any spouses, heirs, predecessors, successors, representatives, agents, or assignees of the foregoing.

(v) Pinergy: The electronic multiple-listing service application or its predecessors owned and operated by MLS PIN.

(w) Plaintiffs (and each a Plaintiff): Jennifer Nosalek, Randy Hirschorn, and Tracey Hirschorn.

(x) Plaintiffs' Counsel: IZARD, KINDALL & RAABE LLP and HAUSFELD LLP.

(y) Preliminary Approval Order: An order of the Court, substantially in the form attached hereto as **Exhibit 1**, that preliminarily approves the settlement set forth in this Agreement and directs Class Notice thereof.

(z) Released Claims: Any and all manner of claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys' fees, damages, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, arising from or relating in any way to any conduct alleged or that could have been alleged in and that arise from the factual predicate of the Action.

(aa) Released Party or Released Parties: MLS PIN and each of its past or present direct and indirect parents (including holding companies), subsidiaries, affiliates, associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), predecessors, successors, shareholders (except those who are Defendants in the Action), and each of their respective officers, directors, employees, agents, attorneys, legal or other representatives, trustees, heirs, executors, administrators, advisors, and assigns. Released Parties do not include the other Defendants in the Action.

(bb) Releasing Party or Releasing Parties: Individually and collectively, Plaintiffs and each Settlement Class Member, on behalf of themselves and, to the extent permitted by law, any of their respective past or present officers, directors, shareholders, agents, employees, legal representatives, partners, associates, trustees, beneficiaries, beneficial owners, parents, subsidiaries, divisions, affiliates, heirs, executors, administrators, purchasers, predecessors, successors, and assigns, whether or not they object to the settlement set forth in this Agreement.

(cc) Residential Real Estate: Any residential property sold by a Seller.

(dd) Rules and Regulations: The Rules and Regulations adopted by MLS PIN from time to time.

(ee) Seller: Any Person who has listed on Pinergy through a Seller-Broker and sold Residential Real Estate.

(ff) Seller-Broker: A real estate broker who lists a property on Pinergy on behalf of a Seller and offers a Buyer-Broker Commission.

(gg) Settlement Class or Class: *See* Paragraph 3(a).

(hh) Settlement Class Member: A Person who is a member of the Settlement Class

(ii) Settlement Class Period: December 17, 2016, through and including the date of the Final Judgment and Order of Dismissal.

(jj) Settlement Fund: *See* Paragraph 9(c).

(kk) Settling Defendant: MLS PIN.

(ll) Settling Defendant's Claims: Claims, including "Unknown Claims" as defined below, that any Released Party may have against a Releasing Party or Plaintiffs' Counsel solely relating to the institution, prosecution, or settlement of the Action, except for claims to enforce any of the terms of this Agreement.

(mm) Unknown Claims: Any and all Released Claims against the Released Parties which Releasing Parties do not know or suspect to exist in his, her, or its favor as of the Effective Date, and the Settling Defendant's Claims against Releasing Parties which Released Parties do not know or suspect to exist in his, her, or its favor as of the Effective Date, which if known by the Releasing Parties or Released Parties might have affected his, her, or its decision(s) with respect to the settlement. With respect to any and all Released Claims and Settling Defendant's Claims, the Parties stipulate and agree that by operation of the Final Judgment and Order of Dismissal, upon the Effective Date, Releasing Parties and Released Parties shall have expressly waived, and each Settlement Class Member shall be deemed to have waived, and by operation of the Final Judgment and Order of Dismissal shall have expressly waived, the provisions, rights and benefits of California Civil Code § 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

and 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, which is similar, comparable, or equivalent to California Civil Code § 1542.

The Releasing Parties and Released Parties may hereafter discover facts other than or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims and Settling Defendant's Claims. Nevertheless, Plaintiffs and the Released Parties shall expressly, fully, finally, and forever settle and release, and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal shall have, fully, finally, and forever settled and released, any and all

Released Claims and Settling Defendant's Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiffs and the Released Parties acknowledge, and Settlement Class Members shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Settling Defendant's Claims was separately bargained for and was a key element of the Agreement.

