

27<sup>TH</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF ST. LANDRY  
STATE OF LOUISIANA

NO. 16-C-3647

DIVISION “C”

OPELOUSAS GENERAL HOSPITAL AUTHORITY, A PUBLIC  
TRUST, D/B/A OPELOUSAS GENERAL HEALTH SYSTEM

VERSUS

LOUISIANA HEALTH SERVICE & INDEMNITY COMPANY  
D/B/A BLUE CROSS AND BLUE SHIELD OF LOUISIANA

FILED: \_\_\_\_\_  
DEPUTY CLERK

**SETTLEMENT AGREEMENT**

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**SETTLEMENT AGREEMENT**

This Settlement Agreement is made and entered into, on the dates indicated below, by and between the Plaintiff Steering Committee, individually and on behalf of the Class and the Plaintiffs, Opelousas General Hospital Authority, A Public Trust, d/b/a Opelousas General Health System (“Opelousas General” or “Plaintiff”) and Defendant Louisiana Health Service & Indemnity Company d/b/a Blue Cross and Blue Shield of Louisiana (“BCBSLA”). This Settlement Agreement sets forth the terms, conditions, and provisions of a settlement of all Liability; it shall be Exhibit A attached to and made part of the Joint Motion for Preliminary Approval of Proposed Settlement to be filed in the Class Action; and it is subject to the recitals, definitions, terms, and conditions set forth herein.

**RECITALS**

WHEREAS, on August 24, 2016, plaintiff, Opelousas General filed a Petition for Damages Under La. R.S. 51:137 and for Class Certification (the “Petition”) naming BCBSLA as defendant and alleging a scheme based on various agreements between and among separate Blue Cross entities which harmed a putative class of Louisiana medical providers that were compelled to accept reimbursements at below market rates due to BCBSLA’s alleged violations of La. R.S. 51:122 and 51:123 as a result of the scheme.

WHEREAS, Plaintiff alleges that it and the Class are entitled to damages from BCBSLA focused primarily on compensating them for alleged below-market reimbursements for Blue Card claims, as well as trebling of the damages under La. R.S. 51:137 and attorneys’ fees.

WHEREAS, BCBSLA denies the allegations raised in this Petition.

WHEREAS, the Court entered a judgment on September 12, 2019 certifying this matter as a class action pursuant to La. C.C.P. arts. 591 et seq., and all subsequent appeals of that judgment have been exhausted.

WHEREAS, in order to resolve their differences on a class wide basis the parties hereto desire to enter into this Class Settlement Agreement subject to approval by the Court.

**1. DEFINITIONS OF TERMS OF GENERAL APPLICATION**

Unless otherwise expressly stated herein, the following terms, as capitalized and used in this Settlement Agreement, shall have the following meanings and definitions:

1.1 The term “Agreement” shall mean and include this Settlement Agreement, all exhibits and attachments to this Settlement Agreement, and all judgments or orders of the Court approving or incorporating this Settlement Agreement.

1.2 The term “BCBSLA” means Louisiana Health Service & Indemnity Company and its predecessors, successors, assignors, assignees, subsidiaries, parents, affiliated entities, acquired entities, officers, insurers, directors, employees, agents, legal representatives, partnerships, joint ventures, attorneys, owners, and/or shareholders.

1.3 The term “Benefit Event” (BE) shall mean and refer to and include each and every event, circumstance, and/or situation upon which allegations have been made or could have been made relating in any way to rates, pricing, payment for, or reimbursement of a Class Member’s bill for medical services rendered within the State of Louisiana for a Blue Member including, but not limited to, those events pursuant to the Blue Card Program, in connection with bills paid or claims reimbursed by or through BCBSLA from August 24, 2015 through the Effective Date of the Settlement, and including but not limited to, claims that discounts under provider contracts or the manner or absence of notice of discounts violated any provisions of Louisiana law, including, but not limited to, La. R.S. 51:122 or La. R.S. 51:123, or both.

1.4 The term “Blue Affiliates ” shall mean the Blue Cross Blue Shield Association, the licensor of the Blue Marks, and each and every licensee of the Blue Marks, with such licenses in effect at any point during the period August 24, 2015 through the Effective Date, together with each Blue Affiliate’s respective predecessors, successors, assignors, assignees, subsidiaries, parents, affiliated entities, acquired entities, officers, insurers, directors, employees, agents, legal representatives, partnerships, joint ventures, attorneys, owners, and/or shareholders.

1.5 The term “Blue Card Program” shall mean the provisions of the Class Member provider contracts in which Class Members agree to extend the reimbursement rates negotiated with BCBSLA for its Blue Members to members of Blue Affiliates and those Blue Affiliates’ health benefit plans. The Blue Card Program also includes the submission by Class Members of

their bills and claims for service to BCBSLA regardless of whether the Blue Member receiving treatment had insurance through BCBSLA or one of the Blue Affiliates.

1.6 The term “Blue Marks” means the Blue Cross and/or Blue Shield service marks, trademarks, names, and/or symbols.

1.7 The term “Blue Member” shall mean any person who is entitled to benefits for healthcare services under any health benefit plan or health insurance plan issued or administered by BCBSLA and/or any of the Blue Affiliates.

1.8 The term “Class” shall mean the persons and/or entities included in the Class Definition.

1.9 The term “Class Action” shall mean and refer to Suit No. 16-C-3647, Div. “C,” on the docket of the 27th Judicial District Court in and for the Parish of St. Landry, Louisiana.

1.10 The term “Class Affiliates” when used in connection with the terms “Class Member” or “Class Members” shall mean and include their respective predecessors, successors, assignors, assignees, subsidiaries, parents, affiliated entities, acquired entities, officers, insurer, directors, employees, agents, legal representatives, partnerships, joint ventures, attorneys, owners, and/or shareholders. For avoidance of doubt, any person or entity filing claims under a common Tax Identification Number or common National Provider Identification number with a Class Member shall be deemed a Class Affiliate of that Class Member.

1.11 The term “Class Definition” or “Class as Defined” shall mean and refer to the following:

All Louisiana healthcare providers who, on or after the date of the filing of the instant petition [August 24, 2016], 1) are citizens of the state of Louisiana, and 2) are contracted with Defendant Louisiana Blue Cross [BCBSLA], and 3) have had one or more medical bills reimbursed pursuant to such contract for any services rendered to a patient in the state of Louisiana.

In the event the Court should alter or modify the above class definition, and such amended class definition is accepted in writing by the PSC and BCBSLA, such amended class definition shall be considered the “Class Definition” or “Class as Defined” under this Settlement Agreement, and all references to “Class Definition” or “Class as Defined” in this Settlement Agreement shall mean and refer to such accepted amended class definition.

1.12 The terms “Class Members” or “Class Member” shall mean and refer to those persons and/or entities that (a) satisfy or have satisfied the Class Definition on or before October 31, 2022 and (b) do not timely opt out from this Class Settlement, as such opt out terms may be

set by the Court in its Preliminary Approval Order. The terms “Class Members” or “Class Member” shall not include the Opt-Out Parties.

1.13 The term “Class Representative” shall mean and refer to Opelousas General.

1.14 The term “Class Settlement Fund” shall mean and refer to the total amount of settlement funds deposited in the Escrow Account pursuant to Section 10.1, together with all interest earned or accrued thereon, and less (a) the charges, expenses, etc., specified in the Escrow Agreement, and (b) the reserves, if any, established in furtherance of this Settlement Agreement.

