

## **EXHIBIT 2**

EXECUTION VERSION

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD DENNIS, SONTERRA CAPITAL MASTER FUND, LTD., FRONTPOINT FINANCIAL SERVICES FUND, L.P., FRONTPOINT ASIAN EVENT DRIVEN FUND, L.P., FRONTPOINT FINANCIAL HORIZONS FUND, L.P., AND ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM on behalf of themselves and all others similarly situated,

Plaintiffs,

*-against-*

JPMORGAN CHASE & CO., JPMORGAN CHASE BANK, N.A., JPMORGAN CHASE BANK, N.A. AUSTRALIA BRANCH, BNP PARIBAS, S.A., BNP PARIBAS, AUSTRALIA BRANCH, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS N.V., RBS GROUP (AUSTRALIA) PTY LIMITED, UBS AG, UBS AG, AUSTRALIA BRANCH, AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD., COMMONWEALTH BANK OF AUSTRALIA, NATIONAL AUSTRALIA BANK LIMITED, WESTPAC BANKING CORPORATION, DEUTSCHE BANK AG, DEUTSCHE BANK AG, AUSTRALIA BRANCH, HSBC HOLDINGS PLC, HSBC BANK AUSTRALIA LIMITED, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, LLOYDS TSB BANK PLC, AUSTRALIA, MACQUARIE GROUP LTD., MACQUARIE BANK LTD., ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, ROYAL BANK OF CANADA, AUSTRALIA BRANCH, MORGAN STANLEY, MORGAN STANLEY AUSTRALIA LIMITED, CREDIT SUISSE GROUP AG, CREDIT SUISSE AG, ICAP PLC, ICAP AUSTRALIA PTY LTD., TULLETT PREBON PLC, TULLETT PREBON (AUSTRALIA) PTY LTD., AND JOHN DOES NOS. 1-50.

Defendants.

Docket No. 16-cv-06496 (LAK)

**STIPULATION AND  
AGREEMENT OF  
SETTLEMENT  
AS TO DEFENDANT  
COMMONWEALTH  
BANK OF AUSTRALIA**

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**STIPULATION AND AGREEMENT OF SETTLEMENT  
AS TO DEFENDANT COMMONWEALTH BANK OF AUSTRALIA.**

THIS STIPULATION AND AGREEMENT OF SETTLEMENT (the “Settlement Agreement”) is made and entered into on December 10, 2021. This Settlement Agreement is entered into by and on behalf of Richard Dennis, Orange County Employees Retirement System (“OCERS”), and any subsequently named plaintiff(s) (collectively, the “Representative Plaintiffs”), and the Settlement Class, by and through Plaintiffs’ Counsel, and on behalf of Defendant Commonwealth Bank of Australia (“CBA”), by and through CBA’s Counsel.

WHEREAS, Representative Plaintiffs have filed a civil class action captioned *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) (the “Action”), currently pending in the United States District Court for the Southern District of New York, and have alleged, among other things, that Defendants, including CBA, from January 1, 2003, through at least August 16, 2016, acted in a manner that violated several U.S. statutes by allegedly, *inter alia*, manipulating, aiding and abetting the manipulation of, and conspiring, colluding or engaging in racketeering activities to manipulate, the Bank Bill Swap Rate (“BBSW”) and the prices of BBSW-Based Derivatives, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, and the common law;

WHEREAS, Representative Plaintiffs further contend that they and the Settlement Class suffered monetary damages as a result of CBA’s conduct;

WHEREAS, CBA denies each and all of the claims and allegations of wrongdoing in Representative Plaintiffs’ pleadings, has not conceded or admitted any liability, disclaims any and all wrongdoing or liability whatsoever, expressly incorporates its responsive pleadings, as

applicable, and maintains that it has good and meritorious defenses to all of the claims of liability and damages made by Representative Plaintiffs;

WHEREAS, arm's-length settlement negotiations have taken place between Representative Plaintiffs, Plaintiffs' Counsel, CBA and CBA's Counsel and it is the intent of the Parties to fully and finally resolve the Action as it relates to CBA or other Released Parties and any claims that arise out of, are based upon or relate in any way to the purchase, other acquisition or sale of BBSW-Based Derivatives by the Settlement Class during the Settlement Class Period as they relate to, or are asserted against, CBA;

WHEREAS, on March 20, 2021 in New York, the Parties entered into a Binding Term Sheet for Settlement (the "Term Sheet") recording their agreement in principle to settle this Action as against CBA, including by executing this Settlement Agreement;

WHEREAS, this Settlement Agreement (together with the exhibits hereto and the Supplemental Agreement described in Section 23 herein) is the product of arm's-length negotiations between Representative Plaintiffs and CBA reflects the final and binding agreement between the Parties subject to final approval of the Court;

WHEREAS, Plaintiffs' Counsel, having conducted an investigation of the facts and the law regarding the Action, consider the Settlement set forth herein to be fair, reasonable, adequate and in the best interests of Representative Plaintiffs and the Settlement Class, and having determined that it is in the best interests of the Settlement Class to enter into this Settlement Agreement in order to avoid the uncertainties of complex litigation and to assure a benefit to the Settlement Class;

WHEREAS, CBA, while continuing to deny that it is liable for any of the claims asserted against it in the Action and maintaining that it has good and meritorious defenses thereto, has

nevertheless agreed to enter into this Agreement solely to avoid the continuing cost and burden, further expense, inconvenience, business interruption and distraction of burdensome and protracted litigation, thereby putting this controversy to rest and avoiding the risks inherent in complex litigation, and to obtain complete dismissal of the Action as to CBA and a release of claims as set forth herein;

WHEREAS, Representative Plaintiffs, for themselves individually and on behalf of each Settling Class Member, and CBA agree that neither this Settlement Agreement nor any statement made in negotiation thereof shall be deemed or construed to be an admission or evidence of any violation of any statute or law or of any fault, liability or wrongdoing whatsoever by CBA, the truth of any of the claims or allegations or any infirmity in the defenses that CBA has, or could have, asserted in the Action;

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, Representative Plaintiffs, on behalf of themselves and the Settlement Class by and through Plaintiffs' Counsel, and CBA, by and through CBA's Counsel, agree that the Action and Released Claims be settled, compromised, and dismissed on the merits and with prejudice as to CBA and without costs as to Representative Plaintiffs, the Settlement Class, or CBA, subject to the approval of the Court, on the following terms and conditions:

**1. Terms Used In This Agreement**

The words and terms used in this Settlement Agreement, which are expressly defined below, shall have the meaning ascribed to them for purposes of this Settlement Agreement.

(A) “**Action**” means the action captioned *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) currently pending in the United States

District Court for the Southern District of New York and any actions that may be consolidated thereunder in the future.

(B) “**Agreement**” or “**Settlement Agreement**” means this Stipulation and Agreement of Settlement, together with any exhibits attached hereto, which are incorporated herein by reference.

(C) “**Any**” means one or more.

(D) “**CBA’s Counsel**” means CBA’s undersigned counsel of record in this Action.

(E) “**Authorized Claimant**” means any Settlement Class Member who, in accordance with the terms of this Agreement, is entitled to a distribution from the Net Settlement Fund pursuant to any Distribution Plan or order of the Court.

(F) “**BBSW**” means the Bank Bill Swap Rate.

(G) “**BBSW-Based Deposits or Loans**” means BBSW-based deposits or loans, including floating rate notes, deposit-taking facilities, and commercial loans that are priced or call for payments due, in whole or in part, based on BBSW, including Australian dollar deposits and loans.

(H) “**BBSW-Based Derivatives**” means any financial derivative instrument that is based or priced in whole or in part in any way on BBSW or in any way includes BBSW as a component of price (whether priced, benchmarked and/or settled by BBSW), entered into by a U.S. Person, or by a person from or through a location within the U.S., including, but not limited to: (i) Australian dollar foreign exchange (“FX”) derivatives, including Australian dollar FX forwards (also known as “outright forwards” or “outrights”), Australian dollar FX swaps (also known as “currency swaps”), Australian dollar currency options, Australian dollar futures contracts (such as the Chicago Mercantile Exchange

(“CME”) Australian dollar futures contract) and options on such futures contracts; (ii) BBSW-based interest rate derivatives, including interest rate swaps, swaptions, forward rate agreements (“FRAs”), exchange-traded deliverable swap futures and options on those futures, 90-day bank accepted bill (“BAB”) futures and options on those futures, and other over-the-counter (“OTC”) contracts or publicly traded vehicles that reference BBSW; (iii) Australian dollar cross-currency swaps; and (iv) any other financial derivative instrument or transaction based in whole or in part on BBSW, or that in any way incorporates BBSW as a component of price, or is alleged by Representative Plaintiffs in this Action to be based in whole or in part on BBSW, or to in any way incorporate BBSW as a component of price. For the avoidance of doubt, BBSW-Based Derivatives do not include: (i) any BBSW-Based Deposits or Loans; or (ii) any Prime Bank Bills or Prime Bank eligible securities. The Parties agree that this definition is for settlement purposes only. CBA’s rights to contest the relationship, if any, between or among pricing of the products and examples included within this definition, BBSW, and other factors or forces shall be fully preserved. Nothing in this Settlement Agreement may be cited or construed as an admission of or as support for an assertion that a product was or is priced by reference to BBSW in whole or part.

(I) “**Business Days**” means any days from Monday through Friday, inclusive, that are not federal holidays in the United States. For the avoidance of doubt, Business Days shall be defined with reference to the Eastern Time (ET).

(J) “**Class Notice**” means the form of notice of the proposed Settlement to be distributed to the Settlement Class as provided in this Agreement.

(K) “**Conditional Certification Order**” means an order by the Court, the form of which shall be mutually agreed upon by the Parties and submitted to the Court substantially

in the form attached hereto as Exhibit A, issued in response to the Motion for Conditional Certification, conditionally certifying the Settlement Class for purposes only of the Settlement, in accordance with Section 14 herein, pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure and staying all proceedings in the Action as against CBA until the Final Approval Order and the Final Judgment (including the order of dismissal of the Action fully, finally and with prejudice as to CBA and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of CBA or the other Released Parties)) have become Final and unappealable or the Court otherwise enters a final decision regarding approval of the Settlement and dismissal of all claims in the Action fully, finally and with prejudice as to CBA and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of CBA or the other Released Parties).

(L) “**Court**” means the United States District Court for the Southern District of New York.

(M) “**Defendants**” means any defendants currently or formerly named in the Action and any parties that may be added to the Action as defendants through amended or supplemental pleadings.

(N) “**Distribution Plan**” means the plan of allocation of the Net Settlement Fund developed by Representative Plaintiffs and Plaintiffs’ Counsel and submitted to the Court for approval, whereby the Net Settlement Fund shall in the future be distributed to Authorized Claimants.

