

SETTLEMENT AGREEMENT AND RELEASE

The Parties, by and through their respective counsel, in consideration for and subject to the promises, terms, and conditions contained in this Settlement Agreement, hereby warrant, represent, acknowledge, covenant, stipulate and agree, subject to Court approval pursuant to the Florida Rules of Civil Procedure, as follows:

1. DEFINITIONS

As used herein, the following terms have the meanings set forth below:

1.1 “ABRI” means Defendant American Behavioral Research Institute, LLC d/b/a Relaxium.

1.2 “Action” means this putative class action lawsuit pending against American Behavioral Research Institute LLC, captioned *Lipsky et al. v. American Behavioral Research Institute, LLC dba Relaxium*, Case No. 50-2023-CA-011526-XXXX-MB, filed in Florida Circuit Court, Fifteenth Judicial District, Palm Beach County.

1.3 “Approved Claims” means those Claims which are approved by the Settlement Administrator for payment.

1.4 “Attorneys’ Fees and Expenses” means any award of attorneys’ fees and expenses.

1.5 “Claim” means any claim submitted by a Settlement Class Member.

1.6 “Claim Form” means the proof of claim and release form substantially in the form attached as Exhibit A.

1.7 “Claims Period” means the period between the Notice Date until the deadline set forth in paragraph 6.4.

1.8 “Class Notice” means the Notice of Pendency and Proposed Settlement of Class Action, substantially in the form attached as Exhibit B.

1.9 “Court” means the Florida Circuit Court, Palm Beach County.

1.10 “Defense Counsel” means the law firm of Wilson Elser Moskowitz Edelman & Dicker LLP.

1.11 “Direct Notice” means the Settlement Administrator’s provision of the Summary Notice by email or mail to Settlement Class Members, as provided in paragraph 6.2.2.

1.12 “Effective Date” shall mean thirty (30) days from the date that the Court enters the Final Approval Order and Final Judgment.

1.13 “Final Approval Order and Final Judgment” means the final approval order and judgment dismissing and closing the Action, with the Final Approval Order in the form attached as Exhibit E.

1.14 “Final Hearing” means the hearing held by the Court to consider and determine whether the requirements for certification of the Settlement Class have been met and whether the Settlement should be approved as fair, reasonable, and adequate; whether Plaintiffs’ Counsels’ Attorneys’ Fees and Expenses should be approved; and whether the final judgment approving the Settlement and dismissing the Action on the merits and with prejudice should be entered. The Final Hearing may, from time to time and without further notice to the Settlement Class (except those who have filed timely and valid objections and requested to speak at the Final Hearing), be continued or adjourned by order of the Court.

1.15 “Notice Date” means fourteen (14) days after the Court’s entry of the Preliminary Approval Order.

1.16 “Parties” means ABRI and Plaintiffs.

1.17 “Plaintiffs” means Plaintiff Jill Lipsky and Linda Day.

1.18 “Plaintiffs’ Counsel” means Bursor & Fisher, P.A., and all of the attorneys, associates, law firms, and legal representatives, who have represented Plaintiffs and the putative class.

1.19 “Preliminary Approval” means the Court’s preliminary approval of the Settlement, providing for notice to the Settlement Class, and other related matters. “Preliminary Approval Order” means the order preliminarily approving the Settlement, providing for notice to the Settlement Class, and other related matters in the form attached as Exhibit D.

1.20 The “Products” means ABRI’s Relaxium® products.

1.21 “Released Parties” means (a) ABRI and its past, present, and future parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities, whether foreign or domestic, that are owned or controlled by ABRI; and (b) the past, present, and future shareholders, officers, directors, members, agents, employees, independent contractors, consultants,

administrators, representatives, fiduciaries, insurers, predecessors, successors, and assigns of the entities in part (a) of this paragraph.

1.22 “Settlement” and “Settlement Agreement” mean the settlement described in this Stipulation of Settlement.

1.23 “Settlement Administrator” means AI Class Solutions, which shall provide settlement notice and administration services pursuant to the terms of this Settlement Agreement.

1.24 “Settlement Class” means all persons residing in the United States who purchased the Products for personal use (and not for resale) from June 23, 2019 through the date of Preliminary Approval. The Settlement Class shall not include persons who are domiciled outside of the United States, its territories, and/or its possessions. Additionally, excluded from the Settlement Class are (a) directors and officers of ABRI, (b) the Court, the Court staff, as well as any appellate court to which this matter is ever assigned and its staff, (c) Defense Counsel, (d) Plaintiffs’ Counsel, (e) individuals who have already received a full refund from ABRI, and (f) any other individuals whose claims against ABRI already have been adjudicated to a final judgment.

1.25 “Settlement Class Member” and “Class Member” mean and includes every member of the Settlement Class who does not validly and timely request exclusion from the Settlement Class.