1.15 The term “Class Settlement Notice” shall mean and refer to the legal notice of the terms of the settlement embodied in this Settlement Agreement which is to be provided in accordance with the Preliminary Approval Order of the Court, articles 591, et seq. of the Louisiana Code of Civil Procedure, and the terms of this Settlement Agreement.

1.16 The term “Court” shall mean and refer to the 27th Judicial District Court in and for the Parish of St. Landry, Louisiana, and the Honorable Ledricka Thierry, or her successor.

1.17 The terms “Court Appointed Disbursing Agent” or “CADA” shall mean and refer to the accounting firm to be appointed by the Court, after consideration of the recommendations of the PSC and BCBSLA. The accounting firm of Bourgeois Bennett, LLC, CPAs, shall be proposed for use as the CADA.

1.18 The term “Effective Date” shall mean and refer to the first business day following the date that the Final Order and Judgment becomes Final and not subject to suspensive appeal, or such other date as may be agreed to in writing by the PSC and BCBSLA.

1.19 The term “Escrow Account” shall mean and refer to the interest-bearing escrow account to be established and administered in accordance with this Settlement Agreement and the Escrow Agreement. All interest accrued in the Escrow Account, from the date of deposit of settlement funds, shall be distributed pursuant to the terms of the Escrow Agreement.

1.20 The term “Escrow Agent” shall mean and refer to the escrow agent under the Escrow Agreement to be appointed by the Court, after consideration of the recommendations of the PSC and BCBSLA. Hancock Whitney Bank shall be proposed for use as the Escrow Agent.

1.21 The term “Escrow Agreement” shall mean and refer to an agreement substantially in the form attached hereto as Exhibit 1.

1.22 The term “Final” shall mean that: (a) the Court’s approval of the Settlement Agreement in all respects and entry of a Final Order and Judgment, and (b) either no timely suspensive appeals, writs, petitions, lawsuits, or requests for judicial review or extraordinary relief

have been taken within forty (40) days from or with respect to such Final Order and Judgment, or if any such appeal, writ, petition, lawsuit, or request for court review or extraordinary relief has been taken from or with respect to the Final Order and Judgment, and that Final Order and Judgment has been affirmed without revision and there is no further right to appeal, petition, bring a writ or lawsuit or request court review or extraordinary relief from or with respect to such judgment, order, ruling, or decision, unless otherwise agreed to in writing by both Arthur M. Murray, on behalf of the PSC and Michael C. Drew, on behalf of BCBSLA (such agreement not to be unreasonably withheld).

1.23 The term “Final Order and Judgment” shall mean and refer to the order and judgment to be entered by the Court pursuant to Section 8.2 below.

1.24 The term “Liability” shall mean and refer to all claims or causes of action by Class Members or Class Affiliates against, and/or potential liabilities of, the Released Parties of whatever nature arising out of, related to, or connected in any way with any and all Benefit Events, including, but not limited to, all claims or causes of action that (a) may arise in the future and (b) which arise from or are based in any way upon any conduct of any Released Party occurring on or before the Effective Date, regardless of whether the claims, liabilities, and/or resulting damages are not yet known or manifested or whether such claims, liabilities, and/or resulting damages are known or unknown, asserted or unasserted, whether sounding in tort and/or conspiracy, or arising under any statute (including, but not limited to, La. R.S. 51:121 *et seq.* or 15 U.S.C. §§ 1-7, 12-27 *et seq.*, as well as any statute addressing unfair competition and/or unfair trade practices).

1.25 The term “MDL” shall mean and refer to that litigation in the United States District Court for the Northern District of Alabama bearing docket number 13CV20000 RDP and all lawsuits consolidated under MDL 2406, brought by plaintiffs in their capacity as healthcare providers, in order to secure relief related to their sale or provision of health care products or services.

1.26 The term “Notice Plan” shall mean and refer to the plan for disseminating the Class Settlement Notice.

1.27 The terms “Opt-Out Parties” or “Opt-Out Party” shall mean and refer to those persons and/or entities who or which are included within the Class Definition but timely opt out of the Class pursuant to those procedures specified by the Court in its Preliminary Approval Order, or such other Orders as the Court may enter. Unless otherwise ordered by the Court, to opt out of the Class, a Class Member must take timely affirmative written action pursuant to Section 6.1 and

the procedure to be approved by the Court, even if the Class Member desiring to opt out of the Class (a) files or has filed a separate action against any of the Released Parties, or (b) is, or becomes, a putative class member or class member in any other class action filed against any of the Released Parties.

1.28 The term “Opt-Out Reserve” shall mean and refer to the reserve that may be set aside within the Escrow Account pursuant to Sections 6.3 – 6.5.

1.29 The terms “Parties” or “Party” as referring to this Settlement Agreement shall mean and refer to BCBSLA, the PSC, and the Plaintiffs.

1.30 The terms “Plaintiff” or “Plaintiffs” shall mean and refer to the named plaintiff and the Class Representative in the Class Action. Opelousas General is the Plaintiff or Plaintiffs, unless otherwise agreed to in writing by both Arthur M. Murray, on behalf of the PSC and Michael C. Drew, on behalf of BCBSLA, and substituted with the appropriate motion and Court order.

1.31 The terms “Plaintiffs’ Steering Committee” or “PSC” shall mean and refer to the following attorneys appointed by the Court:

Thomas A. Filo, Chairman and Liaison Counsel  
Arthur M. Murray  
Stephen B. Murray, Jr.  
Patrick Morrow

1.32 The term “Preliminary Approval Order” shall mean and refer to the order to be entered by the Court pursuant to Section 7.1.

1.33 The term “Provider” shall mean and refer to any provider as defined in La. R.S. 40:2202(6) and/or La. R.S. 22:1007(A)(5).

1.34 The term “Provider Agreement” shall mean and refer to the contract between BCBSLA and any Class Member regarding rates, terms, and conditions of payments by BCBSLA to a Class Member for healthcare services rendered to any Blue Member.

1.35 The terms “Released Parties” or “Released Party” shall mean and refer to BCBSLA and all Blue Affiliates and all of their respective customers, clients, members, insureds, beneficiaries, or any entity or person who contracts with BCBSLA or any Blue Affiliate for the administration and/or underwriting of health benefit or health insurance plans.

1.36 The term “Settlement Agreement” shall mean and refer to this agreement, together with all of its exhibits and attachments, and any properly perfected amendments.

1.37 The term “Special Master” shall mean and refer to that person appointed, or to be appointed, by the Court, with the consent of counsel for the Parties, pursuant to La. R.S. 13:4165,

to assist the Court, in cooperation and coordination with the PSC, with the management of the Class Action. Patrick A. Juneau of Juneau David shall be proposed as the Special Master.

1.38 The term “Stay Order” shall mean and refer to the order to be entered pursuant to Section 5.1 below.

## **2. NATURE AND STATUS OF THE CLASS ACTION AND RELATED PROCEEDINGS**

2.1 Stated generally, the Class Action involves, among other claims, claims for injuries and/or damages allegedly related to Benefit Events.