3. SETTLEMENT CLASS CERTIFICATION

(a) The Parties hereby stipulate for purposes of settlement only that the requirements of Federal Rule of Civil Procedure 23(a) and 23(b)(2) are satisfied, and, subject to Court approval, the following settlement class shall be certified as to claims against MLS PIN only (the "Settlement Class" or "Class"):

Sellers who paid, and/or on whose behalf sellers' brokers paid, Buyer-Broker Commissions during the Settlement Class Period in connection with the sale of Residential Real Estate listed on Pinergy.

(b) Specifically excluded from the Settlement Class are Defendants; Released Parties; co-conspirators; the officers, directors, or employees of any Defendant, Released Party, or co-conspirator; any entity in which any Defendant, Released Party, or co-conspirator has a controlling interest; any affiliate, legal representative, heir, or assign of any Defendant, Released Party, or co-conspirator and any Person acting on their behalf. Also excluded from the Settlement Class are any judicial officers presiding over this action and the members of his/her immediate families and judicial staff, and any juror assigned to the Action.

(c) The Parties' agreement as to certification of the Settlement Class is only for purposes of effectuating a settlement and for no other purpose. MLS PIN retains all of its objections, arguments, and defenses with respect to class certification, and reserves all rights to contest class certification, if Court does not enter the Final Judgment and Order of Dismissal, if the Court's approval is reversed or vacated on appeal, if this Agreement is terminated as provided

herein, or if the settlement set forth in this Agreement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any Class or certification of any Class for any purpose other than effectuating the settlement, and that if the settlement set forth in this Agreement does not receive the Court's final approval, if the Court's approval is reversed or vacated on appeal, if this Agreement is terminated as provided herein, or if the settlement set forth in this Agreement otherwise fails to become effective, this agreement as to certification of the Class becomes null and void *ab initio*. This Agreement or any other settlement-related statement may not be cited regarding certification of the Class, or in support of an argument for certifying a class for any purpose related to this Action.

4. GOOD FAITH EFFORTS TO EFFECTUATE THIS SETTLEMENT AGREEMENT

The Parties agree to cooperate with one another in good faith to effectuate and implement the terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the terms of this Agreement. This includes MLS PIN serving notice on those persons and entities required to receive notice pursuant to 28 U.S.C. § 1715.

5. PRELIMINARY APPROVAL ORDER, NOTICE, AND FAIRNESS HEARING

(a) Plaintiffs' Counsel shall share drafts of the motion for preliminary approval and any related submissions with MLS PIN's Counsel at least five (5) days before the anticipated filing date in order to give MLS PIN a reasonable opportunity to comment. This motion shall:

- (i) Seek certification of the Settlement Class for purposes of settlement only, pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(2);
- (ii) Request preliminary approval of the settlement set forth in this Agreement as fair, reasonable, and adequate within the meaning of Federal Rule of Civil Procedure 23;

- (iii) Seek the appointment of the Plaintiffs as representatives of the Settlement Class under Federal Rule of Civil Procedure 23;
- (iv) Seek appointment of Plaintiffs' Counsel as interim counsel for the Settlement Class under Federal Rule of Civil Procedure 23(g);
- (v) If practicable at the time the motion is filed or otherwise at a later time, seek approval of the form and method of dissemination of the Class Notice, which may be published based upon the recommendations of the Notice Administrator. The Notice Administrator will establish and maintain a website, from which each member of the Class can view and download relevant documents;
- (vi) Stay all proceedings in the Action against MLS PIN until the Court renders a final decision on approval of the settlement set forth in this Agreement; and
- (vii) Attach a proposed order in the form of **Exhibit 1** hereto, which shall include such provisions as are typical in such orders, including (1) a finding that the proposed plan of notice complies with Federal Rule of Civil Procedure 23 and the requirements of due process, and (2) a provision that, if final approval of the settlement is not obtained, the settlement is null and void, and the Parties will revert to their positions *ex ante* without prejudice to their rights, claims, or defenses.

(b) The Class Notice shall apprise each member of the Settlement Class of his, her or its right to object to the settlement.