1.26 “Settlement Funds” means the funds sufficient to pay the Approved Claims.

1.27 “Settlement Website” means an Internet website that the Settlement Administrator shall establish to inform the Settlement Class of the terms of this Settlement, their rights, dates, deadlines, and related information.

1.28 “Summary Notice” means the Summary Notice of Settlement, substantially in the form attached as Exhibit C.

2. RECITALS

A. On March 3, 2023, Plaintiff Lipsky filed a putative class action lawsuit alleging violations of California’s False Advertising Law, Unfair Competition Law, Consumers Legal Remedies Act, California’s Automatic Purchase Renewal Law and the common law, related to ABRI’s advertising and marketing of the Products. Shortly thereafter, the Parties began discussions regarding ways to resolve Plaintiff’s claims. Plaintiff Lipsky has dismissed that lawsuit.

B. Throughout this process, ABRI discussed settlement with Plaintiffs' Counsel in this Action. As a result of the Parties' extensive arm's-length negotiations, the Parties reached the Settlement set forth in this Settlement Agreement, which memorializes the Parties' agreement. The Parties intend that this Settlement completely resolve any and all claims that were, or could have been, asserted in the Action on behalf of individuals in the United States.

C. ABRI vigorously disputes the claims alleged in the Action and is entering into this Settlement to avoid burdensome and costly litigation. The Settlement is not an admission of wrongdoing, fault, liability, or damage of any kind. Among other things, ABRI disputes that Plaintiffs' claims have merit, that Plaintiffs will be able to certify any class in the Action for litigation purposes, and that Plaintiffs and the putative class would be entitled to any relief. Without admitting any of the allegations made in the Action or any liability whatsoever, ABRI is willing to enter into this Settlement solely in order to eliminate the burdens, distractions, expense and uncertainty of protracted litigation and in order to obtain the releases and final judgment contemplated by this Settlement.

D. Plaintiffs and Plaintiffs' Counsel believe that the claims asserted in the Action have merit. Nevertheless, they have examined and considered the benefits to be obtained under this Settlement, the risks associated with the continued prosecution of this complex and potentially time-consuming litigation, and the likelihood of ultimate success on the merits, and have concluded that the Settlement is fair, adequate, reasonable and in the best interests of the Settlement Class.

E. The Parties desire to settle the Action in its entirety with respect to all potential claims arising out of the same or similar facts alleged in the Complaint filed in the Action, with the exception of Settlement Class Members' personal injury claims, if any. The Parties intend this Settlement Agreement to bind ABRI, Plaintiffs, and all other Settlement Class Members who do not timely exclude themselves.

3. CONFIDENTIALITY

3.1 This Settlement Agreement and its terms, including the fact of the proposed Settlement, shall remain completely confidential from anyone other than ABRI, Defense Counsel, Plaintiffs, and Plaintiffs' Counsel until all documents are executed and the Motion for Preliminary Approval is filed with the Court.

4. CERTIFICATION OF THE SETTLEMENT CLASS

4.1 The Parties stipulate and agree that, subject to Court approval, the Settlement Class should be conditionally certified pursuant to Florida Rules of Civil Procedure solely for purposes of the Settlement embodied in this Settlement Agreement. If, for any reason, this Settlement Agreement is not approved by the Court, the stipulation for certification and all of the agreements contained herein shall be considered null and void as provided in paragraph 7.4.

4.2 ABRI does not consent to certification of the Settlement Class (or to the propriety of class treatment) for any purpose other than to effectuate this Settlement. ABRI's agreement to provisional certification does not constitute an admission of wrongdoing, fault, liability, or damage of any kind, or that any class certification would be appropriate for litigation or any other purpose other than to effectuate this Settlement.

4.3 If for any reason the Effective Date does not occur or this Settlement Agreement is terminated, disapproved by any court (including any appellate court), or not consummated for any reason, the order certifying the Settlement Class for purposes of effectuating the Settlement (and all preliminary and final findings regarding that class certification order) shall be automatically vacated upon notice of the same to the Court. The Action shall then proceed as though the Settlement Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, and the Action shall return to its procedural posture on the date this Settlement Agreement was signed. Additionally, the Parties and their counsel shall not refer to or invoke the vacated findings and/or order relating to class settlement or the Florida Rules of Civil Procedure if this Settlement Agreement is not consummated and the Action is later litigated and contested by ABRI under Florida Rules of Civil Procedure, Federal Rule of Civil Procedure 23 or any equivalent statute or rule.