2.2 Stated generally, the Plaintiffs and the Class allege (and BCBSLA denies) that Benefit Events violate law and that such Benefit Events give rise to damages for which BCBSLA is responsible.

2.3 The claims involved in the Class Action have been substantially litigated and/or are substantially understood, such that the Parties are in a reasonable position to assess the merits and weaknesses of their respective claims and defenses.

2.4 Substantial time and effort has been expended by the Parties and their counsel in negotiating this Settlement Agreement.

## **3. BASIS FOR THE PROPOSED SETTLEMENT**

3.1 As a result of the litigation to date, the Plaintiffs and BCBSLA entered into negotiations to settle the Class Action regarding the Liability of the Released Parties, taking into account the following considerations: (a) the merits of the complaints or the lack thereof covered by the Settlement Agreement; (b) the relative strengths and weaknesses of the Class’ claims; (c) the time, expense and effort necessary to maintain the Class Action to conclusion; (d) the possibilities of success weighed against the possibilities of loss; (e) the range of final judgment values; (f) the legal complexities of the contested issues in the Class Action; (g) the risks inherent in protracted litigation; (h) the magnitude of benefits to be gained from immediate settlement in light of both the maximum potential of a favorable outcome with the attendant expense and likelihood of an unfavorable outcome; and (i) the fairness of benefits to or from an immediate settlement under all of the foregoing considerations.

## **4. GENERAL PROVISIONS AND PURPOSES OF THIS SETTLEMENT**

4.1 The Parties have reached agreement on the terms of a settlement of claims in the Class Action, through the establishment of a conditional settlement class to afford a procedural vehicle by which all potential Liability of Released Parties to Class Members may finally be



concluded and settled. The Parties agree that proceeding in this manner is in their best interests and also shall contribute to judicial efficiency.

4.2 In entering into this Settlement Agreement, each Party hereto has taken into account the uncertainties, delays, expenses and exigencies of the litigation process, including the likelihood of extensive depositions and document production should the matter not settle, as well as the discovery taken to date in the Class Action. In addition to formal discovery, the sides have engaged in extensive informal exchanges of information and investigation of the claims at issue, all of which has been taken into consideration. The Released Parties have each denied, and continue to deny violations of law and any liability, wrongdoing or responsibility for the claims asserted in the Class Action and believe that any and all claims for Liability are without merit.

4.3 The Parties hereto have evaluated the claims giving rise to Liability asserted against the Released Parties, considering the nature and extent of the alleged injury and the alleged liability of the Released Parties.

4.4 BCBSLA is willing to enter into this Settlement Agreement so that all of the Released Parties will thereby be relieved and discharged from all Liability to all Class Members. In view of the present procedural status of the Class Action, the Parties recognize the necessity for a procedural means by which any negotiated settlement of all potential Liability asserted against the Released Parties may finally be resolved. It is expressly the intention of this Settlement Agreement that no claims whatsoever by Class Members or any of the Class Affiliates against the Released Parties arising out of a Benefit Event will survive the approval of this Settlement Agreement.

4.5 The Parties agree that payment to the proposed settlement fund and the management thereof pursuant to the Escrow Agreement and under the supervision of the Court would more likely result in greater benefit to the Released Parties and the Class Members than would continue prosecution of the Class Action and MDL. Accordingly, this matter meets the criteria for compromise of a Class Action as contemplated by La. C.C.P. article 594. Accordingly, as more fully described in Section 7 below, the Parties will submit this Settlement Agreement to the Court via a Joint Motion for Preliminary Approval of Proposed Settlement and will marshal and present at any hearing thereon evidence to support the motion. After such hearing, and should the Court issue a Preliminary Approval Order, the Parties will undertake such notices and hearings as are required under article 594 to perfect this Settlement Agreement.

4.6 The PSC is entering into this Settlement Agreement on behalf of each of the Class Members and the Plaintiff to terminate and settle all potential Liability of the Released Parties in recognition of (a) the existence of complex and contested issues of law and fact, (b) the risk, difficulty, and uncertainty of success associated with pursuing the claims asserted in this action, (c) the comparative degree of the alleged liability or culpability of the Released Parties, (d) the risks inherent in litigation, (e) the likelihood that future proceedings will be unduly protracted and expensive if these matters are not settled by voluntary agreement with the Parties, (f) the magnitude of the benefits derived from the contemplated settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof and the exposure associated therewith, and (g) the determination by the Plaintiffs and its counsel that the settlement is fair, reasonable, adequate, and in the best interests of, and will substantially benefit, the members of the Class.

4.7 BCBSLA enters into this Settlement Agreement, notwithstanding its continuing denial of any violation of law, any alleged injuries or liability for alleged injuries and/or compensatory damages and/or statutory damages allegedly related to Liability, and notwithstanding their denials concerning causation of any alleged injuries and/or damages, to terminate the Class Action insofar as affecting the Released Parties, and to finally resolve all potential Liability, and to avoid further litigation, without any admission on the part of the Released Parties of any liability or fault whatsoever.

4.8 It is the intention and a condition of this Settlement Agreement, and the Parties agree, that as of the Effective Date, this settlement shall fully, completely, finally, and conclusively settle, compromise, and release all Liability of the Released Parties to Class Members and the Class Affiliates. The release of Liability hereunder includes release of Liability that Class Members and the Class Affiliates do not know or suspect to exist in their favor regardless of whether, if known or suspected, would have materially affected this Settlement. Without limiting the foregoing, it is also the intention and a condition of this Settlement Agreement, and the Parties hereto agree, that upon the Effective Date, (a) the Released Parties shall be fully and finally released from all Liability, by, through, or on behalf of each of the Class Members and the Class Affiliates, (b) the Class Action shall be dismissed with prejudice and with each Party to bear its own costs through dismissal, (c) each of the Class Members and the Class Affiliates shall be forever barred and enjoined from instituting, maintaining, or prosecuting any action against the Released Parties with respect to the Released Parties' respective Liability, and (d) that as against

any of the Released Parties, the exclusive remedy of all Class Members and the Class Affiliates with respect to any Liability shall be claims against the Class Settlement Fund as described in the Settlement Agreement.

4.9 It is the intention and a condition of this Settlement Agreement that the Final Order and Judgment be entered and become Final. The Parties agree to take all actions reasonably necessary and appropriate to fulfill and satisfy this intention and condition.

4.10 Without limiting the foregoing, it is the intention and a condition of this Settlement Agreement, and the Parties agree, that no Class Member or Class Affiliate shall recover, directly or indirectly, any sums for Liability, from any Released Party other than those received from the Escrow Account (or a subaccount thereof) under the terms of this Settlement Agreement.

4.11 Notwithstanding Section 4.10, it is the intention and a condition of this Settlement Agreement, and the Parties agree, that BCBSLA shall not do anything nor take any action to interfere with or prevent any Class Member from obtaining any and all injunctive or declaratory relief pursuant to FRCP R 23(b)(2) should such relief become available in the MDL.

4.12 Without limiting the foregoing, it is the intention and a condition of this Settlement Agreement, and the Parties agree, that each of the Class Members and the Class Affiliates shall not attempt to execute or to collect any judgment or any portion of any judgment from any Blue Member if such execution or collection could create Liability of any Released Party in connection with any Benefit Event, whether through contribution, indemnity or otherwise.