(c) Any Person who objects to the settlement set forth in this Agreement may appear in person or through counsel, at that Person's own expense, at the Fairness Hearing to present any evidence or argument that the Court deems proper and relevant. However, no such Person shall be heard, and no papers, briefs, pleadings, or other documents submitted by any such Person shall be received and considered by the Court, unless such Person properly submits a written objection that includes all of the following:

- (i) The Person's full name, address, telephone number, and e-mail address (if any);
- (ii) A notice of intention to personally appear and/or testify at the Final Hearing;
- (iii) Proof of membership in the Settlement Class; and
- (iv) The specific grounds for the objection and any reasons why such Person desires to appear and be heard, as well as all documents or writings that such Person desires the Court to consider.

(d) Such a written objection must be both filed with the Clerk of the Court no later than twenty-eight (28) days prior to the date set for the Fairness Hearing and mailed to Plaintiffs' Counsel and MLS PIN's Counsel at the addresses provided in the Class Notice and postmarked no later than twenty-eight (28) days prior to the date set for the Fairness Hearing. Any Person that fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and will forever be barred from making any such objections in the Action, unless otherwise excused for good cause shown, as determined by the Court.

(e) If the Preliminary Approval Order is entered by the Court, Class Plaintiffs shall seek, and MLS PIN shall not oppose, entry of a Final Judgment and Order of Dismissal of MLS PIN from the Action. Plaintiffs' Counsel shall share drafts of the proposed motion for final

approval and Final Judgment and Order of Dismissal of MLS PIN from the Action with MLS PIN's Counsel at least seven (7) days before the anticipated filing date in order to give MLS PIN a reasonable opportunity to comment. Subject to the approval of the Court, the proposed Final Judgment and Order of Dismissal of MLS PIN from the Action shall be in the form of **Exhibit 2** hereto and shall meet all of the following criteria (in addition to any additional criteria specified elsewhere in this Agreement):

- (i) Certifies the Class pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(2) solely for the purpose of the settlement;
- (ii) Approves finally the settlement set forth in this Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class within the meaning of Federal Rule of Civil Procedure 23 and directs its consummation according to its terms;
- (iii) Finds that the Class Notice constituted due, adequate, and sufficient notice of the settlement set forth in this Agreement and the Fairness Hearing and meets the requirements of due process and the Federal Rules of Civil Procedure;
- (iv) Directs that, as to the Released Parties, MLS PIN shall be dismissed from the Action with prejudice and, except as provided for in this Agreement, without costs; provided, however, that such dismissal shall not affect, in any way, the right of Class Plaintiffs or Settlement Class Members to pursue claims, if any, outside the scope of the Released Claims;

- (v) Orders that the Releasing Parties are permanently enjoined and barred from instituting, commencing, or prosecuting any action or other proceeding asserting any Released Claims against any Released Party;
- (vi) Retains with the Court exclusive jurisdiction over the settlement and this Agreement, including the administration, consummation and enforcement of the settlement and any future claim by Plaintiffs that MLS PIN has reinstated the Buyer-Broker Commission Rule in violation of Paragraph 9 below;
- (vii) Orders that, to the extent not prohibited by law, all claims by any Person against the Released Parties for contribution or indemnification (however denominated) for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment, or otherwise, shall be barred; and
- (viii) Determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the Final Judgment and Order of Dismissal as to MLS PIN shall be final and entered forthwith.

6. EFFECTIVE DATE OF THE SETTLEMENT

- (a) The Effective Date shall be the date when all of the following events shall have occurred and shall be contingent on the occurrence of all of the following events:
 - (i) Entry by the Court of the Preliminary Approval Order;
 - (ii) Final approval by the Court of the settlement set forth in this Agreement, following Class Notice and the Fairness Hearing;
 - (iii) No Party having exercised his, her, or its rights to terminate this Agreement;and

(iv) Entry by the Court of a Final Judgment and Order of Dismissal, and the Final Judgment and Order of Dismissal becoming final, or, in the event that the Court enters an Alternative Judgment and neither Class Plaintiffs nor MLS PIN elects to terminate this Agreement, such Alternative Judgment becoming final. Neither the provisions of Federal Rule 60 nor the All Writs Act, 28 U.S.C. § 1651, shall be taken into account in determining the above-stated times.