5. SETTLEMENT CONSIDERATION

5.1 **Cash Payments to Settlement Class Members.** Defendant will pay all Approved Claims to Settlement Class Members up to a combined total cap of \$1,300,000 (the "Cap"). In consideration of the releases and dismissals set forth in this Settlement Agreement, subject to Court approval, and subject to the other terms and conditions of this Settlement Agreement, Settlement Class Members who meet the requirements and follow the procedures set forth in paragraphs 6.3 to 6.7 shall

be entitled to the following payment:

5.1.1 **Cash Payments.** Settlement Class Members shall be eligible to submit a claim for payment of a total of Nine Dollars (\$9.00) per household.

5.1.2 **Proration of Cash Refunds.** If the total amount of Approved Claims exceeds the Cap, the Approved Claims will be adjusted on a *pro rata* basis. In no event shall ABRI be required to pay in excess of the Cap for Approved Claims.

5.1.3 Class Members may choose to receive claims payments via electronic payments (e.g., ACH, InstantPay, PayPal, Venmo, Zelle, etc.) or paper check.

5.2 **Notice and Administration Expenses.** As set forth in paragraph 6, ABRI agrees to pay the costs of settlement notice and administration services. These costs are paid separate and apart from the payment of Approved Claims and in no way will reduce the payment of Approved Claims or erode the combined total of the Cap.

6. NOTICE AND SETTLEMENT ADMINISTRATION

6.1 **Neutral Settlement Administrator.** Subject to Court approval, the Settlement Administrator shall provide settlement notice and administration services, in accordance with the terms of this Settlement Agreement. ABRI shall pay the actual costs of settlement notice and administration, which includes any actual postage or check processing expenses incurred in connection with settlement notice and administration. This amount is in addition to, and in no way reduces ABRI's payment of Approved Claims. Under no circumstances shall Plaintiffs or their counsel be obligated to pay any portion of notice and administration costs.

6.2 **Notice Procedures.** The Parties agree to the following forms and methods of notice to the Settlement Class:

6.2.1 **Settlement Website.** A copy of the Class Notice—together with the Claim Form, the Settlement Agreement, the Motions for Preliminary and Final Approval Orders and Final Judgment, the Motion for Attorneys' Fees and Expenses, the Complaint, and all Court orders pertaining to the Settlement—shall be posted and available for download on the Settlement Website maintained by the Settlement Administrator. The Settlement Website shall be completed and be "live" by no later than the Notice Date. The information shall remain available on the Settlement Website until the Effective

Date.

6.2.2 **Direct Notice.** The Settlement Administrator shall provide Direct Notice by e-mailing a copy of the Summary Notice to the e-mail address of record of the Members of the Settlement Class in ABRI's files, as well as any other reasonably accessible contact information obtained by the Parties. The Summary Notice shall contain a link to the Settlement Website (which shall be hyperlinked in the electronic version of the Summary Notice) and the instructions for the Claim Form. To facilitate the distribution of the Summary Notice, within seven (7) days of the Court's entry of the Preliminary Approval Order, ABRI shall provide the Settlement Administrator with the names, e-mail addresses, and mailing addresses for the Members of the Settlement Class in ABRI's files. If ABRI does not have a valid e-mail address for a Member of the Settlement Class, the Settlement Administrator shall mail a copy of the Summary Notice via postcard to that Member of the Settlement Class. An e-mail address is not considered valid if it results in a hard bounce back.

6.2.3 The names, e-mail addresses, and mailing addresses are personal information about the Members of the Settlement Class and shall be provided to the Settlement Administrator solely for the purposes of providing notice, processing requests for exclusion, and administering payment. The Settlement Administrator shall execute an agreement to treat all such information as "Highly Confidential," and take all reasonable steps to ensure that all such information is used solely for the purpose of administering this Settlement.

6.2.4 The Settlement Administrator shall complete the e-mail notice (and, if applicable, the notice via postcard) by the Notice Date. If, despite using its best efforts, the Settlement Administrator is unable to complete the notice by the Notice Date, the Settlement Administrator shall inform the Parties of the status of the notice, and notify the Parties when the notice has been completed.

6.2.5 In addition to the notice required by the Court, the Parties may jointly agree to provide additional notice to the Members of the Settlement Class, in a form and frequency to be agreed to by Plaintiffs and ABRI.

6.2.6 If this notice plan is not approved, or is modified in a material way by the Court, ABRI shall have the right to unilaterally terminate the Settlement.

6.3 **Claim Form.** Settlement Class Members who wish to receive a cash payment will be

required to submit a Claim Form. The Claim Form shall, among other things, require the Settlement Class Members to certify, under penalty of perjury, that they purchased the Products for individual use (not resale) in the United States, and for Class Members who did assert that they did not receive Direct Notice, provide Proof of Purchase of the Products or identify, to the best of the Class Members' recollection or records, when and where they purchased the Products. The Claim Forms shall be submitted to the Settlement Administrator via U.S. mail or electronically through the Settlement Website.

6.4 **Claims Period.** To be valid, Claim Forms, requests to opt out, and objections must be received by the Settlement Administrator no later than sixty (60) days from the Notice Date.