4.13 Without limiting the foregoing, it is the intention and a condition of this Settlement Agreement, and the Parties agree, to entry of an injunction requiring BCBSLA to include language in their Provider Agreements expressly and clearly describing the Blue Card Program and the availability of the Provider Agreement contracted rates for Blue Members of Blue Affiliates within ninety (90) days of the Effective Date.

4.14 Without limiting the foregoing, it is the intention and a condition of this Settlement Agreement, and the Parties agree, that the commencement and prosecution of any and all claims of the Class as a whole and/or the Class Members and/or the Class Affiliates individually, against the Released Parties related to Liability (including, without limitation, all of the claims of the Class set forth in the Class Action involving the Released Parties, to the extent based upon their respective Liability) be immediately enjoined and stayed during the pendency of the settlement proceedings referred to herein and that they be permanently barred and enjoined and dismissed

with prejudice on the Effective Date of the Final Order and Judgment. The Parties agree to use their best efforts to fulfill and satisfy this intention and condition.

4.15 Without limiting the foregoing, it is the intention and a condition of this Settlement Agreement, and the Parties agree, that the Parties shall use their best efforts to (a) obtain the Stay Order as part of the Court's Order of Preliminary Approval, (b) ensure that the Stay Order is maintained during the pendency of the settlement proceedings, and (c) obtain the dismissal with prejudice of any Released Party from any Related Proceeding upon the Effective Date.

4.16 It is the intention and a condition of this Settlement Agreement that any attempt by a Class Member or a Class Affiliate to collect or seek additional reimbursement from a Released Party for any Benefit Event will constitute a violation of this Settlement Agreement; the Class Members and the Class Affiliates agree to the immediate dismissal of any such current or future action brought in any forum and further agree that all such actions are subject to involuntary dismissal based upon the terms of this Settlement Agreement.

4.17 Anything in this Settlement Agreement to the contrary notwithstanding, BCBSLA shall have the unilateral right, in its sole discretion, to waive, in writing, in whole or in part, any condition inuring to its benefit set forth in Section 4, Section 5, Section 6, Section 8, and Section 12 of this Settlement Agreement, which waiver shall be binding upon the PSC, the Class, and the Plaintiffs. Waiver by BCBSLA of any condition as to any Class Member shall not constitute a waiver as to any other condition or any other Class Member.

## **5. STAY ORDER/STAND DOWN**

5.1 In the Joint Motion for Preliminary Approval described in Section 7.1, the Parties shall request that the Court stay the Class Action and enjoin and stay, during the pendency of the settlement proceedings contemplated by this Settlement Agreement, pending the completion of the settlement embodied in this Settlement Agreement (excluding, therefrom, however, those proceedings in the Class Action itself necessary to obtain final approval of the settlement embodied in this Settlement Agreement).

## **6. OPT-OUT PARTIES**

6.1 All persons and/or entities included within the Class Definition but who properly file a timely written request to opt out of the Class Settlement as set forth in Section 6.1(a) below will not be included as Class Members, shall have no rights as Class Members pursuant to this Settlement Agreement, and shall receive no payments as provided herein.

(a) A request to opt out of the Class Settlement must be in writing and state the name, address and phone number of the person(s) seeking to opt out. Each request must also contain a duly authorized and signed statement that: “I hereby request that I be excluded from the proposed Class Settlement in the Opelousas General Class Action.” The request must be mailed to the PSC at the address provided in the Class Notice and postmarked by the deadline specified in the Class Notice. An opt out request that does not include all of the foregoing information, that is sent to an address other than the one designated in the Class Notice, or that is not postmarked within the time or sent in the manner specified, shall be invalid and the person or entity serving such a request shall be included as a Class Member and shall be bound by this settlement.

(b) The PSC shall make best efforts to encourage the clients they represent, to remain a Class Member and not opt out of the Class. The PSC likewise acknowledge that each of them and their firms have an unwaivable conflict of interest in representing any Opt-Out Party.

6.2 The PSC shall forward, by electronic mail and overnight mail, copies of all opt out requests to counsel for BCBSLA no later than ten (10) days after the deadline for Class Members to submit such opt out requests. Within fifteen (15) business days after the expiration of the period for persons or entities within the Class Definition to opt out of the Class, the PSC and counsel for BCBSLA shall collectively prepare a list identifying all Opt-Out Parties, any actions in which such Opt-Out Parties have asserted claims related to any Benefit Event against any of the Released Parties, the number of Benefit Events reflected in claims asserted by Opt-Out Parties, and the types of claims asserted by such Opt-Out Parties. This description of any such actions shall be amended from time to time as further information becomes available to the PSC and counsel for BCBSLA. Further, immediately following the end of such fifteen-day period, the PSC and counsel for BCBSLA shall hold a conference to review the nature and status of all Opt-Out Parties.

6.3 If there are any Opt-Out Parties, funds that would have been distributed to Opt-Out Parties if they had not opted out shall be reserved, earmarked, and held escrowed from the funds on deposit in the Escrow Account (pursuant to Section 10) and placed within an opt-out reserve; provided, however, if at any time after the establishment of the Opt-Out Reserve, (a) the PSC, acting through Thomas A. Filo, and (b) BCBSLA, acting through Michael C. Drew, both determine that the amount of the Opt-Out Reserve should be reduced, the amount of the Opt-Out Reserve

shall be so reduced (such consent not to be unreasonably withheld). In preparing the plan of distribution and in order to properly calculate the Opt-Out Reserve, the Special Master shall not treat Opt-Out Parties differently than Class Members. Until the Special Master has prepared a plan of distribution that would enable the Parties to determine the amount of the Opt-Out Reserve, no funds deposited under Section 10.1 or Section 10.2, with the exception of plaintiffs' counsel's costs, fees and expenses, shall be distributed from the Escrow Account, until such time as the Opt-Out Reserve amount can be determined, unless agreed in writing by the PSC, acting through Thomas A. Filo, and BCBSLA, acting through Michael C. Drew. Nothing in this paragraph shall be construed as conferring upon Opt-Out Parties any right to payment.

6.4 The Opt-Out Reserve may be used by BCBSLA, in its sole discretion, to pay settlement or judgment amounts to Opt-Out Parties and/or litigation costs/expenses associated with litigating the claims of the Opt-Out Parties.

6.5 The Opt-Out Reserve shall be terminated upon the earliest of the following to occur: (a) one year from the Effective Date; (b) the date when all claims of Opt-Out Parties are released or dismissed with prejudice; (c) the date when the amount held in the Opt-Out Reserve is reduced to zero; or (d) such other date as agreed upon, in writing, by (i) the PSC, acting through Thomas A. Filo, and (ii) BCBSLA, acting through Michael C. Drew. Upon the termination of the Opt-Out Reserve and the payment therefrom of all valid claims made against the Opt-Out Reserve, any funds then remaining in the Opt-Out Reserve shall revert to BCBSLA.

6.6 The list identifying all Opt-Out Parties prepared pursuant to Section 6.2 shall be jointly submitted to the Court prior to the final approval hearing. As part of the Final Order and Judgment granting final approval of this settlement, the Court will incorporate a final list of all Opt-Out Parties. The list identifying Opt-Out Parties will be attached as an exhibit to the Final Order and Judgment granting final approval of the Settlement Agreement.