(b) Notwithstanding any other provision herein, any proceeding or order, or motion for reconsideration, appeal, petition for a writ of certiorari or its equivalent, pertaining solely to any Fee and Expense Application, shall not in any way delay or preclude the Effective Date, except that no Fee and Expense Award shall be payable from the Settlement Fund until such proceeding or order, or motion for reconsideration, appeal, petition for a writ of certiorari or its equivalent, is adjudicated and becomes final.

7. NOTICE ADMINISTRATOR AND COST OF NOTICE

Pursuant to the Preliminary Approval Order and subject to Court approval, Plaintiffs will engage Kroll Settlement Administration LLC (“Kroll”) to effectuate the notice plan approved by the Court in the Preliminary Approval Order. MLS PIN shall provide Kroll with the sold-property address(es) associated with each Class Member as available to MLS PIN within ten (10) days of the Preliminary Approval Order. Kroll shall bill MLS PIN for, and MLS PIN shall pay, Kroll’s notice and administration fees, costs and expenses. All amounts paid by MLS PIN to Kroll in satisfaction of Kroll’s notice and administration fees, costs and expenses in this Action shall reduce by an equal amount the total funds payable into the Settlement Fund as set forth in paragraph 9 below, such that in no event shall MLS PIN’s total combined obligation to Kroll and the Settlement Fund, whether pursuant to any order of the Court concerning any Fee and Expense Application or

for the benefit of the Settlement Class, or for any other reason, be in excess of three million dollars (\$3,000,000).

8. SCOPE AND EFFECT OF SETTLEMENT

(a) The obligations incurred pursuant to this Agreement shall be in full and final disposition of the following:

- (i) The Action against MLS PIN; and
- (ii) Any and all Released Claims as against all Released Parties; and
- (iii) Any and all Settling Defendant's Claims as against all Releasing Parties.

(b) Upon the Effective Date, each of the Releasing Parties:

- (i) Shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal, shall have, fully, finally, and forever waived, released, relinquished, and discharged all Released Claims against each of the Released Parties, regardless of whether such Releasing Party executes and delivers a proof of claim;
- (ii) Shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Released Parties; and
- (iii) Agrees and covenants not to sue any of the Released Parties on the basis of any Released Claims or to assist any third party in commencing or maintaining any suit against any Released Party related in any way to any Released Claims.

However, notwithstanding the provisions in Paragraph 8(b)(i), (ii) and (iii) above, Plaintiffs shall retain the right to petition the Court for specific performance of this Agreement should MLS PIN at any time materially reinstate the Buyer-Broker Commission Rule in violation of Paragraph 9 below.

(c) Upon the Effective Date, each of the Released Parties:

- (i) Shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal shall have, fully, finally, and forever released and discharged Plaintiffs, Plaintiffs' Counsel, and each and all Settlement Class Members from each and every one of the Settling Defendant's Claims;
- (ii) Shall forever be enjoined from prosecuting the Settling Defendant's Claims; and
- (iii) Agrees and covenants not to sue on the basis of the Settling Defendant's Claims, or to assist any third party in commencing or maintaining any such suit related to the Settling Defendant's Claims.

(d) The releases provided in this Agreement shall become effective immediately upon occurrence of the Effective Date without the need for any further action, notice, condition, or event.

(e) As an express and material condition of this Agreement, the Court shall enter an order, in the Final Judgment and Order of Dismissal, barring, to the extent permitted by law, claims by or against the Released Parties for contribution or indemnification (however denominated) for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment, or otherwise by or against any of the following:

- (i) Any of the other Defendants currently named in the Action;
- (ii) Any other Person formerly named as a party in the Action; or
- (iii) Any other Person subsequently added or joined as a party in the Action.

(f) In the event that this Agreement is terminated pursuant to Paragraph 12, or any condition for the final approval of this Agreement is not satisfied, the release and covenant not to sue provisions of the foregoing paragraphs shall be null and void and unenforceable.