6.5 **Process for Opting Out of Settlement.** The Class Notice shall provide a procedure whereby Members of the Settlement Class may exclude themselves from the Settlement. The Members of the Settlement Class shall have no less than sixty (60) days following the Notice Date to exclude themselves. Any Member of the Settlement Class who does not timely and validly request exclusion shall be a Settlement Class Member and shall be bound by the terms of this Settlement. As soon as practicable after the opt-out deadline, the Settlement Administrator shall provide the Parties and the Court with a list of the individuals who timely and validly requested exclusion from the Settlement.

6.6 **Process for Objections.** The Class Notice shall provide a procedure whereby Settlement Class Members may object to the Settlement. Objections shall be filed with the Court and served on Plaintiffs' Counsel and Defense Counsel within sixty (60) days from the Notice Date. Any objection shall, at a minimum, contain: (a) the personal signature of the objector notwithstanding whether they have retained counsel; (b) a detailed statement of such Settlement Class Member's specific objections to any matters before the Court; (c) the grounds for such objections; (d) proof of membership in the Settlement Class, and (e) whether the Settlement Class Member intends to appear at the Final Hearing, as well as all other materials the Settlement Class Member wants the Court to consider.

6.7 **Review of Claims Submitted.** The Settlement Administrator shall determine whether a submitted Claim Form meets the requirements set forth in this Settlement Agreement. Each Claim Form shall be submitted to and reviewed by the Settlement Administrator, who shall determine whether

each Claim shall be allowed. The Settlement Administrator shall use best practices and all reasonable efforts and means to identify and reject duplicate and/or fraudulent claims, including, without limitation, indexing all payments provided to the Settlement Class Members, cross referencing each Claim with the records ABRI provided, and otherwise confirming to the extent possible that the Claim Form has been submitted by an actual purchaser of the Products.

6.8 Rejection of Claims Forms. Claim Forms that do not meet the requirements set forth in this Settlement and/or in the Claim Form instructions shall be rejected. Where a good faith basis exists, the Settlement Administrator may reject a Claim Form for, among other reasons, the following: (a) the Claim Form identifies a product that is not covered by the terms of this Settlement; (b) failure to fully complete and/or sign the Claim Form; (c) illegible Claim Form; (d) the Claim Form is fraudulent; (e) the Claim Form is duplicative of another Claim Form; (f) the person submitting the Claim Form is not a Settlement Class Member; (g) the person submitting the Claim Form requests that payment be made to a person or entity other than the Settlement Class Member for whom the Claim Form is submitted; (h) failure to timely submit a Claim Form; or (i) the Claim Form otherwise does not meet the requirements of this Settlement Agreement. Claim Forms that do not meet the terms and conditions of this Settlement shall be promptly rejected by the Settlement Administrator. The Settlement Administrator shall have up to fourteen (14) days from the end of the Claims Period to exercise the right of rejection. The Settlement Administrator shall notify the claimant using the contact information provided in the Claim Form of the rejection. Plaintiffs' Counsel and Defense Counsel shall be provided with copies of all such notifications of rejection, provided that the copies are provided by the Settlement Administrator in redacted form that does not contain the name, e-mail address, mailing address, or other personal identifying information of the claimant. If any claimant whose Claim Form has been rejected, in whole or in part, desires to contest such rejection, the claimant must, within fourteen (14) days from the date the Settlement Administrator sends the rejection, transmit to the Settlement Administrator by e-mail or U.S. mail a notice and statement of reasons indicating the claimant's grounds for contesting the rejection, along with any supporting documentation, and requesting further review by the Settlement Administrator. No person shall have any claim against ABRI, Defense Counsel, Plaintiffs, Plaintiffs' Counsel, and/or the Settlement Administrator based on

any eligibility determinations, distributions, or awards made in accordance with this Settlement. This provision does not affect or limit in any way the right of review by the Court of any disputed Claim Forms as provided in this Settlement.