## **7. PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT**

7.1 On or before October \_\_\_, 2022, this Settlement Agreement shall be signed by all Parties and the Parties shall submit this Settlement Agreement to the Court for preliminary approval. This submission shall be made by means of a Joint Motion for Preliminary Approval of Proposed Settlement signed by or on behalf of the Class, the Plaintiffs, and BCBSLA with a proposed form Preliminary Approval Order attached thereto, which order of preliminary approval will include the Court's preliminary approval of the Settlement Agreement, a preliminary determination that the settlement set forth therein is fair, reasonable, and adequate, and provisions

specifying notice to the Class as contemplated by La. C.C.P. art. 594. The Preliminary Approval Order shall be substantially in the form attached hereto as Exhibit 2.

## **8. FINAL APPROVAL AND EFFECT OF THE AGREEMENT**

8.1 If the Court enters the orders as described in Section 7, the Parties shall proceed with due diligence to conduct the fairness hearing as ordered by the Court.

8.2 The Settlement Agreement is subject to and conditioned upon (a) the issuance by the Court and subsequent entry, following the fairness hearing, of a Final Order and Judgment granting final approval of the Settlement Agreement in accordance with article 594 of the Louisiana Code of Civil Procedure, (b) such Final Order and Judgment becoming Final, and (c) compliance with Section 6. It is a condition of this Settlement Agreement that the Final Order and Judgment shall be substantially in the form attached hereto as Exhibit 3. The Parties shall take all reasonable and necessary actions to obtain the Final Order and Judgment and to have it made Final as promptly as practical.

8.3 This Settlement Agreement shall be the exclusive remedy for any and all claims of Class Members and the Class Affiliates against the Released Parties based on any Benefit Event or Liability. When the Final Order and Judgment becomes Final, each of the Class Members and the Class Affiliates shall be barred from initiating, asserting, prosecuting or continuing to prosecute any such claims.

8.4 The Parties agree that, to the best of their knowledge, information and belief, the Settlement Agreement is made in good faith and in accordance with the laws of the United States and the State of Louisiana. The Parties agree to cooperate by providing affidavits and/or testimony concerning the circumstances of this settlement and attesting to the fact that it is a good faith settlement.

8.5 The Court shall retain jurisdiction over the Class Action, the Settlement Agreement, the Final Order and Judgment, the Class Settlement Fund, the Escrow Agreement, the Escrow Account and the Parties to this Settlement Agreement solely for the purpose of administering, supervising, construing, and enforcing the Agreement and the Final Order and Judgment and supervising the management and disbursement of the funds in the Escrow Account.

8.6 This Court shall have jurisdiction over any dispute that arises under this Settlement Agreement. If any dispute is so submitted, each concerned party shall be entitled to fifteen (15) days' written notice (or otherwise, as the Court may for good cause direct) and the opportunity to submit evidence and to be heard on oral argument as the Court may direct.

**9. SIGNED RELEASES/ASSIGNMENT**

9.1 Without limiting the foregoing, each Class Member who receives any money from the Class Settlement Fund shall, on or before the time that such Class Member receives such money, execute a receipt and release substantially in the form attached hereto as Exhibit 4, expressly memorializing the release of all Liability, and each and all of the claims based on any Benefit Event, by, through, or on behalf of that Class Member; and acknowledging his/her/its receipt of the money to be paid to that Class Member. The receipt and release required pursuant to this Section 9.1 may be in the form of an instrument included with the allocation check for each Class Member; in such event, a Class Member's endorsement and/or deposit of such allocation check shall serve as that Class Member's acknowledgment of, and agreement to, the terms and conditions set forth in the instrument included with the allocation check. The CADA shall, within a reasonable period of time following the CADA's receipt thereof, deliver to BCBSLA the endorsed allocation checks (or copies thereof, if appropriate).

9.2 Nothing in this Agreement shall affect or release claims available to the Released Parties.

9.3 Further, nothing in this Agreement shall release claims, however asserted, that arise in the ordinary course of business and are based solely on (i) whether a particular product, service, or benefit is covered by the terms of a particular health benefit product, (ii) seeking resolution of a benefit plan's or a benefit plan participant's financial responsibility for claims, based on either the benefit plan document or statutory law, or (iii) challenging a Released Party's administration of claims under a benefit plan based on either the benefit plan document or statutory law.

9.4 The claims of each Class Member based on any Benefit Event or giving rise to any Liability, as against each of the Released Parties shall be assigned to that Released Party for the purpose of legally extinguishing any further liability of the Released Parties.

**10. CONTRIBUTIONS TO AND DISBURSEMENTS FROM THE CLASS SETTLEMENT FUND**

10.1 No later than five (5) days prior to the Effective Date, BCBSLA shall pay into the Escrow Account, the sum of One Hundred Fifteen Million and No/100 (\$115,000,000.00) Dollars ("The Funding Amount"). The Funding Amount is also referred to as the "Settlement Fund."

10.2 In the event BCBSLA fails to fully deposit the Funding Amount within the time specified in Paragraph 10.1, the Settlement Class has the right but not the obligation to declare a default against BCBSLA ("Funding Default") by written notification to BCBSLA. In the event a



Funding Default is declared, BCBSLA will lose all benefits of the settlement, including but not limited to the releases granted to BCBSLA and the Blue Affiliates.

10.3 All contributions into the Escrow Account shall be held in an interest-bearing trust account, and, as applicable, in separate subaccounts within the Escrow Account prior to the Effective Date and, if necessary, after the Effective Date, pursuant to the terms of the Escrow Agreement.

10.4 The Escrow Account shall be formed and operated to meet all requirements of a qualified settlement fund within the meaning of Section 468B of the Internal Revenue Code of 1986 and all regulations and rulings thereunder. BCBSLA shall be permitted, in its discretion, and at its own cost, to seek a private letter ruling from the Internal Revenue Service regarding the tax status of the Escrow Account. The Parties agree to negotiate in good faith any changes to the Agreement necessary to obtain IRS approval of the Escrow Account as a qualified settlement fund.

10.5 BCBSLA further agrees to pay into the Escrow Account the sum of Five Hundred Thousand and No/100 (\$500,000.00) (the "Claim Administration Fund") for costs of administering the fund and making distributions to Class Members from the Class Settlement Fund. BCBSLA will pay the Claim Administration Fund within ten (10) business days of entry of the Preliminary Approval Order. Except as otherwise expressly provided herein, all of the costs and expenses for administration of this Settlement Agreement shall come from the Claim Administration Fund, which shall be administered by the PSC in its sole discretion. In the event that the costs and expenses of administering this Settlement Agreement exceed the Claim Administration Fund, such excess costs will be borne by the Class and drawn from the Settlement Fund.

10.6 The Class shall be responsible for the costs of notice and administration associated with obtaining final approval of the Class Action Settlement and distribution of the Settlement Fund, including the obligations set forth in paragraphs 13.19 and 13.20 of the Agreement.

10.7 Until the Effective Date, except as otherwise specifically provided herein and/or in the Escrow Agreement, no monies in the Escrow Account shall be used or disbursed.

10.8 Upon the Effective Date: (a) except as otherwise provided herein, the Class Settlement Fund shall vest in and to the benefit of Class Members; (b) except as otherwise specifically provided for herein, the interests of BCBSLA in the Class Settlement Fund shall cease; and (c) the Released Parties shall have no further obligations to the Class or the Class Members in connection with their respective Liability.