(O) “**Effective Date**” means the date when this Settlement Agreement becomes effective and Final as set forth in Section 19 of this Settlement Agreement.

(P) “**Escrow Agent**” means any Person designated by Plaintiffs’ Counsel with the consent of CBA and approved by the Court to act as escrow agent for the Settlement Fund (as defined in Section (TT) herein), which Plaintiffs’ Counsel anticipates will be Citibank N.A.

(Q) “**Execution Date**” means the date on which this Agreement is executed by the last Party required to do so.

(R) “**Fairness Hearing**” means a hearing scheduled by the Court following the issuance of the Conditional Certification Order, to consider the fairness, adequacy and reasonableness of the proposed Settlement and Settlement Agreement.

(S) “**Final**” means, with respect to any court order, including, without limitation, the Final Approval Order and Final Judgment, that such order represents a final and binding determination of all issues within its scope and is not subject to further review on appeal or otherwise. An order becomes “Final” when: (i) no appeal has been filed and the prescribed time for commencing any appeal has expired; or (ii) an appeal has been filed and either (a) the appeal has been dismissed and the prescribed time, if any, for commencing any further appeal has expired, or (b) the order has been affirmed in its entirety and the prescribed time, if any, for commencing any further appeal has expired. However, any appeal or other proceeding pertaining solely to any order adopting or approving the Distribution Plan, and/or any order issued in respect of any Fee and Expense Application (as defined in Section 6(D) herein) pursuant to Sections 6 and 7 below, shall not in any way delay or prevent the Final Judgment and Final Approval Order from becoming Final.

(T) “**Final Approval Order**” means an order from the Court, the form of which shall be mutually agreed upon by the Parties and submitted to the Court substantially in the form attached hereto as Exhibit B, approving of the Settlement following: (i) submission of the Motion for Conditional Certification and issuance of the Conditional Certification Order, (ii) the issuance of the Class Notice pursuant to the Conditional Certification Order or any other related order, and (iii) the Fairness Hearing.

(U) “**Final Judgment**” means the order of judgment and dismissal of the Action fully, finally and with prejudice as to CBA and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of CBA or the other Released Parties), the form of which shall be mutually agreed upon by the Parties and submitted to the Court substantially in the form attached hereto as Exhibit C.

(V) “**Incentive Award**” means any award by the Court to Representative Plaintiffs as described in Section 6(B).

(W) “**Investment Vehicles**” means any investment company, separately managed account or pooled investment fund, including, but not limited to: (i) mutual fund families, exchange-traded funds, fund of funds and hedge funds; and (ii) employee benefit plans.

(X) “**Motion for Conditional Certification**” means an application seeking conditional certification of the Settlement Class for purposes only of the Settlement in accordance with Section 14 herein, pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure and a stay of all proceedings in the Action as against CBA until the Final Approval Order and the Final Judgment (including the order of dismissal of the Action fully, finally and with prejudice as to CBA and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees

of CBA or the other Released Parties)) have become Final and unappealable or the Court otherwise enters a Final decision regarding approval of the Settlement and dismissal of all claims in the Action fully, finally and with prejudice as to CBA and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of CBA or the other Released Parties).

(Y) “**Net Settlement Fund**” means the Settlement Fund less Court-approved disbursements, including: (i) notice, claims administration and escrow costs; (ii) any attorneys’ fees and/or expenses awarded by the Court; (iii) any Incentive Award(s) awarded by the Court; and (iv) all other expenses, costs, taxes and other charges approved by the Court.

(Z) “**Opt-Outs**” means the Settlement Class Members that timely exercise their rights to be excluded from the Settlement Class.

(AA) “**Opt-Out Information**” refers to the information to be sought from and provided by Opt-Outs as part of their election to opt out of the Settlement Class, as specified in Section 14(B) (subject to Court approval).

(BB) “**Other Settlement**” means any settlement Representative Plaintiffs reach with any other Defendant involving the Action. For the avoidance of doubt, Other Settlement does not include the settlements previously entered into between the Representative Plaintiffs and (i) JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. on or about November 20, 2018, as amended on or about March 1, 2021, (ii) Westpac Banking Corporation on or about March 1, 2021, (iii) Morgan Stanley and Morgan Stanley Australia Limited on or about October 1, 2021; (iv) National Australia Bank, Limited on or about

December 10, 2021; and (v) Australia and New Zealand Banking Group Ltd. on or about December 10, 2021.

(CC) “**Panel Banks**” means the banks on the Australian Financial Markets Association (the “AFMA”) “BBSW Panel” during the Settlement Class Period. Panel Banks include Australia and New Zealand Banking Group Limited, BNP Paribas S.A., Commonwealth Bank of Australia, Deutsche Bank AG, HSBC Bank Australia Limited, JPMorgan Chase Bank N.A., Lloyds TSB Bank plc, Macquarie Bank Limited, National Australia Bank Limited, Royal Bank of Canada, RBS Group (Australia) Pty Limited, UBS AG, Westpac, and Citibank NA.

(DD) “**Parties**” means CBA and Representative Plaintiffs collectively, and “**Party**” applies to each individually.

(EE) “**Person**” means a natural person, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint-stock company, estate, legal representative, trust, unincorporated association, proprietorship, municipality, state, state agency, entity that is a creature of any state, any government, governmental or quasi-governmental body or political subdivision, authority, office, bureau, agency or instrumentality of the government, any business or legal entity, or any other entity or organization; and any spouses, heirs, predecessors, successors, representatives or assigns of any of the foregoing.

(FF) “**Plaintiffs’ Counsel**” means Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP.

(GG) “**Prime Banks**” means the banks designated by AFMA as prime banks during the Settlement Class Period. Such banks include, but are not limited to, the following banks

for at least some portion of the Settlement Class Period: Australia and New Zealand Banking Group Limited, Commonwealth Bank of Australia, National Australia Bank Limited, Westpac, JPMorgan Chase Bank N.A., BNP Paribas S.A., Deutsche Bank AG, HBOS Treasury Services plc, and Citibank NA.

(HH) “**Prime Bank Bills**” means negotiable certificates of deposit (“NCDs”) and BABs issued and accepted by Prime Banks.

(II) “**Proof of Claim and Release**” means the form to be provided to Settlement Class Members, upon further order(s) of the Court, by which any Settlement Class Member may make a claim against the Net Settlement Fund.

(JJ) “**Released Claims**” means those claims described in Section 13 of this Settlement Agreement.

(KK) “**Released Parties**” means CBA, its predecessors, successors and assigns, its past, present, and future direct and indirect parents, subsidiaries, divisions, related entities, associates and affiliates, and each of CBA’s and each of the foregoing’s respective current, former and future officers, directors, advisors, representatives, employees, principals, managers, members, partners, participants, agents (in their capacity as agents of CBA), shareholders (in their capacity as shareholders of CBA), representatives, fiduciaries, beneficiaries, consultants, attorneys, accountants, auditors, insurers, or legal representatives, and the predecessors, successors, heirs, executors, administrators, trustees and assigns of each of the foregoing and any John Doe Defendants named or subsequently named in this Action (to the extent they are current or former employees of any of the foregoing but solely in that capacity). As used in this provision, “affiliates” means entities controlling, controlled by, or under common control with a Released Party. For the

avoidance of doubt, for purposes of this Settlement, “Released Parties” shall not include any named Defendants other than CBA.

(LL) “**Releasing Parties**” means each and every Representative Plaintiff, Fund Liquidation Holdings, LLC, Sonterra Capital Master Fund, Ltd., FrontPoint Financial Services Fund, L.P., FrontPoint Asian Event Driven Fund, L.P., and FrontPoint Financial Horizons Fund, L.P., and each and every Settling Class Member on their own behalf and on behalf of their respective predecessors, successors and assigns, direct and indirect parents, subsidiaries, divisions, related entities, associates and affiliates, and on behalf of their current and former officers, directors, advisors, representatives, employees, agents, principals, managers, members, trustees, participants, representatives, fiduciaries, beneficiaries, consultants, attorneys, accountants, auditors, insurers or legal representatives in their capacity as such, and the predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing in their capacity as such, whether or not they object to the Settlement or make a claim for payment from the Settlement Fund. Notwithstanding that the U.S. Government is excluded from the Settlement Class, with respect to any Settling Class Member that is a government entity, Releasing Parties include any and every Settling Class Member as to which the government entity has the legal right to release such claims. As used in this provision, “affiliates” means entities controlling, controlled by, or under common control with a Releasing Party. For the avoidance of doubt, the “Releasing Parties” include all Persons (including both natural persons and entities) entitled to bring or release claims on behalf of Settling Class Members relating to the Released Claims, including, but not limited to, the Settling Class Members’ transactions, interests or positions in, or ownership of, BBSW-Based Derivatives, BBSW-Based Deposits or Loans,

or any similar financial instruments priced, benchmarked, or settled to BBSW held by Representative Plaintiffs, Fund Liquidation Holdings, LLC, Sonterra Capital Master Fund, Ltd., FrontPoint Financial Services Fund, L.P., FrontPoint Asian Event Driven Fund, L.P., and FrontPoint Financial Horizons Fund, L.P., or Settling Class Members (to the extent such similar financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.).

(MM) “**Representative Plaintiffs**” means Richard Dennis and OCERS and any subsequently named plaintiff(s) that may be added to this Action through amended or supplemental pleadings. This Settlement Agreement is entered into with each and every Representative Plaintiff. In the event that one or more Representative Plaintiff(s) fails to secure Court approval to act as a Representative Plaintiff, the validity of the Settlement Agreement as to the remaining Representative Plaintiffs, the Settlement Class, and Plaintiffs’ Counsel shall be unaffected, provided that at least one Representative Plaintiff remains and that the Court’s ability to certify the Settlement Class is not impaired.

(NN) “**Settlement**” means the settlement of the Released Claims set forth herein.

(OO) “**Settlement Administrator**” means any Person that the Court approves to perform the tasks necessary to provide Class Notice to the Settlement Class and to otherwise administer the Settlement Fund, as described further herein. Representative Plaintiffs intend to propose A.B. Data, Ltd. as the Settlement Administrator.

(PP) “**Settlement Amount**” means thirty-five million five hundred thousand U.S. dollars (U.S. \$35,500,000.00).

(QQ) “**Settlement Class**” means all Persons (including both natural persons and entities) who purchased, acquired, sold, held, traded, or otherwise had any interest in, BBSW-Based

Derivatives during the Settlement Class Period, provided that, if Representative Plaintiffs expand the putative or certified class in this Action in or through any subsequent amended complaint, class motion, or Other Settlement, the defined Settlement Class in this Settlement Agreement shall be expanded so as to be coterminous with such expansion. Excluded from the Settlement Class are the Defendants and any parent, subsidiary, affiliate or agent of any Defendant or any co-conspirator whether or not named as a Defendant, and the United States Government.