6.9 Information Regarding Claims Submitted, Approved, and Rejected. Within seven (7) days from the end of the Claims Period, the Settlement Administrator shall provide a spreadsheet to Plaintiffs' Counsel and Defense Counsel that contains information sufficient to determine: (a) the number of Settlement Class Members that submitted a claim; (b) the number of submitted Claim Forms that are valid and timely, and which are not; (c) the number of submitted Claim Forms the Settlement Administrator intends to treat as Approved Claims; and (d) the number of submitted Claim Forms the Settlement Administrator has denied and the reason(s) for the denials. The Settlement Administrator shall provide supplemental spreadsheets with respect to any Claim Forms submitted after the expiration of the deadline, within a reasonable time after receiving such Claim Forms. The materials that the Settlement Administrator provides to Plaintiffs' Counsel pursuant to this paragraph shall not contain the names, e-mail addresses, mailing addresses, or other personal identifying information of the Settlement Class Members. The Settlement Administrator shall retain the originals of all Claim Forms (including envelopes with postmarks, as applicable), and shall make copies available to Plaintiffs' Counsel or Defense Counsel (with redactions to remove the names, e-mail addresses, mailing addresses, or other personal identifying information of the Settlement Class Members) upon request. All such spreadsheets and related materials (including Claim Forms) shall be designated as "Highly Confidential" as provided in paragraph 6.2.3. Should Plaintiffs' Counsel believe they require the name, e-mail address, mailing address, or other personal identifying information of any particular Settlement Class Member, the Parties shall meet and confer, on a case-by-case basis, to determine whether the release of such personal identifying information is necessary. Any disputes regarding whether such information may be released to Plaintiffs' Counsel shall be presented to the Court or a referee appointed by the Court for summary and non-appealable resolution. The Settlement Administrator shall only release personal identifying information upon authorization of ABRI and/or the authorization of the Court or referee.

6.10 Calculation of Cash Payments. In addition to the spreadsheet(s) specified in

paragraph 6.9, within seven (7) days from the Court's entry of the Final Approval Order, the Settlement Administrator shall provide to Defense Counsel and Plaintiffs' Counsel information sufficient to calculate the cash payments for the Approved Claims, calculated in accordance with Paragraph 5.

6.11 Timing of Payment to Settlement Administrator. ABRI shall deliver the funds referenced in paragraph 5.1 to the Settlement Administrator on the later of the following dates:

(a) within twenty-one (21) days after the time for appeal or writ of the Final Approval Order and Final Judgment has expired; or

(b) if there is an appeal and the Settlement and/or the Final Approval Order and Final Judgment are affirmed, within twenty-one (21) days after the expiration of the last day to the time period during which further petition for hearing, appeal, or writ of certiorari can be taken has expired.

If there is an appeal or writ of the Final Approval Order and Final Judgment and the Settlement and/or the Final Approval Order and Final Judgment are reversed in whole or in part, the Parties shall meet and confer on next steps, but ABRI shall have no obligation to deliver these funds to the Settlement Administrator until further order of the Court.

6.12 The Settlement Administrator shall agree to hold these funds, and administer the payment of Approved Claims, subject to the continuing jurisdiction of the Court and from the earliest possible date, as a qualified settlement fund as defined in Treasury Regulation § 1.468B-1, *et seq.* Any taxes owed by the settlement fund shall be paid by the Settlement Administrator out of the settlement fund.

6.13 Procedures for Distribution of Cash Payments. Within fourteen (14) days after receiving the funds to pay Approved Claims pursuant to paragraph 6.11, the Settlement Administrator shall have substantially completed issuance of the payments to the Settlement Class Members for the Approved Claims, which shall be sent to Settlement Class Members in the form elected in their Claim Forms, including through electronic distribution, or in the form of checks that are mailed to the addresses provided on the submitted Claim Forms. In the event that a Settlement Class Member elected for electronic distribution, but such distribution method is not available for that Member, the Settlement Administrator will mail a check if there is a valid mailing address for that Settlement Class Member.

7. COURT APPROVAL

7.1 The Parties agree to recommend approval of the Settlement to the Court as fair and reasonable and to undertake their best efforts to obtain such approval. “Best efforts” includes that the Parties may not oppose any application for appellate review by one of the Parties in the event the Court denies preliminary or final approval. The Parties therefore agree that, by no later than June 30, 2023, the Plaintiffs shall submit this Settlement Agreement, together with its exhibits, to the Court and shall apply for entry of the Preliminary Approval Order.

7.2 Plaintiffs’ Counsel shall draft the Motion for Preliminary Approval requesting issuance of the Preliminary Approval Order as soon as practicable after execution of this Settlement Agreement, and provide that draft to Defense Counsel at least seven (7) days before filing the Motion with the Court. The Motion for Preliminary Approval shall be written in a neutral manner that does not contain inflammatory language about the Parties or their perceived conduct resulting in the Action.

7.3 In accordance with the schedule set in the Preliminary Approval Order, Plaintiffs’ Counsel shall draft the motion for Final Approval Order and Final Judgment and provide that draft to Defense Counsel at least seven (7) days before filing such motion with the Court.