10.9 Except as otherwise specifically provided herein and/or in the Escrow Agreement, after the Effective Date, all costs or expenses in connection with or incidental to this settlement, shall, to the extent approved by the Court, be paid exclusively from the Claim Administration Fund. To the extent such costs and expenses exceed the Claim Administration Fund, they shall be paid from the Settlement Fund. The Parties' further agree that any attorneys' fees sought by the PSC and awarded by the Court shall be paid exclusively from the Settlement Fund. BCBSLA shall not be liable for any such costs, expenses, or attorneys' fees, except that BCBSLA shall be responsible for the cost of its own attorneys, expert witnesses, consultants, and employees.

10.10 The Parties agree that at such time as the Effective Date has occurred, the Court may proceed in the manner prescribed by due process of law and article 594 of the Louisiana Code of Civil Procedure to the allocation and distribution of the Class Settlement Fund to Class Members according to a protocol submitted by the Special Master and approved by the Court.

## **11. TERMINATION OF AGREEMENT**

11.1 As provided below, the Agreement may be terminated by BCBSLA or the PSC upon written notice if any one or more of the following events occur (provided, however, that a Party whose willful conduct causes the event giving rise to the right to terminate shall not have a right to terminate the Agreement by reason of such event and further provided that copies of any written notice of termination shall be provided to the Court and filed in the record of the Class Action).

(a) this Settlement Agreement is not signed by or on behalf of all Parties and BCBSLA gives the PSC written notice of termination of this Agreement for such reason or the PSC gives BCBSLA written notice of termination of this Agreement for such reason;

(b) the Joint Motion for Preliminary Approval of Proposed Settlement described in Section 7.1 is not submitted to the Court on or before October \_\_, 2022 and BCBSLA gives the PSC written notice of termination of this Agreement for such reason or the PSC gives BCBSLA written notice of termination of this Agreement for such reason;

(c) the Court does not issue the Preliminary Approval Order substantially in the form attached hereto as Exhibit 2, and BCBSLA gives the PSC written notice of termination of this Agreement for such reason or the PSC gives BCBSLA written notice of termination of this Agreement for such reason;

- (d) the Court does not enter the Final Order and Judgment substantially in the form attached hereto as Exhibit 3 or in a form mutually acceptable to the PSC and BCBSLA, and BCBSLA gives the PSC written notice of termination of this Agreement for such reason or the PSC gives BCBSLA written notice of termination of this Agreement for such reason;
- (e) the Final Order and Judgment does not become Final, and BCBSLA gives the PSC written notice of termination of this Agreement for such reason or the PSC gives BCBSLA Plus written notice of termination of this Agreement for such reason;
- (f) (i) more than 5% of the Class Members opt-out of the Settlement; (ii) there are Opt-Out Parties who have claim counts constituting more than 5% of the Benefit Events in any of the years 2016 through 2022 to which this Settlement applies (see Section 6.2, above); or (iii) there are Opt-Out Parties who have claims that, in the aggregate, exceed 3% of the total dollar amount of claims submitted by Class Members in any of the years 2016 through 2022 and BCBSLA gives the PSC written notice of termination of this Agreement;
- (g) contributions to the Escrow Account are not made timely in accordance with the provisions of this Settlement Agreement and the PSC gives BCBSLA written notice of termination of this Agreement for such reason;
- (h) the Final Order and Judgment is substantively modified or reversed on any writ or appeal, and BCBSLA gives the PSC written notice of termination of this Agreement for such reason or the PSC gives BCBSLA written notice of termination of this Agreement for such reason;
- (i) BCBSLA is ordered or required to pay any amount over the amounts set forth in Sections 10.1 or 10.5, respectively, whether in judgment, settlement, administration fees, costs, attorneys' fees, or any other award, fee, or cost of any nature whatsoever as a result of its Liability, and BCBSLA gives the PSC written notice of termination of this Agreement for such reason;
- (j) there are any material alterations to the terms and conditions of the Settlement Agreement, unless agreed to by the Parties, and BCBSLA gives the PSC written notice of termination of this Agreement for such reason or the PSC gives BCBSLA written notice of termination of this Agreement for such reason;

(k) the Effective Date does not occur on or before the later of \_\_\_\_\_, 2023 or any extended date mutually agreed upon, in writing, by (i) Thomas A. Filo, on behalf of the PSC, (ii) Michael C. Drew, on behalf of BCBSLA, and BCBSLA gives the PSC written notice of termination of this Agreement for such reason or the PSC gives BCBSLA written notice of termination of this Agreement for such reason; and

(l) If, prior to the Effective Date, BCBSLA enters a Court-approved agreement to settle the putative provider class in the MDL, then the PSC may terminate this Agreement upon written notice to BCBSLA.

11.2 In the event of termination of the Agreement, (a) the Settlement Agreement shall be null and void and have no force and effect and, except as otherwise provided in this Settlement Agreement, no Party shall be bound by its terms, (b) all Parties shall be restored to their respective positions immediately before execution of the Settlement Agreement; (c) any and all monies or other contributions paid into the Escrow Account, by BCBSLA (actual and accrued) thereon, shall be returned in accordance with the written direction of BCBSLA, with the exception that sums drawn from the Claim Administration Fund (as described in Section 10.5) are not returnable or reimbursable to BCBSLA; and (d) the Class Action shall revert to their status before the execution of the Settlement Agreement as if related orders and papers and the efforts leading to the Agreement had not been entered, prepared, or taken. Further, in the event of such termination, BCBSLA shall have full authority to immediately withdraw from the Escrow Account any and all contributions and payments that each made into the Escrow Account, and the earnings (actual and accrued) thereon, without further proceedings or approval of any court, subject to and in accordance with the Escrow Agreement. In the event any settlement funds are to be returned in accordance with this Agreement, the necessary consent by the PSC shall be deemed to have been given as required for Section 468B of the Internal Revenue Code of 1986.

## **12. ADDITIONAL OBLIGATIONS OF THE PARTIES**

12.1 The PSC covenants, represents and warrants to BCBSLA, and BCBSLA covenants, represents and warrants to the PSC, that, as applicable:

12.1.1 The PSC and BCBSLA have not been notified of any pending lawsuit, claim, or legal action related to any Benefit Event brought or made by or on behalf of any Class Member other than the Class Action and the MDL;

12.1.2 The PSC and BCBSLA have not been notified of any lawsuit, claim, or legal action against BCBSLA or any Released Party related to any Benefit Event brought or made by or on behalf of any person and/or entity who is not a Class Member against BCBSLA;

12.1.3 All liens, assigned claims, interventions, subrogation interests and/or claims, and other encumbrances attaching to the proceeds of this settlement, or the interest of any individual Class Member therein, of which the PSC or BCBSLA have been placed on notice are set forth in Exhibit 5 hereto, and as additional liens, assigned claims, interventions, subrogation interests and/or claims, and other encumbrances become known to the PSC and/or BCBSLA, such exhibit shall be supplemented accordingly; and

12.1.4 The PSC and BCBSLA have exercised due diligence in ascertaining that their respective representations contained in this Settlement Agreement are true and accurate, and the PSC and BCBSLA shall have, until the Effective Date, a continuing obligation to ensure that their representations are accurate, and the PSC and BCBSLA shall notify each other within a reasonable time after learning that any of the representations are or become inaccurate.