(RR) “**Settlement Class Member**” means a Person who is a member of the Settlement Class.

(SS) “**Settlement Class Period**” means the period of January 1, 2003 through August 16, 2016 (inclusive).

(TT) “**Settlement Fund**” means the Settlement Amount plus any interest that may accrue thereon once paid in accordance with this Agreement.

(UU) “**Settling Class Members**” means Representative Plaintiffs and other members of the Settlement Class who do not timely and validly exclude themselves from the Settlement pursuant to Federal Rule of Civil Procedure 23(c) and in accordance with the procedure and timetable to be established by the Court.

(VV) “**Stipulation and Protective Order**” means the Stipulation and Order Establishing a Protocol for the Production of Documents and Electronically Stored information (ECF No. 370) entered by the Court.

(WW) “**U.S. Person**” means a citizen, resident, or domiciliary of the United States or its territories; a corporation, including a limited liability company, either incorporated or headquartered in the United States or its territories; a partnership created or resident in the

United States or its territories; any other Person or entity created and/or formed under the laws of the United States, including any state or territory thereof; or any other Person or entity residing or domiciled in the United States or its territories; or any other Person or entity that entered into or traded the relevant financial derivative instrument pursuant to an agreement that contains provisions selecting as governing law the laws of, and designating as a forum for disputes the courts of, the United States or any state thereof, including but not limited to the State of New York.

**2. No Admissions**

No Party admits any factual or legal assertion that has been advanced in the Action, and the Settlement Agreement (whether or not consummated), including the exhibits hereto and the Supplemental Agreement, as well as the negotiations leading to the execution of this Agreement and any proceedings in connection with this Settlement Agreement or approval of the Settlement, shall not constitute or be deemed an admission, presumption or concession by any Party with respect to any factual or legal assertion, or allegation, or claim, that has been advanced in the Action, or the validity of any defenses that could be or have been asserted by CBA; provided, however, that if this Settlement Agreement is approved by the Court, the Parties and their respective counsel may refer to it to effectuate the protections from liability granted hereunder or otherwise to enforce the terms of the Settlement.

CBA is entering into this Settlement Agreement in order to avoid the continuing cost and burden of, and business interruption associated with, the Action. In entering into this Settlement Agreement, CBA does not admit any of the allegations or claims asserted by Representative Plaintiffs (or any prior named plaintiff) in the Action, and CBA will continue to deny that it has violated, in any way and to any degree, *inter alia*, the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the Racketeer Influenced and Corrupt

Organizations Act, 18 U.S.C. §§ 1961-1968, and any claim available under U.S. common law and will maintain that it has meritorious defenses to all of the claims alleged in the Action, including, but not limited to, jurisdictional defenses.

### **3. Settlement Class**

As soon as reasonably practicable after the Execution Date, Representative Plaintiffs will file a Motion for Conditional Certification. Notwithstanding the sentence in Section 1(QQ) above that “[e]xcluded from the Settlement Class are the Defendants and any parent, subsidiary, affiliate or agent of any Defendant or any co-conspirator whether or not named as a Defendant, and the United States Government,” and solely for purposes of this Settlement and this Settlement Class, the Parties agree that Investment Vehicles are not excluded from the Settlement Class solely on the basis of being deemed to be Defendants or affiliates, subsidiaries, parents or agents of Defendants or controlled by Defendants or affiliates, subsidiaries, parents or agents of Defendants. However, to the extent that any Defendant or any entity that might be deemed to be an affiliate, subsidiary, parent or agent thereof (i) managed or advised, and (ii) directly or indirectly held a beneficial interest in, said Investment Vehicle during the Settlement Class Period, that beneficial interest in the Investment Vehicle is excluded from the Settlement Class.

The Parties’ agreement as to certification of the Settlement Class is solely for the purposes of effectuating the Settlement and for no other purpose. CBA retains all of its objections, arguments, and defenses with respect to class certification, and reserves all rights to contest class certification, if the Settlement does not receive the Court’s Final approval, if the Court’s approval is reversed or vacated on appeal, if the Settlement is terminated pursuant to Section 22 herein, or if the Settlement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any classes or certification of any classes for any purpose other than effectuating the Settlement, and that if the Settlement does not receive the Court’s Final approval, if the Court’s

approval of the Settlement is reversed or vacated on appeal, if this Settlement Agreement is terminated pursuant to Section 22 herein, or if the Settlement otherwise fails to become effective, this agreement as to certification of the Settlement Class becomes null and void *ab initio*, and this Settlement Agreement, and/or any other settlement-related statement, documentation or communications may not be cited in any way relating to certification of the Settlement Class, or in support of an argument for certifying any class for any purpose related to this Action or any other proceeding. The Parties further recognize and acknowledge that the Court previously issued (i) an Order Granting Conditional Class Certification for Purposes of Class Action Settlement with JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A., dated November 27, 2018 (ECF No. 229); (ii) an Order Granting Conditional Class Certification for Purposes of Class Action Settlement with Westpac Banking Corporation, dated March 30, 2021 (ECF No. 459); and (iii) a Superseding Order Granting Conditional Class Certification for Purposes of Class Action Settlement with JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (the “Prior Conditional Certification, dated March 30, 2021 (ECF No. 460) (collectively, the “Prior Conditional Certification Orders”) and may issue a conditional certification order(s) with respect to settlements with Morgan Stanley, Morgan Stanley Australia Limited, Australia and New Zealand Banking Group Limited, and National Australia Bank prior to the execution of this Settlement Agreement, and that the Conditional Certification Order contemplated by this Settlement Agreement may either be issued as a new stand-alone order, or may amend or supersede the Prior Conditional Certification Orders and any other conditional certification order(s) concerning settlements Morgan Stanley, Morgan Stanley Australia Limited, Australia and New Zealand Banking Group Limited, and National Australia Bank. Notwithstanding the foregoing, the Parties recognize and agree that entry of the Conditional Certification Order referenced and specified herein is necessary

to and a material term of this Settlement, and that the Parties shall cooperate in good faith to facilitate its issuance as specified herein.

#### **4. Settlement Payment**

In Settlement of the Action, CBA shall pay the Settlement Amount as set forth in this Section. Within ten (10) Business Days following issuance of the Conditional Certification Order, CBA shall deposit or cause the deposit of U.S. \$17,750,000 of the Settlement Amount by wire transfer into an escrow account designated by the Escrow Agent. CBA shall pay the balance of the Settlement Amount (U.S. \$17,750,000) by wire transfer within ten (10) Business Days after entry of the Final Approval Order and Final Judgment. Before any wire transfer takes place, and no less than ten (10) Business Days before payment is due, Plaintiffs' Counsel shall provide CBA's Counsel with information necessary to complete the wire transfer.

The Settlement Amount includes the payment of all attorneys' fees, costs of administration, Representative Plaintiffs' out-of-pocket expenses, and Plaintiffs' compensatory awards. Other than the payment of the Settlement Amount as set forth in this Section, CBA shall have no responsibility or liability for any interest, costs, or any other monetary payment of any kind or amount, including, but not limited to, any attorneys' fees and expenses, taxes, or costs of notice or claims administration.

#### **5. CBA's Cooperation**

(A) CBA has agreed to provide Representative Plaintiffs with certain cooperation materials, solely in conjunction with, and for purposes of, this Settlement, and solely for use in connection with the prosecution of the Action against the non-settling Defendants<sup>1</sup> or for providing

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<sup>1</sup> Non-settling Defendants refers to any Defendant that has not reached a final settlement with Representative Plaintiffs that has been finally approved by the Court and has become effective pursuant to the terms of such final settlement.

notice of the Settlement to the Settlement Class, as enumerated below (“Cooperation Materials”). CBA has agreed to provide cooperation that, as a whole, is at least the equivalent of the cooperation provided for in Section 5 of the settlement agreement between Representative Plaintiffs and Westpac Banking Corporation, which was filed with the Court in the Action on March 2, 2021 (ECF No. 452-1) (the “Westpac Settlement”). Representative Plaintiffs and CBA believe that the cooperation provided for in Section 5 is at least the equivalent of the cooperation provided for in Section 5 of the Westpac Settlement. However, in the event that it is determined, pursuant to the dispute resolution process set forth in Section 42 below, that the cooperation provided for herein is not at least the equivalent of the cooperation provided for in Section 5 of the Westpac Settlement, then CBA agrees to provide additional cooperation sufficient to permit a determination that the cooperation provided for herein and such additional cooperation is at least the equivalent of the cooperation provided for in Section 5 of the Westpac Settlement. Any disputes regarding the foregoing that cannot be resolved amongst the Parties, including, without limitation, the details or scope of any additional cooperation, shall be resolved pursuant to Section 42 below. In the event such dispute resolution takes place, the Parties agree that the mediator or arbitrator may consider the Parties’ reasonable expectations at the time of executing this settlement agreement as to the overall value of the cooperation and discovery materials provided by CBA to Representative Plaintiffs’ prosecution of the case. Factors to be weighed in this analysis may include, but are not limited to, the speed with which certain of the cooperation is provided following execution of this Settlement Agreement; the qualitative probative value of the material provided; the resources Representative Plaintiffs were able to direct toward other aspects of the prosecution of the case due to CBA’s agreement to provide the material; and the likelihood that Representative Plaintiffs’ could obtain similar materials from alternate sources, as well as the expected burden and costs

involved in doing so.

(B) **Privileges and Privacy.** Notwithstanding any other provision in this Settlement, CBA shall have no obligation to produce any document, or part thereof, or provide any information that is privileged under the attorney-client privilege, the work product doctrine, the common interest or joint defense privilege, the “without prejudice” privilege, legal professional privilege (including, without limitation, Australian legal professional privilege), bank examination privilege, any applicable foreign legal privilege or protection (under statute or common law), or any other applicable immunity, privilege or protection, any protective order or confidentiality agreement, any United States or foreign bank disclosure or bank secrecy laws (including, without limitation, Confidential Supervisory Information as defined by 12 C.F.R. § 261.20, Suspicious Activity Reports, the secrecy and disclosure limitations set forth in Section 11CH of the Australian Banking Act 1959 (Cth), Section 123 of the Australian Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), sensitive or protected information under Section 56 of the Australian Prudential Regulation Authority Act 1998 (Cth) and the Singaporean Banking Act of 1970), United States or foreign data privacy laws (including, without limitation, the Australian Privacy Act 1988 (Cth) and the European Union’s General Data Protection Regulation 2016/679), and/or confidentiality obligations, orders or implied undertakings in any other actions. This includes, without limitation, CBA’s *Harman* undertaking, if any, in any applicable proceedings in Australia. None of the cooperation provisions set forth herein are intended to, nor do they, waive any such privileges, immunities, obligations or requirements. Notwithstanding and without prejudice to the foregoing, if any privilege, privacy, confidentiality or other basis for withholding cooperation materials can be avoided without undue burden to CBA through a reasonable workaround, such as by removing or anonymizing identifying information in a cost-effective

manner that will not involve the imposition of additional significant or undue costs on CBA or through entry of an order by the Court directing CBA to produce the cooperation materials to Representative Plaintiffs, CBA shall cooperate in good faith with Representative Plaintiffs to implement such a workaround.