7.4 In the event that the Settlement is not approved (following the exhaustion of any appellate review), then (a) this Settlement Agreement shall be null and void and of no force or effect, (b) all payments provided to the Settlement Administrator, including any and all interest earned thereon, less monies expended toward settlement administration and notice, shall be returned to ABRI within ten (10) days from the date the Settlement Agreement becomes null and void, (c) any release shall be of no force or effect, and (d) the Settlement may not be referred to or used as evidence or for any other purpose whatsoever in the Action or in any other action or proceeding. In such event, the Action will proceed as if no settlement has been attempted, and the Parties shall be returned to their respective procedural postures existing on the date the Settlement is executed, so that the Parties may take such litigation steps that they otherwise would have been able to take absent the pendency of this Settlement. However, any reversal, vacatur, or modification on appeal of (a) any amount of the Attorneys’ Fees and Expenses awarded by the Court to Plaintiffs’ Counsel, or (b) any determination by the Court to award less than the amounts requested in Attorneys’ Fees and Expenses shall not give

rise to any right of termination or otherwise serve as a basis for termination or delay of this Settlement.

8. ATTORNEYS' FEES, EXPENSES AND PLAINTIFFS SERVICE AWARD

8.1 The Parties have not agreed to the payment of any particular amount of attorneys' fees and/or expenses. ABRI agrees only to pay the Attorneys' Fees and Expenses to Plaintiffs' Counsel that are awarded by the Court. The Parties have not discussed, and have no agreement on the amount of any award of Attorneys' Fees and Expenses to Plaintiffs' Counsel. Any award of Attorneys' Fees and Expenses shall be decided by the Court. At least seven (7) days before filing a motion seeking any award of Attorneys' Fees and Expenses, Plaintiffs' Counsel will disclose to ABRI the amount of fees they intend to seek in their application to the Court for an award of Attorneys' Fees and Expenses for the benefit of Plaintiffs and all other Settlement Class Members. It is the Parties' understanding and agreement that no other counsel will be entitled to an independent award of attorneys' fees or expenses.

8.2 ABRI reserves the right, if any, to object to and oppose the amount of attorneys' fees requested in Plaintiffs' Counsel's application for Attorneys' Fees and Expenses. Settlement Class Members shall also have at least thirty (30) days to object to and oppose Plaintiffs' Counsel's request for Attorneys' Fees and Expenses by filing with the Court and serving on Plaintiffs' Counsel and Defense Counsel any objections relating to the Motion for Attorneys' Fees and Expenses.

8.3 The Parties acknowledge that Plaintiffs will apply to the Court for approval of Class Representative Service Payments in recognition of their efforts and activities in furtherance of both the litigation and this Agreement. The Class Representative Service Payment shall be paid in addition to the Approved Claims and will not be distributed to Plaintiffs until after the Effective Date. If the Court approves the Agreement and the Class Representative Service Payments to Plaintiffs, the Class Representative Service Payments approved by the Court will be paid by the Settlement Administrator within twenty-one (21) days after the Effective Date. The Parties represent that their negotiation of, and agreement to, the Service Award did not occur until after the substantive terms of the Agreement had been negotiated and agreed to in principle.

8.4 The Court's award(s) of Attorneys' Fees and Expenses and Class Representative Service Payment, if any, shall be separate from its determination of whether to approve the Settlement. In the event the Court approves the Settlement, but declines to award Plaintiffs' Counsels' Attorneys'

Fees and Expenses in the amounts requested by Plaintiffs' Counsel (or any attorneys' fees at all), the Settlement will nevertheless be binding on the Parties and the Settlement Class. ABRI, Plaintiffs, and Plaintiffs' Counsel will have the right to appeal the award of Attorneys' Fees and Expenses, though any such appeal shall not delay or otherwise affect the Effective Date of the Settlement Agreement, including but not limited to the release of claims set forth in Paragraph 9, the dismissal of the Action set forth in Paragraph 9.5, the payment of Approved Claims, and the settlement fund and distribution dates set forth in Paragraph 6.

8.5 The Court's award of Attorneys' Fees and Expenses, if any, shall be paid by ABRI via wire transfer or check to Plaintiffs' Counsel within ten (10) days after the Effective Date. Plaintiffs' Counsel shall provide all information necessary to effectuate such transmission.

9. RELEASES AND DISMISSAL OF ACTIONS

9.1 **Release by Plaintiffs and Settlement Class Members.** As of the Effective Date, the Settlement Class Members and their respective heirs, executors, administrators, representatives, agents, partners, successors, and assigns shall have fully, finally, and forever released, relinquished, and discharged any and all past, present, and future claims, actions, demands, causes of action, suits, debts, obligations, damages, rights and liabilities, that were brought, could have been brought, or are related to the same facts underlying the claims asserted in the Action or regarding the Products at issue, including: (a) any allegedly false, misleading, incomplete, or inaccurate statement or any alleged omission regarding the efficacy of the Product and (b) an allegedly deceptive or misleading conduct with respect to ABRI's automatic renewal billing policy with respect to the Product, known or unknown, recognized now or hereafter, existing or preexisting, expected or unexpected, pursuant to any theory of recovery (including, but not limited to, those based in contract or tort, common law or equity, federal, state, territorial, or local law, statute, ordinance, or regulation), against the Released Parties, for any type of relief that can be released as a matter of law, including, without limitation, claims for monetary relief, damages (whether compensatory, consequential, punitive, exemplary, liquidated, and/or statutory), costs, penalties, interest, attorneys' fees, litigation costs, restitution, or equitable relief. Notwithstanding the foregoing, the release shall not include any claims relating to Settlement Class Members' personal injuries, nor any claims relating to the continued enforcement of

the Settlement or any other Court orders.