12.2 The PSC further covenants, represents and warrants to BCBSLA that:

12.2.1 Prior to the fairness hearing, the PSC shall have explained the terms and effect of this Settlement Agreement to the Plaintiffs;

12.2.2 The PSC has not and will not make any undisclosed payment or promise to any Class Representative;

12.2.3 The PSC have read and reviewed the Settlement Agreement and believe that the settlement embodied therein is in the best interests of each of its clients;

12.2.4 The PSC will strongly recommend to each of its clients that they settle their claims under the terms of the Settlement Agreement; and

12.2.5 Thomas A. Filo, Arthur M. Murray, and Patrick Morrow have full authority to enter into and execute this Settlement Agreement and all related settlement documents for and on behalf of and to bind the PSC, individually and on behalf of the Class and the Plaintiffs.

12.2.6 Each named Plaintiff has full authority to enter into and execute this Settlement Agreement and all related documents for, and on behalf of and to bind, him or it.

12.3 The Parties shall use their best efforts to conclude the settlement and obtain the Final Order and Judgment. The Parties agree that it is essential that this proposed settlement be prosecuted to a successful conclusion in accordance with all applicable provisions of law and in the exercise of good faith on the part of the Parties. Inherent in the accomplishment of this mutual goal is the understanding among the Parties that the Parties assume the mutual obligation to each other to assist and cooperate in the effectuation of the settlement in accordance with all applicable legal requirements. To that end, the Parties are obliged to affirmatively support the settlement in the event of appeal, to maintain the integrity and goals of the settlement in all further proceedings in the Class Action, and to take such actions as may be legally proper to assure the jurisdiction of the Court in this and all subsequent proceedings. The settlement is intended to be a final and binding resolution of all Liability.

12.4 12.4 In order to assist the Special Master in the proper distribution of any Settlement Funds and to assist in effecting Class Notice, BCBSLA agrees to provide such data or information in its possession or control that is (a) reasonably necessary to identify and quantify Benefit Events or (b) reasonably necessary to effect Class Notice upon Class Members. The data or information provided by BCBSLA shall be subject to the protective orders previously entered in the Class Action, maintained by a mutually agreeable third-party data hosting company, and secured as BCBSLA deems reasonably necessary to protect the confidentiality of such data or information.

### **13. MISCELLANEOUS PROVISIONS**

13.1 Neither this Settlement Agreement, nor the settlement contemplated thereby, nor any proceeding taken hereunder shall be construed as or deemed to be evidence of any fact or an admission or concession by the Released Parties of any liability or wrongdoing whatsoever, which is expressly denied by the Released Parties, or, on the part of the Class Members, of any lack of merit in their claims. None of the provisions of this Settlement Agreement, nor evidence of any negotiations or proceedings in pursuance of the compromise and settlement herein, shall be offered or received in evidence in the Class Action or any other action or proceeding as an admission or concession of liability or wrongdoing of any nature on the part of the Released Parties, or as an admission of any fact or presumption on the part of the Class, or to establish jurisdiction or venue

or to create a waiver of any affirmative defense. The provisions of the Settlement Agreement and/or the Agreement may be offered or received in evidence solely to enforce the terms and provisions thereof and shall not be offered in evidence or used in the Class Action or any other action or proceeding for any other purpose, including in support of the existence, certification, or maintenance of any purported class. The Parties specifically acknowledge, agree and admit that this Settlement Agreement and the Agreement, along with all related motions and pleadings, shall be considered an offer to compromise and a compromise within the meaning of Rule 408 of the Federal Rules of Evidence, article 408 of the Louisiana Code of Evidence, and any equivalent rule of evidence of any state or federal court, and shall not be offered or received into evidence as an admission or concession of liability or wrongdoing on the part of the Released Parties. This Section 13.1 shall survive the termination of the Agreement.

13.2 This Settlement Agreement constitutes the entire agreement among the Parties and may not be modified, amended, or waived except by a written instrument duly executed by all the Parties or their authorized representatives; provided, however, BCBSLA may exercise the waiver rights provided under Section 4.17. Each Party hereto represents and warrants that it is not relying on any representation that is not specifically included in this Settlement Agreement. This Settlement Agreement supersedes any previous agreements or understandings between or among the Parties on the subject matter of this Settlement Agreement.

13.3 This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

13.4 The terms and conditions of this Settlement Agreement shall bind and inure to the benefit of the heirs, executors, administrators, predecessors in interest, successors in interest, legal representatives, and assigns of all Parties.

13.5 Except with respect to any waiver provided pursuant to Sections 4.17 or 13.2, any waiver by a Party of any term, condition, covenant, or breach of the Settlement Agreement shall not be deemed to be a continuing waiver of same.

13.6 The Parties agree that the terms and conditions of this Settlement Agreement are the result of arm's length negotiations between the Parties or their counsel. None of the Parties shall be considered to be the drafter of the Settlement Agreement or any provision hereof for the purpose of any statute, jurisprudential rule, or rule of contractual interpretation or construction that might cause any provision to be construed against the drafter.

13.7 For purposes of this Settlement Agreement, the use of the singular form of any word includes the plural and vice versa.

13.8 The table of contents and the headings of each Section in this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

13.9 The Parties have agreed that the validity and interpretation of this Settlement Agreement and any of the terms or provisions hereof, as well as the rights and duties of the Parties thereunder, shall be governed solely by the laws of the State of Louisiana without giving effect to any conflict of laws principles and that the exclusive forum for any claim related to the interpretation or enforcement of the Settlement Agreement shall be the 27th Judicial District Court in and for the Parish of St. Landry, Louisiana.

13.10 Any notice, request, instruction, or other document to be given by any Party to any other Party (other than class notification) shall be in writing and delivered personally, sent by registered or certified mail, postage prepaid, or sent by private, overnight delivery carrier operating in the United States of America, providing a receipt with evidence of delivery, as follows:

(a) If to BCBSLA, to:

Michael C. Drew  
Jones Walker, LLP  
201 St. Charles Avenue, Suite 5100  
New Orleans, LA 70170-5100  
mdrew@joneswalker.com

and

Richard A. Sherburne  
BCBSLA  
5525 Reitz Avenue  
Baton Rouge, LA 70809  
richard.sherburne@bcbsla.com

(b) If to the PSC, the Class, or the Plaintiffs, to:

Thomas A. Filo  
Cox, Cox, Filo, Camel & Wilson, L.L.C.  
723 Broad Street  
Lake Charles, Louisiana 70601

and

Arthur M. Murray  
The Murray Law Firm  
625 St. Charles Ave., 3rd Floor  
New Orleans, LA 70130

The Parties may change their respective recipients and addresses for notice by giving notice of such change to the other Parties pursuant to this Section 13.10.



13.11 Thomas A. Filo, as Chairman and Liaison Counsel for the PSC, shall provide, or otherwise ensure the provision of, all required notices to the other members of PSC, including, without limitation, any orders issued by the Court.

13.12 BCBSLA agrees that in the event that any appeal is taken with respect to the settlement embodied in this Settlement Agreement, BCBSLA will join in a motion to require any appellant to post an appeal bond set at the maximum amount allowed by law.