(C) Plaintiffs' Counsel and Representative Plaintiffs agree to use any and all of the information and documents obtained from CBA only for the purpose of the Action and agree to be bound by the terms of the Stipulation and Protective Order. For the avoidance of doubt, Plaintiffs' Counsel and Representative Plaintiffs expressly agree that the documents, materials and/or information provided by CBA, including, without limitation, oral presentations, may be used directly or indirectly by Plaintiffs' Counsel solely in connection with the prosecution of the Action against the non-settling Defendants, but not used directly or indirectly by any Person for the institution or prosecution of any other action or proceeding against any Released Party or for any other purpose whatsoever, including, but not limited to, actions or proceedings in jurisdictions outside the United States. Any production, including inadvertent production, of material that is irrelevant to the prosecution of the Action against the non-settling Defendants or that is subject to any protection or privilege, including a claim of protection under the attorney-client privilege, attorney work product doctrine, United States or foreign bank disclosure or foreign bank secrecy laws or regulations (including but not limited to Confidential Supervisory Information or Suspicious Activity Report privileges), United States or foreign data privacy laws, or any other applicable United States or foreign statute, law, regulation, privilege, court order, restriction, or immunity from disclosure, shall be governed by the Stipulation and Protective Order. Any dispute between the Parties regarding a document's relevance to the prosecution of the Action against the

non-settling Defendants shall be resolved through confidential mediation pursuant to Section 42 below.

(D) **Document Productions.** CBA will produce documents in a format consistent with the stipulation and order entered by the Court concerning ESI (ECF No. 370). The Conditional Certification Order (or a separate order submitted to the Court) shall include a provision that requires CBA to produce documents consistent with its obligations in this Section 5. Once such an order is entered, CBA shall provide the cooperation described herein to the extent that such material is reasonably available and accessible to CBA and has not already been produced to Representative Plaintiffs in the Action. CBA may produce any data as it is maintained in a centrally stored database provided that the data maintained in any such centrally stored database is sufficient to satisfy the categories of data set forth in this Section 5 and further provided that CBA or its counsel sufficiently describe the data maintained in a centrally stored database such that the data can be understood and useable by Plaintiffs' Counsel. In the event that CBA believes Plaintiffs' Counsel has unreasonably requested cooperation, or Plaintiffs' Counsel believes CBA has unreasonably withheld cooperation, CBA and Plaintiffs' Counsel agree to meet and confer regarding such disagreement and seek resolution if necessary by confidential mediation pursuant to Section 42 below.

(E) Within five (5) business days of the entry of the Conditional Certification Order (or a separate order by the Court requiring CBA to produce documents consistent with its obligations under this Section 5) CBA shall begin a rolling production of the documents and data, to the extent that such documents and data exist and are reasonably retrievable without undue burden:

- (i) Time-stamped Prime Bank Bill data that ICAP and Tullett Prebon provided to CBA during the course of ASIC's investigation showing information

concerning CBA's transactions with each broker, including timestamps for those transaction maintained by the brokers during the period from April 1, 2008 through December 31, 2013. CBA has represented that the foregoing documents and data exist, are reasonably retrievable without undue burden and will be produced to Representative Plaintiffs;

- (ii) Relevant interbank emails and chats involving the document custodians from whom CBA produced custodial materials during discovery (identified in the October 12, 2020 letter from CBA to Representative Plaintiffs, ("Document Custodians"), including communications with traders named in the Second Amended Complaint employed by other Defendants—including non-settling Defendants—identified following a reasonable search for such communications during the period from June 1, 2008 through September 27, 2013. The Parties have agreed on the scope of a search, including search terms and custodians;
- (iii) Daily screen snapshots, of ICAP Brokers Pty Ltd ("ICAP") and Tullett Prebon (Australia) Pty Ltd's ("Tullett") posted bids and offers for Prime Bank Bills during the period from June 1, 2008 to September 27, 2013;
- (iv) Electronic communications in CBA's possession reflecting CBA's and other market participants' bids and offers and Prime Bank Bill transactions during the period from June 1, 2008 through September 27, 2013;
- (v) Documents explaining the preparation and maintenance of reset exposure reports; and
- (vi) Records indicating intra-day BAB futures transactions during the period from

January 1, 2005 to December 31, 2015. In the event that no such files exist, CBA agrees to make reasonable efforts to explain in due course the extent to which previously produced transaction data may be analyzed to show information concerning intra-day BAB futures transactions.

(F) **Broker Data.** CBA shall make a good faith effort to obtain from ICAP and/or Tullett Prebon and produce to Representative Plaintiffs:

- (i) Records showing details of all purchases and sales by all banks of BABs and NCDs (together, Prime Bank Bills) during the period from January 1, 2005 to December 31, 2015. Such details should include the time such purchases and sales were executed or first recorded by ICAP or Tullett Prebon, the face amount, the price and yield, and which “maturity bucket” such trade is associated with. “Maturity bucket” refers to maturity as it appears in the broker’s Bank Bill market screen(s) published to clients that was delivered or received as bids taken or offers fulfilled for 30-day, 60-day, 90-day, 120-day, 150-day, or 180-day Prime Bank Bills;
- (ii) Records showing the outstanding bids and offers appearing on ICAP and Tullett screens for 30-day, 60-day, 90-day, 120-day, 150-day, or 180-day Prime Bank Bills each day at 10 AM in Sydney, or slightly before 10 AM (no earlier 9:55 AM) for each business day during the period from January 1, 2005 to December 31, 2015;
- (iii) Copies of the Prime Bank Bill daily total trade volumes for both Bank Accepted Bills and Negotiable Certificates of Deposit that the brokers submitted to ASIC;

- (iv) Audio files of communications, which occurred from 9:50 am to 10:05 am on each Sydney business day, between brokers and traders at CBA and other banks, containing verbal orders and/or offers to buy, sell or accept the offer of Prime Bank Bills of a particular tenor at a particular volume and yield;
- (v) Audio files of other relevant communications one hour before, one hour after and during the BBSW fixing window;
- (vi) Records showing the outstanding bids and offers for Australian Dollar OIS swaps appearing on ICAP and Tullett screens for 30-day, 60-day, 90-day, 120-day, 150-day, or 180-day tenors each day at 10 AM in Sydney, or slightly before 10 AM (no earlier 9:55 AM) for each business day during the period from January 1, 2005 to December 31, 2015; and
- (vii) A writing from the brokers describing what each document or data set contains.

**(G) Additional Document Searches and Information.**

Within twenty (20) Business Days of the entry of the Conditional Certification Order (or a separate order by the Court requiring CBA to produce documents consistent with its obligations under this Section), CBA shall begin to search for or compile for production to Representative Plaintiffs:

- (i) the e-mail and chat communications collected from the files of the Document Custodians, from June 1, 2008 to September 27, 2013, using a set of reasonable search terms agreed upon between CBA and Representative Plaintiffs.
- (ii) Documents concerning BBSW rate submissions on behalf of CBA from June 1, 2008 to September 27, 2013, to the extent that such documents and

data exist and are reasonably retrievable without undue burden;

- (iii) A list of dates, in addition to the nineteen (19) dates listed in Pleading Schedule 1 to the Statement of Claim in *ASIC v. CBA*, which constituted the dates of interest on which ASIC focused during its investigation regarding BBSW, and the dates of interest on which CBA focused its investigation regarding BBSW, subject to any agreements or undertakings between CBA and ASIC which prevent CBA from disclosing this information.

**(H) Subsequent Searches and Information.**

- (i) Prior to the last day of fact discovery under the then-operative scheduling or case management order, and to the extent reasonable and appropriate, Representative Plaintiffs shall have the right to request that CBA, to the extent not already provided, make reasonable efforts to respond to the below requests in the manner that CBA determines will be least burdensome. The form of CBA's response may, at CBA's reasonable discretion, include without limitation the production of documents, the provision of an attorney proffer, or the submission of a written response. CBA may object to producing documents to the extent such search and/or production will be unduly burdensome to CBA. CBA's agreement to search for material and information responsive to the below requests does not constitute a representation that such material or information exists:

- a. communications between employees of CBA's U.S. branch and the non-settling Defendants relating to BBSW, including bids, offers, transactions, confirmations, and derivative trades referenced to BBSW;

- b. documents, including manuals, directives, and actual confirmations, detailing how CBA processed transactions with U.S. customers during the Certified Class Period;
- c. documents explaining how the U.S. market operated during the Certified Class Period, generally including:
  - 1) the organizational framework and duties of those involved in trading BBSW-based derivatives;
  - 2) incentives for U.S.-based employees of CBA based on derivatives transactions;
  - 3) identification of how confirmations were produced by CBA for transactions with U.S. customers;
  - 4) names and titles of CBA traders in New York whose responsibilities included settling trades booked by other CBA trading offices located in Asia or Australia as well as trading interest rate and FX derivatives with counterparties located in the U.S.;
  - 5) names and titles of sales personnel for interest rate-related products for the Asia, Australia, and New Zealand markets from its New York office.
  - 6) names and titles of traders from other CBA offices who travelled to New York to meet with CBA traders in the U.S.;
  - 7) policy directives for collection of payments due under BBSW-Based Derivatives trades from within the U.S.;

- d. an explanation of procedures used to authorize and/or execute cash payment or receipt associated with Bank Bill trades during the Certified Class Period;
- e. an explanation of front-office and back-office functions for BBSW derivatives, including swaps, FRAs, swaptions, cross-currency swaps, and currency forwards during the Certified Class Period; and
- f. an explanation of CBA's U.S. market operations generally.

(I) **Other Information.** To the extent reasonably requested by Representative Plaintiffs and to the extent reasonably appropriate:

- (i) CBA will cooperate to provide through its attorneys: (a) reasonably available information necessary for Representative Plaintiffs to authenticate or otherwise make the aforementioned documents and data usable at a trial; and (b) to the extent reasonably ascertainable by CBA, a description of any transaction data produced by CBA so that Plaintiffs' Counsel can fairly understand and utilize such data; and
- (ii) Representative Plaintiffs have the right to send follow up requests for documents, including after the Settlement is executed, relating to the subject matter of claims and/or defenses in the Action.