9. CONSIDERATION TO SETTLEMENT CLASS

(a) Subject to the conditions set forth herein, including without limitation Paragraph 9(b) below, MLS PIN agrees that, commencing no later than one hundred eighty (180) days after the Effective Date of Settlement, and continuing for a period of three (3) years thereafter, MLS PIN will adopt and implement as part of its Rules and Regulations the amendments to the Rules and Regulations attached hereto as **Exhibit 3a** in redline form and **Exhibit 3b** in clean form. After the expiration of said three (3) year period, MLS PIN may, at its sole discretion, alter or amend the specific language adopted and implemented pursuant to this Agreement; provided, however, that MLS PIN will not at any time before or following the expiration of the three (3) year period adopt any language, or otherwise promulgate any policy, that materially (re)instates the Buyer-Broker Commission Rule that is the subject of this Agreement.

(b) Should any provision of Paragraph 9(a) above conflict or be inconsistent with: (i) any existing or subsequently adopted, promulgated or issued state or federal statute, regulation, rule, or order (collectively a “Legal Requirement”); or (ii) any existing or future formal or informal regulatory directive, requirement, instruction, guidance, order, decree, settlement, or compromise agreement, whether of general application or directed at or applicable to any one or more of the Defendants (collectively a “Regulatory Requirement”), such Legal Requirement or Regulatory Requirement shall control. In that event, the Agreement and the Final Judgment and Order of Dismissal of MLS PIN from the Action shall be deemed amended to conform to such Legal Requirement or Regulatory Requirement. MLS PIN shall not be liable for engaging in any practice or failing to engage in any practice during the three (3) year period for prospective relief where such conduct was authorized, permitted, or required by a Legal Requirement or Regulatory Requirement.

(c) Within seven (7) days after entry of the Final Judgment and Order of Dismissal, MLS PIN shall deposit the Settlement Fund into a segregated Trust Account maintained by Izard Kindall & Raabe LLP. The Settlement Fund shall not be comingled with any other funds held in trust by Izard Kindall & Raabe LLP. The Settlement Fund shall be in the amount of three million dollars (\$3,000,000.00), minus any amounts paid to Kroll pursuant to paragraph 7 above. The Settlement Fund shall be used to pay outstanding settlement administration and notice costs and expenses and to pay any Fee and Expense Award by the Court pursuant to any Fee and Expense Application filed by Plaintiffs pursuant to paragraph 11. The balance of the Settlement Fund shall be held in an interest-bearing United States government money market fund until the conclusion of the litigation against all Defendants, at which time Plaintiffs shall file a motion with the Court seeking an appropriate disposition of the balance of the Settlement Fund. In no event shall MLS PIN be obligated to pay or reimburse any amounts in excess of three million dollars (\$3,000,000).

(d) If for any reason the Effective Date does not (and cannot) occur, the Settlement Fund held in a segregated Trust Account of Izard Kindall & Raabe LLP, including the interest accumulated, but not including any amounts paid to Kroll for settlement and notice costs and expenses, shall be returned to MLS PIN within five (5) days after the occurrence of the condition or event that irrevocably prevents occurrence of the Effective Date.

10. COOPERATION

(a) In further consideration for the dismissal of Plaintiffs' and the Settlement Class Members' claims against MLS PIN in the Action and the release of the Released Claims, subject to any order from the Court, MLS PIN shall provide cooperation as set forth below.

(b) All cooperation shall be coordinated in such a manner so that all unnecessary duplication and expense is avoided. MLS PIN's cooperation obligations shall apply only to Releasing Parties who act with, by or through Plaintiffs' Counsel pursuant to this Agreement,

including but not limited to Plaintiffs' good faith efforts to utilize documents and data already produced by MLS PIN to reduce the burdens of cooperation when practicable. MLS PIN's cooperation obligations shall in all events be limited to facts and events involving the conduct alleged in the Action.

(c) Nothing in this Agreement shall impose on MLS PIN an obligation to produce or provide any materials or information protected from disclosure by the work-product doctrine, the attorney-client privilege, the common interest privilege, the joint defense privilege, obligations under applicable data privacy or bank secrecy laws or regulations, and/or any other applicable privilege or protection with respect to any documents, deposition testimony, and/or other information requested under this Agreement.

(d) Any documents, deposition testimony, and/or other information provided to Class Plaintiffs pursuant to this provision shall be covered by the protective order in effect in the Action, or, if no protective order is in effect, shall be maintained as confidential and available only to Plaintiffs' Counsel and MLS PIN's Counsel or corporate counsel.