13.13 In the event that one or more of the provisions of this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision, but only if the Parties mutually elect to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement.

13.14 In entering into this Settlement Agreement, each Party represents and warrants that it has relied upon its own knowledge and judgment and the advice of counsel. It is expressly understood, agreed, and warranted that, in entering into this Settlement Agreement, no Party has acted in reliance upon any representation, warranty, advice, or action by any other Party except as specifically set forth herein.

13.15 Except as otherwise provided herein or as may be required by law or in connection with notice of the settlement or as otherwise agreed in writing by the Parties, the Parties shall keep the existence of the settlement in confidence until the Court's entry of the Preliminary Approval Order.

13.16 All valid liens, assigned claims, interventions, subrogation interests and/or claims, and encumbrances of any third parties related to any Benefit Event and/or otherwise attaching to the proceeds of this settlement, or the interest of any individual Class Member therein shall be satisfied solely from the Class Settlement Fund. The Released Parties shall not be subject to any liability or expense of any kind to any person and/or entity with regard to such liens, assigned claims, interventions, subrogation interests and/or claims, and encumbrances. The PSC and the Class reserve the right to contest the validity and/or amount of any such lien, assigned claim, intervention, subrogation interest and/or claim, and encumbrance.

13.17 In order to assist the Special Master in allocating settlement funds, BCBSLA will use its best efforts to provide the Special Master appropriate data concerning benefits, claims and payments made to Class Members since August 24, 2015.

13.18 The Class Settlement Notice will be designed to (a) provide proper notice to the Class Members; (b) effectively reach the Class Members; and (c) satisfy federal and state due process and other relevant standards. The Class Settlement Notice will be prepared to allow persons and entities to opt out of the Class as Defined.

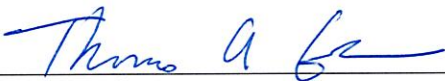
13.19 The Notice Plan, as approved by the Court, shall provide for dissemination: (a) by first class mail to the last known address of all Class Members, if reasonably ascertainable; (b) by electronic mail to the last know electronic mail address of all Class Members, if reasonably ascertainable; (c) by publication in the Alexandria Town Talk, Baton Rouge Advocate, Houma Courier/Thibodaux Daily Comet, Lafayette Daily Advertiser, Lake Charles American Press, Monroe News-Star, New Orleans Times-Picayune/Advocate, Opelousas Daily World, and Shreveport Times, each on two separate days; (d) by such other newspaper publication(s), if any, as necessary to satisfy due process; (e) by publication in at least one state-wide Louisiana medical journal or publication; (f) by posting at the courthouse of the 27th Judicial District Court in and for the Parish of St. Landry in the office of the Clerk of Court; (g) by posting at such other public places as may be further ordered by the Court; and (h) by posting a copy at a neutral website. The dissemination of the notice shall be the responsibility of the PSC.

13.20 The PSC and BCBSLA must jointly agree on the Class Settlement Notice and the Notice Plan prior to submission to the Court.

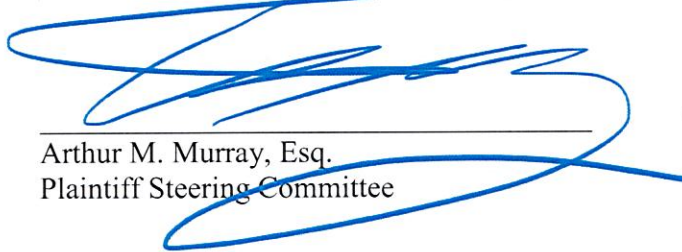
13.21 If, for any reason, Michael C. Drew or Thomas A. Filo become unable to fulfill their respective roles under this Settlement Agreement and/or any exhibit hereto, including, without limitation, the Escrow Agreement, they may be replaced by the Party and/or Parties they represent via written notice provided to the other Parties pursuant to Section 13.10.

[SIGNATURES TO FOLLOW]

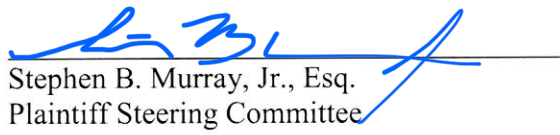
PLAINTIFF STEERING COMMITTEE

  
\_\_\_\_\_  
Thomas A. Filo, Esq.  
Chair, Plaintiff Steering Committee

October 27<sup>th</sup>, 2022

  
\_\_\_\_\_  
Arthur M. Murray, Esq.  
Plaintiff Steering Committee

October 27<sup>th</sup>, 2022

  
\_\_\_\_\_  
Stephen B. Murray, Jr., Esq.  
Plaintiff Steering Committee

October 27, 2022

\_\_\_\_\_  
Patrick C. Morrow, Esq.  
Plaintiff Steering Committee

October \_\_\_\_, 2022

OPELOUSAS GENERAL HOSPITAL AUTHORITY  
As Class Representative

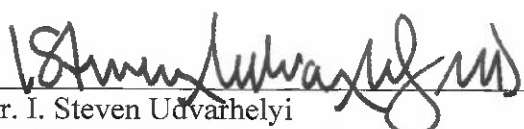
  
[Signature]

October 27, 2022

Kenneth J. Cochran  
[Printed Name]

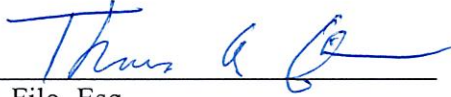
President & CEO  
[Title]

LOUISIANA HEALTH SERVICE & INDEMNITY COMPANY

  
\_\_\_\_\_  
Dr. I. Steven Udvarhelyi  
President and Chief Executive Officer  
Louisiana Health Service & Indemnity Company

October 27, 2022

APPROVED AS TO FORM AND CONTENT



\_\_\_\_\_  
Thomas A. Filo, Esq.  
Counsel for the Class

October 27<sup>th</sup>, 2022

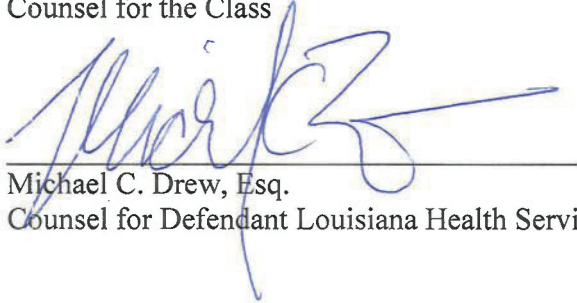
\_\_\_\_\_  
Michael C. Drew, Esq.  
Counsel for Defendant Louisiana Health Service & Indemnity Company

October \_\_, 2022

APPROVED AS TO FORM AND CONTENT

\_\_\_\_\_  
Thomas A. Filo, Esq.  
Counsel for the Class

October \_\_, 2022

  
\_\_\_\_\_  
Michael C. Drew, Esq.  
Counsel for Defendant Louisiana Health Service & Indemnity Company

October 27, 2022

**LIST OF EXHIBITS**

Exhibit 1 -- Escrow Agreement

Exhibit 2 -- Order of Preliminary Approval

Exhibit 3 -- Final Order and Judgment

Exhibit 4 -- Notice Procedure

Exhibit 5 -- Liens, Assigned Claims, Interventions, Subrogation Interests and/or Claims, and Encumbrances