With respect to the foregoing follow up requests in subsection (ii), CBA will have the right to (a) require that Representative Plaintiffs provide a good faith explanation of the need for the additional material or information requested prior to undertaking a search for such materials or information, and (b) object to providing the additional material or information requested on the grounds of burden. In the event that Plaintiffs' Counsel believes CBA has unreasonably withheld cooperation, CBA and Plaintiffs' Counsel agree to meet and confer

regarding such disagreement and seek resolution if necessary by prompt confidential mediation pursuant to Section 42 below. In the event that the parties submit to a mediator the question of whether any request pursuant to this subsection (I) is burdensome, the mediator's assessment of burden shall take into account, among other factors, the overall costs incurred and resources expended by CBA in connection with providing all cooperation requested by Plaintiffs pursuant to subsection (ii) of this subsection (I) and not only the costs incurred and resources expended by CBA in connection with responding to the particular request or requests that prompted the mediation.

(J) **Class Notice.** To the extent not included within the documents and data produced pursuant to this Section or pursuant to CBA's other obligations in connection with this Action, to the extent any such documents exist and CBA is free to produce them to Representative Plaintiffs without a court order in Australia and/or third party consent, CBA shall produce to Representative Plaintiffs reasonably available contact information, including names and last known addresses, for counterparties to BBSW-Based Derivatives CBA transacted with during the Settlement Class Period. Such production shall occur sufficiently prior to the deadline to send Class Notice to permit the sending of the Class Notice in a timely manner. If necessary, as a result of data protection, privacy, or bank secrecy law requirements or any other law, rule, or regulation, Representative Plaintiffs agree that CBA may, at its sole discretion, opt instead to provide, or have a third-party agent provide, the Class Notice to any counterparties to BBSW-Based Derivatives CBA transacted with during the Class Period who cannot be included in the general class-wide notice process. If CBA exercises its discretion to provide Class Notice pursuant to this Section, CBA shall complete such notice no later than the date set by the Court for the completion of Class Notice.

(K) **Declarations and Affidavits.** CBA shall provide declarations and/or affidavits necessary for the authentication and admissibility of produced documents and data for use at a trial. If CBA's provision of declarations and/or affidavits is not sufficient to authenticate or admit produced documents or data for use at trial, then CBA will cooperate to provide additional reasonable assistance for Representative Plaintiffs to authenticate or admit at trial produced documents or data. In no event shall CBA be required to produce CBA employees for depositions or testimony in furtherance of the requirements in this Section 5, other than as set forth in subsection (L) below.

(L) **Witnesses.**

- (i) Within 60 days prior to the completion of fact discovery or, if later, any separate deadline for the completion of depositions of foreign witnesses, and if reasonably necessary, Representative Plaintiffs shall have the right to request that CBA designate, without the issuance of a subpoena, one (1) witness or, at the sole reasonable discretion of CBA, multiple witnesses to serve as CBA's corporate representative pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure. CBA shall have the right to object to any such request on the grounds that such witness is not reasonably necessary for the prosecution of Representative Plaintiffs' claims, the information sought by Representative Plaintiffs can otherwise be obtained by other means (such as through written statements) and on any other grounds allowed by the Federal Rules of Civil Procedure, including because the topics designated by Representative Plaintiffs are overbroad or irrelevant to the claims and defenses in this Action. The Parties understand and agree that any deposition under this subsection

shall occur before the fact discovery deadline or the deadline for the completion of depositions of foreign witnesses.

- (ii) Within 60 days prior to the completion of fact discovery or, if later, any separate deadline for the completion of depositions of foreign witnesses, Representative Plaintiffs shall also have the right to request that CBA produce, without the issuance of a subpoena, two (2) current CBA employees for depositions lasting no more than seven (7) hours on the record, but only to the extent that such depositions are reasonably necessary, including, but not limited to, in order to authenticate or otherwise make usable at trial the documents produced by CBA. CBA shall have the right to object to any such request on the grounds that such witness is not reasonably available or necessary for the prosecution of Representative Plaintiffs' claims and the information sought by Representative Plaintiffs can otherwise be obtained by other means such as through written statements. CBA's inability to produce a specific witness identified by Representative Plaintiffs, following reasonable good faith efforts, shall not constitute a breach of this Agreement. The Parties understand and agree that any deposition under this subsection shall occur before the fact discovery deadline or the deadline for the completion of depositions of foreign witnesses.
- (iii) Absent agreement among the Parties otherwise, the depositions will be taken—whether live or remotely—with the witness located in Australia and during regular business hours in the local time zone in which the witness will testify.
- (iv) Any disputes regarding the cooperation in this subsection (L) shall be heard by

the Court.

(M) **Timing of Production.** Except as otherwise provided herein, CBA agrees to begin a rolling production of documents and data pursuant to this Section 5 within ten (10) Business Days of the entry of the Conditional Certification Order (or a separate order by the Court requiring CBA to produce documents consistent with its obligations under this Section 5). CBA agrees to continue its production of Cooperation Materials on a rolling basis and without unreasonable delay.

(N) **Continuation, Scope, and Termination of CBA's Obligation.** Unless otherwise agreed between the Parties, CBA's obligations to cooperate, as set forth in this Section, shall continue until either: (i) a final judgment has been entered in the Action against all Defendants and there are no remaining rights of appeal, or (ii) four (4) years and five (5) months after the Court enters the Conditional Certification Order, whichever occurs first.

(O) **Disputes.** With the exception of subsection (L), all disputes regarding the cooperation specified in this Section 5 that cannot be resolved amongst the Parties shall be resolved by confidential mediation pursuant to Section 42 below.

**6. Payment of Attorneys' Fees and Reimbursement of Expenses, and Application for Incentive Award**

(A) Subject to Court approval, Representative Plaintiffs and Plaintiffs' Counsel shall be reimbursed and paid solely out of the Settlement Fund for all fees and expenses including, but not limited to, attorneys' fees, and past, current or future litigation expenses, and any Incentive Award approved by the Court. CBA shall have no responsibility for any costs, fees, or expenses incurred for or by Representative Plaintiffs' or Settlement Class Members' respective attorneys, experts, advisors, agents, or representatives. Nothing in this provision shall expedite the date(s) for CBA's payment as set forth in Section 4.

(B) Plaintiffs' Counsel may apply to the Court for an award from the Settlement Fund of attorneys' fees, plus interest. Plaintiffs' Counsel also may apply to the Court for reimbursement from the Settlement Fund of Plaintiffs' Counsel's litigation expenses, plus interest. CBA shall have no responsibility to take a position with respect to Plaintiffs' Counsel's motion for attorneys' fees and expenses. Representative Plaintiffs may make an application to the Court for an award in connection with their representation of the Settlement Class in this litigation, which amount constitutes the Incentive Award.

(C) The Released Parties shall have no responsibility for, and no liability with respect to, the attorneys' fees, litigation expenses, or Incentive Award that the Court may award in the Action.

(D) The procedures for, and the allowance or disallowance by the Court of, any application for approval of fees, expenses and costs or an Incentive Award (collectively, "Fee and Expense Application") are not part of the Settlement set forth in this Agreement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Agreement. Any order or proceeding relating to a Fee and Expense Application, or the reversal or modification thereof, shall not operate to terminate or cancel this Agreement, or affect or delay the finality of the Final Judgment and the Settlement of the Action as set forth herein. No order of the Court or modification or reversal on appeal of any order of the Court concerning any Fee and Expense Application or the Distribution Plan shall constitute grounds for termination of this Agreement.

(E) Prior to the Fairness Hearing, Plaintiffs' Counsel and Representative Plaintiffs shall file any motions seeking awards from the Settlement Fund for payment of attorneys' fees and reimbursement of costs and expenses, and for the payment of an Incentive Award as follows:

- (i) Plaintiffs' Counsel shall seek attorneys' fees of no more than one-third of the Settlement Fund;
- (ii) Plaintiffs' Counsel shall seek reimbursement for their costs and expenses incurred as of the date the Motion for Final Approval and Entry of Final Judgment is filed pursuant to Section 17; and
- (iii) Representative Plaintiffs may make an application to the Court for an award in connection with their representation of the Settlement Class in this litigation, which amount constitutes the Incentive Award.

(F) Upon the Court's approval of an award of attorneys' fees, costs and expenses and Incentive Award, such approved amount from Subsections (E)(i)-(iii), above, shall be paid from the Settlement Fund within ten (10) Business Days after their approval by the Court. If an event occurs that will cause the Settlement Agreement not to become Final pursuant to Section 19 or if Representative Plaintiffs or CBA terminates the Settlement Agreement pursuant to Sections 22 through 24, then within ten (10) Business Days after receiving written notice of such an event from CBA's Counsel or from a court of appropriate jurisdiction, Plaintiffs' Counsel shall refund to the Settlement Fund any attorneys' fees, costs and expenses and Incentive Award (not including any non-refundable expenses as described in Section 10) that were withdrawn plus interest thereon at the same rate at which interest is accruing for the Settlement Fund. In the event the Settlement is terminated, any Plaintiffs' Counsel that have drawn upon the Settlement Fund for the payment of attorneys' fees or expenses shall be jointly and severally liable for the return to CBA of any sums paid as attorneys' fees, costs and expenses and Incentive Award.

**7. Application for Approval of Fees, Expenses, and Costs of Settlement Fund Administration**

Plaintiffs' Counsel may apply to the Court, at the time of any application for distribution to Authorized Claimants, for an award from the Settlement Fund of attorneys' fees for services performed and reimbursement of expenses incurred in connection with the administration of the Settlement Fund after the date of the Fairness Hearing. Plaintiffs' Counsel reserves the right to make additional applications to the Court for payment from the Settlement Fund for attorneys' fees for services performed and reimbursement of expenses incurred. Any such applications are subject to Court approval. CBA takes no position with respect to Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of expenses.

**8. No Liability for Fees and Expenses of Plaintiffs' Counsel**

Other than CBA's obligation to fund the Settlement Amount as provided for in Section 4 above, the Released Parties shall have no liability or responsibility whatsoever for any of Representative Plaintiffs' or any Settlement Class Members' attorneys' fees or costs (including out-of-pocket costs). CBA shall have no liability or responsibility whatsoever for any fees or costs associated with the pursuit of this litigation by Representative Plaintiffs and/or the Settlement Class, including but not limited to any fees or costs relating to the notifications relating to the Settlement or the administration of the Settlement Fund created to distribute the Settlement Amount. Any attorneys' fees and expenses awarded to Plaintiffs' Counsel by the Court shall be paid to Plaintiffs' Counsel from the fund created in whole or in part by CBA's payment of the Settlement Amount following the Court's approval of an award, as set forth in Section 6(F), notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Plaintiffs' Counsel's several obligation to make appropriate refunds or repayments to the Settlement Fund plus the

interest earned thereon if, and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or expense award is lowered or the Settlement is disapproved by a Final order.