(e) None of the cooperation provisions are intended to, nor do they, waive any applicable privilege or protection.

(f) The information provided pursuant to this Agreement may be utilized by Plaintiffs or Plaintiffs' Counsel solely to assist in the prosecution of the Action and for no other purpose.

(g) Subject to the foregoing, MLS PIN will provide Plaintiffs and the Settlement Class the following cooperation. Nothing herein is intended to prevent the use in pre-trial, trial, or appellate proceedings in this Action of information and/or documents produced in discovery or through the cooperation provisions set forth below:

(i) **Preliminary Approval:** MLS PIN shall cooperate to the extent reasonably necessary in connection with Plaintiffs' Counsel's preparation of the motion for preliminary approval and any related documents necessary to effectuate and implement the terms and conditions of this Agreement.

(ii) **Written Discovery Seeking Documents:**

- a. Plaintiffs may obtain document discovery from MLS PIN, as provided for under the Federal Rules of Civil Procedure. Such discovery shall be served on MLS PIN's Counsel via email. Except as further provided herein, such discovery shall be limited to reasonable requests for production of documents pursuant to Federal Rule of Civil Procedure 34. Such discovery shall not include any requests for admissions. MLS PIN reserves all rights to object to any document discovery Plaintiffs may serve hereunder, which rights MLS PIN reserves to the fullest extent allowable under applicable law. Plaintiffs further agree that MLS PIN's good-faith assertion of any objections to such discovery, or good-faith refusal to produce any requested documents, will not constitute a breach of this Agreement, but will be addressed pursuant to the Federal Rules of Civil Procedure.
- b. As applicable and upon written request, MLS PIN shall provide a business record or authenticity declaration as to any documents produced by MLS PIN pursuant to this Agreement or any other process.

(iii) **Written Interrogatories:**

- a. Plaintiffs may obtain discovery by interrogatory from MLS PIN, as provided for under the Federal Rules of Civil Procedure. Such discovery shall be served on MLS PIN's Counsel via email. Plaintiffs shall be limited to fifteen (15) interrogatories. MLS PIN reserves all rights to object to any written interrogatory discovery Plaintiffs may serve hereunder, which rights MLS PIN reserves to the fullest extent allowable under applicable law. Plaintiffs further agree that MLS PIN's good-faith assertion of any objections to such discovery, or good-faith refusal to produce any requested documents, will not constitute a breach of this Agreement, but will be addressed pursuant to the Federal Rules of Civil Procedure

(iv) **Depositions:**

- a. MLS PIN shall use its reasonable best efforts to make available for deposition during fact discovery in the Action up to two (2) specific current or former MLS PIN employees reasonably requested by Plaintiffs' Counsel and one (1) deposition pursuant to Fed. R. Civ. P. 30(b)(6), as soon as reasonably appropriate after the request.
- b. MLS PIN shall use good faith efforts to assist Plaintiffs' Counsel in arranging reasonably requested depositions with former MLS PIN employees. For the avoidance of doubt (i) it shall not be a breach of this Agreement by MLS PIN if any current employee reasonably refuses to sit for a deposition of his or her own volition; and (ii) if

so requested by Plaintiffs' Counsel, MLS PIN shall waive and provide written waivers of any non-disclosure or confidentiality obligations owed to MLS PIN that may otherwise be argued to preclude current or former employees from cooperating with Plaintiffs' Counsel in their litigation of the Action provided that the testimony and information provided by such current or former employees is subject to the Court's confidentiality order in the Action.

- (iv) **Continuation, Scope, and Termination of Obligations:** MLS PIN's obligations to cooperate under the Agreement are continuing until and shall terminate upon the earlier of: (1) the date when final judgment has been rendered, with no remaining rights of appeal, in the Action against all Defendants; or (2) the close of fact discovery in the Action.