9.2 As of the Effective Date, ABRI shall have fully, finally, and forever released, relinquished, and discharged all claims arising out of the initiation or prosecution of the Action that are known to ABRI as of the Effective Date, against Plaintiffs and/or Plaintiffs' Counsel. Notwithstanding the foregoing, this release shall not include any future claims relating to the continued enforcement of the Settlement and/or any other Court orders. This release does not constitute a general release.

9.3 After entering into this Settlement, the Settlement Class Members and/or Plaintiffs may discover facts other than, different from, or in addition to, those that they know or believe to be true with respect to the claims released by this Settlement, but they intend to release fully, finally and forever any and all such claims other than any Settlement Class Member's claims for personal injuries. The Settlement Class Members and Plaintiffs expressly agree that, upon the Effective Date, they waive and forever release any and all provisions, rights, and benefits conferred by:

- a) Section 1542 of the California Civil Code, which reads:

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.

and

- b) any law of any state, territory, or possession of the United States or principle of common law, which is similar, comparable, or equivalent to section 1542 of the California Civil Code.

9.4 Upon the Effective Date, the Action shall be dismissed with prejudice.

9.5 The Court shall retain jurisdiction over this Action to enforce the terms of this Settlement. In the event that any applications for relief are made, such applications shall be made to the Court. To avoid doubt, the Final Judgment applies to and is binding upon the Parties, the Settlement Class Members, and their respective heirs, successors, and assigns.

10. ABRI'S DENIAL OF LIABILITY; AGREEMENT AS DEFENSE IN FUTURE PROCEEDINGS

10.1 ABRI has indicated its intent to vigorously contest each and every claim in the Action, and denies all of the material allegations in the Action. ABRI enters into this Settlement Agreement without in any way acknowledging any fault, liability, or wrongdoing of any kind. ABRI nonetheless has concluded that it is in its best interests that the Action be settled on the terms and conditions set forth herein in light of the expense that would be necessary to defend the Action, the benefits of disposing of protracted and complex litigation, and the desire of ABRI to conduct its business unhampered by the distractions of continued litigation.

10.2 Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiation or proceedings connected with it, shall be construed as an admission or concession by ABRI of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind.

10.3 To the extent permitted by law, neither this Settlement Agreement, nor any of its terms, nor any of the negotiations or proceedings connected with it, shall be offered as evidence or received in evidence in any pending or future civil, criminal, administrative, or other action or proceeding to establish any liability or admission by ABRI.

10.4 To the extent permitted by law, this Settlement Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding which may be instituted, prosecuted, or attempted for claims covered by the releases in this Settlement Agreement.

11. MODIFICATION OR TERMINATION OF THE SETTLEMENT

11.1 ABRI may, at its sole discretion, terminate this Settlement Agreement if the number of Settlement Class Members who seek exclusion from the Settlement Class exceeds five hundred (500).

11.2 The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that after entry of the Final Approval Order and Final Judgment, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all exhibits) without further notice to the Settlement Class or approval by the

Court if such changes are consistent with the Court's Final Approval Order and Final Judgment and do not materially alter, reduce, or limit the rights of Settlement Class Members.

11.3 In the event the terms or conditions of this Settlement Agreement, other than terms pertaining to the Attorneys' Fees and Expenses, are materially modified by any court, ABRI may, in its sole discretion and within thirty (30) days of such material modification, declare this Settlement null and void as provided in paragraph 7.4. For purposes of this paragraph, material modifications include any modifications to the definitions of the Settlement Class, Settlement Class Members, Released Parties, or the scope of the releases (as provided in paragraphs 9.1 and **Error! Reference source not found.**), any modifications to the terms of the Settlement consideration (as provided in paragraph 5), any changes to the notice provisions, and substantive revisions to the Preliminary Approval Order from the form attached as Exhibit D. In the event of any modification by any court, and in the event ABRI does not exercise its unilateral option to withdraw from this Settlement, the Parties shall meet and confer within fourteen (14) days of such modification to attempt to reach an agreement as to how best to effectuate the court-ordered modification.

11.4 If the Effective Date is not reached, this Settlement Agreement is without prejudice to the rights of any party hereto, and all terms, negotiations, and proceedings connected therewith shall not be deemed or construed to be an admission by any Party or evidence of any kind in the Action or any other action or proceeding.