**9. Distribution of and/or Disbursements from Settlement Fund**

The Settlement Administrator, subject to such supervision and direction by the Court and/or Plaintiffs' Counsel as may be necessary, shall administer the Proof of Claim and Release forms submitted by the Settling Class Members and shall oversee the distribution of the Settlement Fund pursuant to the Distribution Plan. Upon the Effective Date (or earlier if provided in Section 6 herein), the Settlement Fund shall be applied in the order and as follows:

- (i) to pay costs and expenses associated with the distribution of the Class Notice and administration of the Settlement Fund as provided in this Section and Section 10, including all costs and expenses reasonably and actually incurred in assisting Settling Class Members with the filing and processing of claims against the Net Settlement Fund at any time after CBA makes payments described in Section 4;
- (ii) to pay Escrow Agent costs;
- (iii) to pay taxes assessed on the Settlement Fund, and tax preparation fees in connection with such taxes;
- (iv) to pay any attorneys' fees, costs and expenses approved by the Court upon submission of a Fee and Expense Application, as provided in Section 6(B);
- (v) to pay the amount of any Incentive Award for Representative Plaintiffs, as provided in Section 6; and
- (vi) to pay the Net Settlement Fund to Authorized Claimants as allowed by the Agreement, any Distribution Plan, or order of the Court.

**10. Disbursements Prior to Effective Date**

(A) Except as provided in Subsection (B) herein or by Court order, no distribution to any Settling Class Member or disbursement of fees, costs and expenses of any kind may be made from the Settlement Fund until the Effective Date. As of the Effective Date, all fees, costs and expenses and Incentive Awards as approved by the Court may be paid out of the Settlement Fund.

(B) Upon written notice to the Escrow Agent by Plaintiffs' Counsel with a copy to CBA, the following may be disbursed prior to the Effective Date: (i) reasonable costs of Class Notice and administration of the Settlement Fund may be paid from the Settlement Fund as they become due (up to a maximum of U.S. \$500,000); (ii) reasonable costs of the Escrow Agent may be paid from the Settlement Fund as they become due; (iii) taxes and tax expenses may be paid from the Settlement Fund as they become due; and (iv) Plaintiffs' Counsel's attorneys' fees and costs and expenses as approved by the Court (in accordance with Section 6).

(C) In the event the Settlement is terminated or does not attain Final approval for any reason, the Settlement Amount, and all interest earned on the Settlement Fund related in any way to the Settlement Amount will be refunded, reimbursed, and repaid to CBA, less any taxes due and less any costs of administration and notice reasonably incurred and paid or payable by the Escrow Agent, within ten (10) Business Days thereafter. Notice and administration costs up to a maximum of U.S. \$500,000 reasonably incurred and paid or payable will not be refundable to CBA in the event the Settlement is not approved. The Escrow Agent or its designee shall apply for any tax refund owed to the Settlement Fund and pay the proceeds to CBA, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund.

(D) Plaintiffs' Counsel will attempt in good faith to minimize the costs of the Escrow Agent, Class Notice and administration of the Settlement Fund.

**11. Distribution of Balances Remaining in Net Settlement Fund to Authorized Claimants**

The Net Settlement Fund shall be distributed to Authorized Claimants and, except as provided in Section 10(C), there shall be no reversion to CBA. The distribution to Authorized Claimants shall be in accordance with the Distribution Plan that is to be approved by the Court upon such notice to the Settlement Class as may be required. Plaintiffs' Counsel will develop the Distribution Plan that will be submitted to the Court. CBA shall take no position with respect to the Distribution Plan or any revisions to the Distribution Plan. The Distribution Plan is not a part of this Agreement. No funds from the Net Settlement Fund shall be distributed to Authorized Claimants until the later of (i) the Effective Date; or (ii) the date by which the Distribution Plan has received Final Court approval. Should there be any balance remaining in the Net Settlement Fund after an initial distribution to Authorized Claimants (whether by reason of tax refunds, uncashed checks, or otherwise), Plaintiffs' Counsel shall submit an additional distribution plan to the Court for its approval.

The Conditional Certification Order shall provide that all funds held by the Escrow Agent shall be deemed and considered to be *in custodia legis*, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Settlement Agreement, returned to CBA pursuant to the Settlement Agreement and/or pursuant to other order(s) of the Court.

**12. Administration/Maintenance of Settlement Fund**

The Settlement Fund shall be maintained by the Escrow Agent under supervision of the Court and shall be distributed solely at such times, in such manner, and to such Persons as shall be directed by subsequent orders of the Court (except as provided for in this Agreement) consistent with the terms of this Settlement Agreement.

The Parties intend that the Settlement Fund be treated as a “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1. The Escrow Agent shall ensure that the Settlement Fund at all times complies with Treasury Regulation § 1.468B-1 in order to maintain its treatment as a qualified settlement fund. To this end, the Parties shall ensure that the Settlement Fund is approved by the Court as a qualified settlement fund. Any Escrow Agent, Settlement Administrator or other administrator of the Settlement Fund must comply with all requirements of Treasury Regulation § 1.468B-2. Any failure to ensure that the Settlement Fund complies with Treasury Regulation § 1.468B-2, and the consequences thereof, shall be the sole responsibility of the Escrow Agent, and CBA and CBA’s Counsel shall have no responsibility or liability for any act, omission, or determination of the Escrow Agent or the payment or withholding of any taxes, expenses, or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

The Settlement Fund shall be invested exclusively in accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund and bank accounts that are either: (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”); or (b) secured by instruments backed by the full faith and credit of the United States Government. The proceeds of these accounts shall be reinvested in similar instruments at their then-current market rates as they mature. All risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne by the Settlement Fund. Neither CBA nor the Released Parties shall have any role in or responsibility for the management or investment of all or any part of the Settlement Fund.

Any Settling Class Member who does not submit a valid Proof of Claim and Release form will not be entitled to receive any of the proceeds from the Net Settlement Fund, but will otherwise be bound by all of the terms of this Settlement Agreement and the Settlement, including the terms of the Final Approval Order and the Final Judgment (including the order of dismissal of the Action fully, finally and with prejudice as to CBA and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of CBA or the other Released Parties)) to be entered in the Action and the releases provided for herein, and will be barred from bringing any action or proceeding against the Released Parties concerning the Released Claims.

Neither CBA nor the Released Parties shall have any role or interest in, or responsibility or liability to any Person for, the administration or allocation of any part of the Settlement Fund, including the solicitation, review, or evaluation of Proofs of Claim and Release by Representative Plaintiffs, Plaintiffs' Counsel, or their designated representatives or agents, or any other part of the claims administration process. Neither the Parties nor their counsel shall have any responsibility for or liability whatsoever with respect to: (i) any act, omission, or determination of the Escrow Agent or any other Person, or any of their respective designees or agents, in connection with the administration of the Settlement Fund or otherwise; (ii) any Plan of Distribution; (iii) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (iv) any losses suffered by, or fluctuations in the value of, the Settlement Fund; or (v) the payment or withholding of any taxes and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

All proceedings with respect to the administration, processing, and determination of claims and Proofs of Claim and Release by Settling Class Members and the determination of all

controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court.

**13. Release and Covenant Not To Sue**

(A) Upon the Effective Date, the Action shall be dismissed fully, finally and in its entirety against CBA and any John Doe Defendants to the extent they are current or former CBA employees (solely in that capacity) with prejudice.

(B) The Releasing Parties fully, finally and forever release and forever discharge and covenant not to sue the Released Parties for any and all manner of claims, including unknown claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, set-offs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class, derivative, or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys' fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which Settling Class Members or any of them ever had, now has, or hereafter can, shall or may have, representatively, derivatively or in any other capacity, against the Released Parties arising from or relating in any way to the claims, allegations or conduct alleged in the Action, or which could have been alleged in the Action against the Released Parties, concerning any:

- (i) BBSW-Based Derivatives;
- (ii) BBSW-Based Deposits or Loans (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.);

- (iii) Prime Bank Bills or Prime Bank eligible securities purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.); or
- (iv) any similar financial instruments priced, benchmarked, or settled to BBSW purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.), including additional financial instruments or claims subsequently alleged in the Action, or in which any of the foregoing otherwise had any interest;

including, but not limited to, any alleged manipulation of BBSW under any statute, regulation, or common law, or any purported conspiracy, collusion, racketeering activity, or other improper conduct relating to BBSW (including, but not limited to, all claims under Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, and any other federal or state statute, regulation, or the common law).

(C) The following claims shall not be released by this Settlement: (i) any claims against former CBA employees arising solely from those former employees' conduct or alleged conduct that occurred while not employed by CBA; (ii) any claims against the named Defendants in this Action other than CBA and other than any John Doe Defendants to the extent they are current or

former employees of CBA (solely in their capacity as employees of CBA); or (iii) any claims against any Defendant not affiliated with CBA who may be subsequently added in this Action.

(D) Although the foregoing release is not a general release, the foregoing release constitutes a waiver by the Parties and each Settling Class Member of any and all rights and provisions under Section 1542 of the California Civil Code (to the extent it applies to the Action), which provides as follows:

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.

This release also constitutes a waiver of any and all provisions, rights, and benefits of any federal, state or foreign law, rule, regulation, or principle of law or equity that is similar, comparable, equivalent to, or which has the effect of, Section 1542 of the California Civil Code. Releasing Parties and Settling Class Members shall be deemed to acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of the Settlement Agreement, but that it is their intention to release fully, finally, and forever all of the Released Claims, and in furtherance of such intention, the release shall be irrevocable and remain in effect notwithstanding the discovery or existence of any such additional or different facts. In entering and making this Settlement Agreement, the Parties assume the risk of any mistake of fact or law and the release shall be irrevocable and remain in effect notwithstanding any mistake of fact or law.

(E) Upon the Effective Date, each of the Releasing Parties shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Released Parties and agrees

and covenants not to sue any of the Released Parties on the basis of any Released Claims or to assist any third party in prosecuting any Released Claims against any Released Party.

**14. Motion for Conditional Certification**

(A) As soon as reasonably practicable after the Execution Date, Plaintiffs' Counsel shall submit this Settlement Agreement to the Court and shall file the Motion for Conditional Certification. CBA shall be provided with drafts of the proposed filings and Representative Plaintiffs shall inform CBA of the date upon which they intend to file the Motion for Conditional Certification at least five (5) Business Days in advance of filing. Plaintiffs shall not move for conditional certification of the Settlement Class with respect to the Settlement absent CBA's consent, which shall not be unreasonably withheld.