11. FEE AND EXPENSE APPLICATION

In accordance with Federal Rule of Civil Procedure 23(h), Plaintiffs' Counsel may submit an application or applications ("Fee and Expense Application") to the Court for an award of attorneys' fees and expenses. The Fee and Expense Application shall seek no more than nine hundred thousand dollars (\$900,000.00) from the Settlement Fund as attorneys' fees, plus, separately, reimbursement of expenses actually incurred as of the date of the Fee and Expense Application, all to be paid out of the Settlement Fund. MLS PIN shall have no obligation to fund any award by the Court pursuant to the Fee and Expense Application beyond MLS PIN's obligation to fund the Settlement Fund as set forth in paragraph 7 above. Subject to paragraph 7, MLS PIN will take no position with regard to a Fee and Expense Application as set forth in this paragraph.

12. TERMINATION OF THE SETTLEMENT

(a) Class Plaintiffs, through Plaintiffs' Counsel, and MLS PIN, through MLS PIN's Counsel, shall, in each of their separate discretions, have the right to terminate the settlement set forth in this Agreement by providing written notice of their election to do so ("Termination Notice") to all other Parties hereto within thirty (30) days of the date on which any of the following occur:

- (i) The Court enters an order declining to enter the Preliminary Approval Order in any material respect adverse to the terminating party;
- (ii) The Court enters an order refusing to approve this Agreement or any material part of it adverse to the terminating party;
- (iii) The Court enters an order declining to enter the Final Judgment and Order of Dismissal in any material respect adverse to the terminating party;
- (iv) The Court enters an Alternative Judgment that is in any material respect adverse to the terminating party;
- (v) The Final Judgment and Order of Dismissal of MLS PIN from the Action is modified or reversed by a court of appeal or any higher court in any material respect adverse to the terminating party; or
- (vi) An Alternative Judgment is modified or reversed by a court of appeal or any higher court in any material respect adverse to the terminating party.

(b) Notwithstanding Paragraph 12(a) above, the Court's determination as to the Fee and Expense Application or the amount or other terms of any Fee and Expense Award shall not provide grounds for termination of this Agreement or settlement.

(c) Except as otherwise expressly provided herein, in the event the settlement is terminated in accordance herewith, is vacated, is not approved, or the Effective Date fails to occur

for any reason, then the Parties to this Agreement shall be restored to their respective statuses in the Action as of the Execution Date without prejudice to any of MLS PIN's defenses, and, except as otherwise expressly provided herein, the Parties shall proceed in all respects as if this Agreement and any related orders had not been entered.

13. MISCELLANEOUS

(a) The Parties to this Agreement intend the settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Plaintiffs and/or any Settlement Class Member against the Released Parties with respect to MLS PIN and the Released Claims. Accordingly, Plaintiffs and MLS PIN agree not to assert in any judicial proceeding that the Action was brought by Plaintiffs or defended by MLS PIN in bad faith or without a reasonable basis. The Parties further agree not to assert in any judicial proceeding that any Party violated Federal Rule of Civil Procedure 11. The Parties agree that the amounts paid and the other terms of the settlement were negotiated at arm's length in good faith by the Parties and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

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

(c) The administration and consummation of the settlement as embodied in this Agreement shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders relating to the Fee and Expense Application and enforcing the terms of this Agreement. Notwithstanding the foregoing, nothing in this Paragraph shall be deemed an admission or waiver by MLS PIN of any defense or objection other than for matters pertaining to this Agreement.

(d) For the purpose of construing or interpreting this Agreement, Plaintiffs and MLS PIN agree that it is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

(e) This Agreement shall constitute the entire agreement between Plaintiffs and MLS PIN pertaining to the settlement of the Action and supersedes any and all prior and contemporaneous undertakings of Plaintiffs and MLS PIN in connection therewith. All terms of this Agreement are contractual and not mere recitals. The terms of this Agreement are and shall be binding upon each of the Parties hereto, their heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns, and upon all other Persons claiming any interest in the subject matter hereto through any of the Parties hereto including any Settlement Class Members.

(f) This Agreement may be modified or amended, except as otherwise expressly provided herein, only by a writing executed by Plaintiffs and MLS PIN subject (if after entry of the Preliminary Approval Order or the Final Judgment and Order of Dismissal) to approval by the Court. Amendments and modifications may be made without notice to the Class unless notice is required by law or by the Court.