12. NOTICES

12.1 All notices to Plaintiffs shall be delivered to:

Yitzchak Kopel
Alec Leslie
1330 Avenue of the Americas
32nd Floor
New York, NY 10019
646-837-7150
ykopel@bursor.com
aleslie@bursor.com

12.2 All notices to ABRI shall be delivered to:

David Ross

Wilson Elser LLP
1500 K Street, NW
Suite 330
Washington, DC 20005
202-626-7687
david.ross@wilsonelser.com

12.3 The notice recipients and addresses designated in paragraphs 12.1 and 12.2 may be changed upon written notice provided to all individuals identified in those paragraphs.

13. MISCELLANEOUS

13.1 The exhibits and appendices attached to this Settlement Agreement are integral parts thereof and together with this Settlement Agreement, contain the entire, complete and integrated statement of each and every term and provision of the Settlement. This Settlement Agreement may not be modified in any respect except upon the written consent of the Parties.

13.2 The undersigned each represent and warrant that each has authority to enter into this Settlement Agreement on behalf of the Party indicated below his or her name.

13.3 If, prior to the Effective Date, Plaintiffs' Counsel knows, or has reason to know, of any Settlement Class Member who intends to exclude himself or herself from the Settlement or who intends to submit an objection to the Settlement, Plaintiffs' Counsel shall promptly notify Defense Counsel within three (3) days. The Parties shall thereafter meet and confer within seven (7) days of such notification to determine whether any modifications to the Settlement, or any other actions or filings, are required.

13.4 Plaintiffs' Counsel and Plaintiffs represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Action or any related action, and they further represent and warrant that they know of no such assignments or transfers on the part of any Member of the Settlement Class.

13.5 The Parties, together with Plaintiffs' Counsel and Defense Counsel, have jointly participated in the drafting of this Settlement Agreement. No Party shall be considered the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the

drafter hereof.

13.6 As used in this Settlement Agreement, the masculine, feminine, or neutral gender, and the singular or plural wording, shall each be deemed to include the others whenever the context so indicates.

13.7 Unless otherwise noted, all references to “days” in this Settlement Agreement shall be to calendar days. In the event any date or deadline set forth in this Settlement Agreement falls on a weekend or Florida state or federal legal holiday, such date or deadline shall be on the first business day thereafter.

13.8 Any and all disputes arising from or related to this Settlement Agreement must be brought by the Parties, Plaintiffs’ Counsel, Defense Counsel, and/or Members of the Settlement Class exclusively to the Court. The Parties, Plaintiffs’ Counsel, Defense Counsel, and Members of the Settlement Class irrevocably submit to the exclusive and continuing jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement.

13.9 Unless otherwise ordered by the Court, the Parties may jointly agree to reasonable extensions of time to carry out any of the provisions of this Settlement Agreement.

13.10 All motions, discovery, and other proceedings in the Action shall be stayed until the Court enters the Final Approval Order and Final Judgment, or this Settlement Agreement is otherwise terminated.

13.11 Nothing in this Settlement Agreement shall alter or abrogate any prior Court orders entered in the Action.

13.12 This Settlement Agreement may be executed in counterparts. Facsimile or PDF signatures shall be considered valid as of the date they bear.

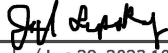
13.13 The Parties, together with Plaintiffs’ Counsel and Defense Counsel, agree to prepare and execute all documents, to seek Court approvals, to defend Court approvals, and to do all things reasonably necessary to complete the Settlement.

13.14 This Settlement Agreement is executed voluntarily by each of the Parties without any duress or undue influence on the part, or on behalf, of any of them. The Parties represent and warrant to each other that they have read and fully understand the provisions of this Settlement Agreement and

have relied on the advice and representation of legal counsel of their own choosing.

13.15 This Settlement Agreement may be amended or modified only by a written instrument signed by Defense Counsel and Plaintiffs' Counsel and approved by the Court.

June 29, 2023



Jill Lipsky (Jun 29, 2023 10:26 PDT)

Jill Lipsky

June ____, 2023

Linda Day

June ____, 2023

Timea Ciliberti
CEO, American Behavioral Research Institute, LLC

have relied on the advice and representation of legal counsel of their own choosing.

13.15 This Settlement Agreement may be amended or modified only by a written instrument signed by Defense Counsel and Plaintiffs' Counsel and approved by the Court.

June ____, 2023

Jill Lipsky

June 29, 2023

Linda Day
Linda Day (Jun 29, 2023 10:55 PDT)

Linda Day

June ____, 2023

Timea Ciliberti
CEO, American Behavioral Research Institute, LLC

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June __, 2023

Jill Lipsky

June __, 2023

Linda Day

June 29, 2023



Timea Ciliberti
CEO, American Behavioral Research Institute, LLC