(B) The Motion for Conditional Certification or a subsequent motion shall request that the Court enter the Conditional Certification Order, which specifies that the following information be sought from and provided by Opt-Outs as part of their election to opt out of the Settlement (collectively, the "Opt-Out Information"):

- i. the number and extent of the transactions in BBSW-Based Derivatives which the Opt-Out purchased, acquired, sold, held, traded, or otherwise had any interest in during the Settlement Class Period;
- ii. the notional value or amount of each of the aforementioned transactions;  
and
- iii. the effective and maturity dates and/or trade and value dates for each of the aforementioned transactions.

**15. Class Notice**

(A) Plaintiffs' Counsel shall be responsible for selecting a Settlement Administrator to be approved by the Court, and CBA shall not object to Plaintiffs' Counsel's selection. Subject to

approval by the Court, in accordance with Federal Rule of Civil Procedure 23(e), the Settlement Administrator shall provide Class Notice to the Settlement Class Members whose identities can be determined after reasonable efforts, with reasonable notice of the date of the Fairness Hearing.

(B) The Class Notice may be sent solely for this Settlement or combined with notice of other settlements, including other settlements that were reached prior to and concurrent with this Settlement, and other settlements that may be reached after entry of the Conditional Certification Order. The Class Notice shall explain the general terms of the Settlement Agreement (excluding, for the avoidance of any doubt, any particular terms of the Supplemental Agreement), the general terms of the Fee and Expense Application, that the Distribution Plan will be posted on the Settlement website after it is presented to the Court, and a description of Settlement Class Members' rights to object to the Settlement, request exclusion from the Settlement Class and appear at the Fairness Hearing. The text of the Class Notice shall be agreed upon by the Parties before its submission to the Court for approval thereof. The cost of providing the Class Notice to Settlement Class Members in the manner set forth above shall be paid out of the Settlement Fund, and the Settlement Administrator shall administer dissemination of the Class Notice, except to the extent that CBA opts to provide, or have a third-party agent provide, the Class Notice as permitted by Section 15(E) below. To the extent the Motion for Conditional Certification does not seek approval for the timing, plan, and forms of Class Notice to the Settlement Class and the date for the Fairness Hearing, then after the Court enters the Conditional Certification Order, Plaintiffs' Counsel and CBA shall meet and confer as to the timing, to be mutually agreed by CBA and Plaintiffs' Counsel, as to when Plaintiffs' Counsel shall move for an order approving the timing, plan, and forms of Class Notice to the Settlement Class and the date for the Fairness Hearing.

(C) Any Person seeking exclusion from the Settlement Class must file a timely written request for exclusion (“Request for Exclusion”) in accordance with the procedures set forth in the Class Notice, as approved by the Court. Any Person who files such a request shall be excluded from the Settlement Class, shall have no rights with respect to this Agreement, shall receive no payment from the sums provided for in this Agreement and shall be deemed to have excluded itself from the Action as against CBA, including but not limited to any and all future prosecution of the Action against CBA. Unless the Court orders otherwise, a Request for Exclusion must:

- (i) be in writing, signed by the Person or his, her, or its authorized representative;
- (ii) state the name, address, and phone number of that Person;
- (iii) include a signed statement that “I/we hereby request that I/we be excluded from the proposed Settlement Class in *Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) for the Settlement with CBA”; and
- (iv) contain, provide or annex the Opt-Out Information.

To be valid, the request must be mailed to the address provided in the Class Notice and postmarked not less than sixty (60) days prior to the Fairness Hearing, or any other date set by the Court, in accordance with the procedures and deadlines set forth in the Class Notice, as approved by the Court. Unless otherwise accepted by the Court, a Request for Exclusion that does not include all of the foregoing information, including the Opt-Out Information, that does not contain the proper signature, that is sent to an address other than the one designated in the Class Notice, or that is not sent within the time specified, shall be invalid, and the Person(s) filing such an invalid request shall be a Settling Class Member and shall be bound by the Settlement set forth in this Agreement, if approved.

(D) Any Person who has not requested exclusion from the Settlement Class and who objects to the Settlement set forth in this Agreement may appear in person or through counsel, at that Person's own expense, at the Fairness Hearing to present any evidence or argument that the Court deems proper and relevant, subject to further order by the Court. However, no such Person shall be heard, and no papers, briefs, pleadings, or other documents submitted by any such Person shall be received and considered by the Court, unless such Person properly submits a written objection that includes: (i) a notice of intention to appear; (ii) proof of membership in the Settlement Class; and (iii) the specific grounds for the objection and any reasons why such Person desires to appear and be heard, as well as all documents or writings that such Person desires the Court to consider. Such a written objection must be both filed with the Court and mailed to Plaintiffs' Counsel and CBA's Counsel not less than sixty (60) days prior to the Fairness Hearing, or any other date set by the Court, in accordance with the procedures and deadlines set forth in the Class Notice. Any Person who fails to timely object in the manner prescribed herein shall be deemed to have waived his or her objections and will forever be barred from making any such objections in the Action, unless otherwise excused for good cause shown, as determined by the Court. Plaintiffs' Counsel and CBA's Counsel shall file any papers in response to any such objection or otherwise in further support of the Settlement within seven (7) days of the Fairness Hearing.

(E) As provided for in Section 5, following the entry of the Conditional Certification Order (or a separate order by the Court requiring CBA to produce documents consistent with its obligations under Section 5), CBA agrees to provide Plaintiffs' Counsel with reasonably available contact information for counterparties to BBSW-Based Derivatives CBA transacted with during the Settlement Class Period, to the extent not prevented from doing so by any court order or any

law, regulation, policy, or other rule of any regulatory agency or governmental body restricting disclosure of such information. If necessary, as a result of data protection, privacy, or bank secrecy law requirements or any other law, rule, or regulation, Representative Plaintiffs agree that CBA may, at its sole discretion, opt to provide, or have a third-party agent provide, the Class Notice to any counterparties to BBSW-Based Derivatives CBA transacted with during the Settlement Class Period who cannot be included in the general class-wide notice process. Alternatively, CBA may, at its sole discretion, directly provide counterparty information only to the Settlement Administrator for purposes of distributing the Class Notice, to the extent that CBA reasonably concludes in good faith that such steps are required or advisable based on such counterparty information being subject to any applicable domestic or foreign data protection, privacy, or bank secrecy law requirements, or any other law, rule, or regulation. If CBA exercises its discretion to provide counterparty information to the Settlement Administrator pursuant to this Section, CBA shall do so such that Class Notice may be completed no later than the date set by the Court. All reasonable fees, costs, and expenses of CBA or CBA's third-party agent(s) in mailing the Class Notice to any counterparties to BBSW-Based Derivatives during the Settlement Class Period will be paid from the Settlement Fund. Such reasonable fees, costs, and expenses of CBA or CBA's third-party agent(s) shall not exceed U.S. \$100,000.

(F) In the event that the Settlement is not approved, Representative Plaintiffs will not be required to return to CBA any sums reasonably incurred and paid or payable from the Settlement Fund for the reasonable costs of Class Notice, up to a maximum of U.S. \$500,000.

## **16. Publication**

Plaintiffs' Counsel will direct and the Settlement Administrator shall cause to be published a summary in accord with the Class Notice submitted to the Court by the Parties and approved by the Court. CBA shall have no responsibility for providing publication or distribution of the

Settlement or any notice of the Settlement to Settlement Class Members or for paying for the cost of providing notice of the Settlement to Settlement Class Members except as provided for in Section 10(C). The Parties shall mutually agree on any content relating to CBA that will be used by Plaintiffs' Counsel and/or the Settlement Administrator in any Settlement-related press release or other media publication, including on websites.

**17. Motion for Final Approval and Entry of Final Judgment**

(A) After Class Notice is issued, and prior to the Fairness Hearing, Plaintiffs' Counsel shall move for entry of a Final Approval Order and Final Judgment:

- (i) finally certifying solely for settlement purposes the Settlement Class;
- (ii) finding that the Class Notice constituted the best notice practicable under the circumstances and complied in all respects with the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process;
- (iii) finally approving this Settlement Agreement and its terms as being a fair, reasonable and adequate settlement of the Settlement Class' claims under Rule 23 of the Federal Rules of Civil Procedure;
- (iv) directing that, as to the Released Parties, the Action be dismissed with prejudice and without costs as against the Settling Class Members;
- (v) discharging and releasing the Released Claims as to the Released Parties;
- (vi) barring claims by any Person against the Released Parties for contribution, indemnification, or similar claims (however denominated) for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment, or otherwise;
- (vii) determining pursuant to Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal shall be final and appealable;

(viii) reserving the Court's continuing and exclusive jurisdiction over the Settlement and this Agreement, including the administration and consummation of this Agreement; and

(ix) containing such other and further provisions consistent with the terms of this Agreement to which CBA and Representative Plaintiffs expressly consent in writing.

(B) Before the Fairness Hearing, as provided in Section 6, Plaintiffs' Counsel will timely request by separate motion that the Court approve its Fee and Expense Application. The Fee and Expense Application and the Distribution Plan are matters separate and apart from the Settlement between the Parties. If the Fee and Expense Application or the Distribution Plan are not approved, in whole or in part, it will have no effect on the finality of the Final Approval Order approving the Settlement and the Final Judgment dismissing the Action with prejudice as to CBA.

#### **18. Best Efforts to Effectuate This Settlement**

The Parties agree to cooperate with one another in good faith to the extent reasonably necessary to effectuate and implement the terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the terms and conditions of this Agreement.

#### **19. Effective Date**

Unless terminated earlier as provided in this Settlement Agreement, this Settlement Agreement shall become effective and final as of the first Business Day upon which all of the following conditions have been satisfied:

(A) The Settlement Agreement has been fully executed by CBA and Representative Plaintiffs through their counsel;

(B) The Court has certified a Settlement Class, and entered the Conditional Certification Order in substantially the form agreed to in Exhibit A, and approved the program and form for the Class Notice;

(C) Class Notice has been issued as ordered by the Court;

(D) The Court has entered the Final Approval Order finally approving the Settlement Agreement in all respects as required by Rule 23(e) of the Federal Rules of Civil Procedure; however, this required approval does not include the approval of the Fee and Expense Application and the Distribution Plan;

(E) The Court has entered its Final Judgment of dismissal with prejudice as to the Released Parties with respect to Representative Plaintiffs and Settling Class Members; and

(F) Upon the occurrence of the later of the following: (i) the resolution of any and all appeals regarding the Settlement (subject to Section 22 below) or (ii) the time to appeal or seek permission to appeal from the approval of the Settlement has expired.