(g) Nothing in this Agreement constitutes an admission by MLS PIN as to the merits of the allegations made in the Action, the validity of any defenses that could be asserted by MLS PIN, or the appropriateness of certification of any class other than the Settlement Class under Federal Rule of Civil Procedure 23 for purposes of settlement only. This Agreement is without prejudice to the rights of MLS PIN to do any of the following:

- (i) Challenge the Court's certification of any class, including the Class, in the Action should the Agreement not be approved or implemented for any reason; and/or
- (ii) Oppose any certification or request for certification in any other proposed or certified class action.

(h) All terms of this Agreement shall be governed by and interpreted according to the substantive laws of the Commonwealth of Massachusetts without regard to its choice-of-law principles.

(i) Except as provided in Paragraph 10, MLS PIN, Plaintiffs, their respective counsel, and the Settlement Class Members hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the District of Massachusetts solely for the purpose of any suit, action, proceeding or dispute arising out of or relating to this Agreement or the applicability of this Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein.

(j) This Agreement may be executed in counterparts by Plaintiffs and MLS PIN, and a facsimile or .pdf signature shall be deemed an original signature for purposes of executing this Agreement.

(k) Plaintiffs and MLS PIN acknowledge that they have been represented by counsel and have made their own investigations of the matters covered by this Agreement to the extent they have deemed it necessary to do so. Therefore, Plaintiffs and MLS PIN and their respective counsel agree that they will not seek to set aside any part of this Agreement on the grounds of mistake. Moreover, Plaintiffs and MLS PIN and their respective counsel understand, agree, and expressly assume the risk that any fact may turn out hereinafter to be other than, different from, or

contrary to the facts now known to them or believed by them to be true, and further agree that this Agreement shall be effective in all respects notwithstanding and shall not be subject to termination, modification, or rescission by reason of any such difference in facts.

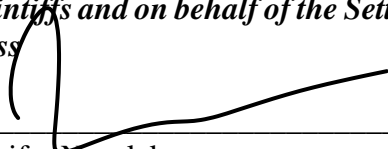
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(m) Each of the undersigned attorneys represents that he is fully authorized to enter into the terms and conditions of, and to execute, this Agreement. Each of the undersigned attorneys shall use their best efforts to effectuate this Agreement.

14. SIGNATURES

WITNESS WHEREOF, the Parties hereto have agreed to this Agreement as of the date first herein written above.

Plaintiffs and on behalf of the Settlement Class



Jennifer Nosalek

Randy Hirschorn

Tracey Hirschorn

Robert A. Izard (pro hac vice)
Douglas P. Needham, BBO No. 67101
Craig A. Raabe (pro hac vice)
Seth R. Klein (pro hac vice)
Christopher M. Barrett (pro hac vice)
IZARD, KINDALL & RAABE, LLP
29 South Main Street, Suite 305
West Hartford, CT 06107

On behalf of Defendant MLS PIN

By:

Title:

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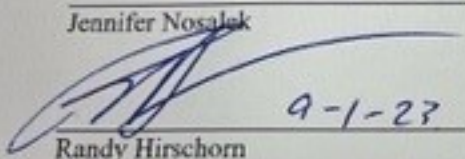
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On behalf of Defendant MLS PIN

Jennifer Nosalek

By:


9-1-23

Randy Hirschorn

Title:

Tracey Hirschorn

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On behalf of Defendant MLS PIN

Jennifer Nosalek

By:

Title:

Randy Hirschorn

Tracey Hirschorn

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Jon M. Anderson
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Plaintiffs and on behalf of the Settlement Class

On behalf of Defendant MLS PIN

Jennifer Nosalek

By:

Randy Hirschorn

Title:

Tracey Hirschorn

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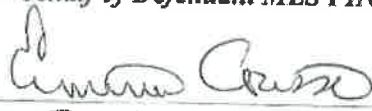
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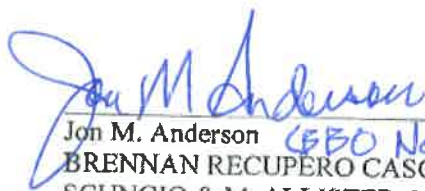
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On behalf of Defendant MLS PIN



By: Erminio Corasso
Title: President and CEO



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Attorneys for Plaintiffs