**20. Occurrence of Effective Date**

Upon occurrence of the Effective Date pursuant to Section 19 above, any and all remaining interest or right of CBA in or to the Settlement Fund, if any, shall be absolutely and forever extinguished, and the Net Settlement Fund may be transferred from the Escrow Agent to the Settlement Administrator at the written direction of Plaintiffs' Counsel.

**21. Failure of Effective Date to Occur**

If any of the conditions specified in Section 19 are not satisfied, then this Agreement shall be terminated, subject to and in accordance with Section 22, unless the Parties mutually agree in writing to continue with it for a specified period of time.

**22. Termination**

(A) CBA shall have the right, but not the obligation, in its sole discretion, to terminate this Settlement Agreement by providing written notice to Plaintiffs' Counsel within twenty-five (25) Business Days of any of the following events:

(i) the Court enters an order declining to enter the Conditional Certification Order or the Final Approval Order in any material respect;

(ii) the Court enters an order refusing to approve the Settlement Agreement or any material part of it;

(iii) the Court enters an order declining to enter the Final Judgment or a separate order dismissing the Action fully, finally and with prejudice as to CBA in any material respect;

(iv) the Court enters an alternative judgment;

(v) the Final Judgment or a separate order dismissing the Action fully, finally and with prejudice as to CBA is modified or reversed by a court of appeal or any higher court in any material respect; or

(vi) an alternative judgment is modified or reversed by a court of appeal or any higher court in any material respect.

(B) Plaintiffs' Counsel, acting on behalf of the Representative Plaintiffs, shall also have the right, but not the obligation, in their sole discretion, to terminate this Settlement Agreement by providing written notice to CBA's Counsel within twenty-five (25) Business Days of any of the following events:

(i) the Court enters an order declining to grant Representative Plaintiffs' Motion for Conditional Certification pursuant to Section 14 or the Motion for Final Approval pursuant to Section 17 in any material respect;

(ii) the Court enters an order refusing to approve the Settlement Agreement or any material part of it;

(iii) the Court enters an order declining to enter the Final Judgment or a separate order dismissing the Action fully, finally and with prejudice as to CBA in any material respect;

(iv) the Court enters an alternative judgment;

(v) the Final Judgment or a separate order dismissing the Action fully, finally and with prejudice as to CBA is modified or reversed by a court of appeal or any higher court in any material respect;

(vi) an alternative judgment is modified or reversed by a court of appeal or any higher court in any material respect; or

(vii) CBA fails to comply with its payment obligations under Section 4 and fails to cure any default pursuant to subsection (C).

(C) In the event that CBA, for any reason, fails to comply with Section 4, then on ten (10) Business Days' written notice to CBA's Counsel, during which ten Business Day period CBA shall have the opportunity to cure the default without penalty, Representative Plaintiffs, by and through Plaintiffs' Counsel, may terminate this Settlement Agreement or elect to enforce it as provided by the Federal Rules of Civil Procedure and applicable law.

(D) The Parties shall not be able to terminate the Settlement if any court disapproves of or modifies the Plan of Distribution or any Application for Fees and Expenses. The Parties shall not be able to terminate the Settlement if the Court declines to approve Representative Plaintiffs' Motion for Conditional Certification because the motion did not include a plan for providing Class Notice to the Settlement Class or a proposed Plan of Distribution. Plaintiffs' Counsel will have

the right to file another Motion for Conditional Certification or other appropriate motion that incorporates a plan for providing Class Notice and/or a proposed Plan of Distribution.

(E) Should either Party exercise its right to terminate the Settlement, then the Settlement Agreement and Term Sheet shall be void *ab initio*, and the Parties shall be returned to the posture of this Action as of the date immediately prior to the execution of the Term Sheet, without waiving any defenses as against the asserted claims. Within ten (10) Business Days after written notification of such event is sent by CBA's Counsel or Plaintiffs' Counsel to all Parties and the Escrow Agent, the Settlement Amount, and all interest earned on the Settlement Fund will be refunded, reimbursed, and repaid to CBA, less any taxes due and costs of administration and notice reasonably incurred and paid or payable by the Escrow Agent, in accordance with Section 10(C) herein. Also, in accordance with Section 10(C) herein, the Escrow Agent or its designee shall apply for any tax refund owed to the Settlement Fund and pay the proceeds to CBA, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund.

**23. Supplemental Agreement & CBA's Optional Termination Right**

(A) CBA and Representative Plaintiffs will be provided access to any Opt-Out Information as it becomes available and, in all events, shall be provided access to all Opt-Out Information that has been submitted by Opt-Outs within two (2) Business Days after the deadline to request exclusion from the Settlement Class.

(B) In the event an Opt-Out does not provide the requested Opt-Out Information (or in the event the Court does not require and approve the provision of the above identified information from Opt-Outs in connection with the procedure for requesting exclusion from the Settlement Class), CBA shall have the right, but not the obligation, to request leave of the Court to seek discovery from any Opt-Out for the Opt-Out Information, and such request shall not be objected

to by Representative Plaintiffs. Representative Plaintiffs shall consent to a reasonable adjournment of the Fairness Hearing to allow time for that process to be completed.

(C) CBA shall have the unilateral right, but not the obligation, in its sole discretion, to terminate this Agreement pursuant and subject to the terms of the Supplemental Agreement as to CBA (the “Supplemental Agreement”) to be executed by the Parties contemporaneously with the execution of this Agreement (the “Optional Termination Right”). The Supplemental Agreement shall not be submitted to the Court and its terms shall not be disclosed in any other manner (other than the statements herein and in the Class Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) unless and until the Court otherwise directs or in the event a dispute arises between Representative Plaintiffs and CBA concerning the Supplemental Agreement’s interpretation or application, in which case the Parties shall submit the Supplemental Agreement to the Court *in camera* and request that the Court afford it confidential treatment.

#### **24. Effect of Termination**

Unless otherwise ordered by the Court, in the event that the Effective Date does not occur or this Agreement should terminate or be cancelled, or otherwise fail to become effective for any reason, including, without limitation, in the event that the Settlement as described herein is not finally approved by the Court or the Final Judgment is reversed or vacated following any appeal, then:

(A) Within ten (10) Business Days after written notification of such event is sent by counsel for CBA or Plaintiffs’ Counsel to all Parties and the Escrow Agent, the Settlement Amount, and all interest earned in the Settlement Fund will be refunded, reimbursed, and repaid by the Escrow Agent to CBA, except as provided in Section 10(C).

(B) The Escrow Agent or its designee shall apply for any tax refund owed to the Settlement Fund and pay the proceeds to CBA, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund;

(C) The Parties shall be returned, to the maximum extent possible, to their respective positions in the Action as of immediately prior to the execution of the Term Sheet, with all of their respective legal claims and defenses preserved as they existed at that time; and

(D) Upon termination of this Settlement Agreement, then:

(i) this Agreement shall be null and void and of no further effect, and none of CBA, the Representative Plaintiffs, or members of the Settlement Class shall be bound by any of its terms;

(ii) any and all releases shall be of no further force and effect;

(iii) the Parties shall be restored to their respective positions in the Action immediately prior to the execution of the Term Sheet, with all of their respective legal claims and defenses preserved as they existed on that date; and

(iv) any judgment or order entered by the Court in accordance with the terms of this Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

(E) Unless the Settlement is terminated, CBA shall take no position with respect to any motion for class certification that Representative Plaintiffs anticipate filing and/or file in connection with their claims against other Defendants in the Action. Nothing in this Settlement Agreement shall preclude CBA from opposing motions for class certification or from taking positions in actions other than the Action.

## **25. Impact of Any Other Settlement**

(A) If any Other Settlement is reached prior to the Fairness Hearing, the “Settlement Class” definition as well as the terms contained within the “Release and Covenant Not to Sue” and

“Termination” provisions (excluding the Optional Termination Right granting CBA a unilateral discretionary termination right, as set forth in the Supplemental Agreement referenced in Section 23 herein) in the Settlement Agreement and any accompanying supplemental agreement(s) shall be no less favorable to CBA than the corresponding terms or provisions applicable to any Other Settlement.

(B) Notwithstanding Section 42 below, if CBA believes one or more terms or provisions referenced in subsection (A) is less favorable than a corresponding term or provision in any Other Settlement reached prior to the Fairness Hearing, CBA will provide written notice of such belief to Plaintiffs’ Counsel as prescribed in this Settlement Agreement within ten (10) Business Days of the filing of such Other Settlement with the Court. Following receipt of the written notice, CBA and Plaintiffs’ Counsel will confer as to whether the relevant term or provision in this Settlement Agreement is less favorable as compared to the Other Settlement reached before the Fairness Hearing. If there is agreement between CBA and Plaintiffs’ Counsel that the provision at issue is less favorable, CBA and Plaintiffs’ Counsel will execute an amendment to the Settlement Agreement, adopting and incorporating the provision as drafted in the Other Settlement into the Settlement Agreement, and will submit the amendment to the Court for its approval. If CBA and Plaintiffs’ Counsel are unable to reach an agreement on the relevant provision, CBA or Plaintiffs’ Counsel may move the Court to resolve the dispute. To the extent feasible, but without prejudice to CBA’s rights hereunder, the Parties shall endeavor to execute and submit for Court approval any amendments under this provision at least ten (10) Business Days prior to the Fairness Hearing. Under no circumstances shall CBA have less than ten (10) Business Days from the time any Other Settlement is filed to provide notice under this Section. Should it be necessary in order to ensure

that CBA's rights under this Section 25 are preserved, the Parties will agree to seek a deferment of the Fairness Hearing.

**26. Confidentiality Protection**

Representative Plaintiffs, Plaintiffs' Counsel, and CBA agree to keep private and confidential the terms of this Settlement Agreement and the Supplemental Agreement which shall not be disclosed to any third party (excluding any Party's counsel, advisors, auditors or insurers in the U.S. and Australia), except for disclosure at the Court's direction or disclosure *in camera* to the Court, until this document is filed with the Court, provided, however, that nothing in this Section shall prevent CBA from making any disclosures it deems necessary to comply with any relevant laws, including U.S. or Australian law, subpoena or other form of judicial process. Nothing in this provision shall preclude CBA from disclosing, without notice to Plaintiffs' Counsel, the fact, amount, or terms of the Settlement or the Supplemental Agreement as a result of a good faith determination that such disclosure is required or advisable pursuant to bank regulatory requirements, SEC requirements, or other legal or regulatory requirements, or from disclosing the fact, amount, or terms of the Settlement or the Supplemental Agreement to its counsel, advisors, auditors, regulators, insurers, or external auditors.

**27. Non-Disparagement**

In no event shall Representative Plaintiffs or Plaintiffs' Counsel on the one hand, or CBA and CBA's Counsel on the other hand, make any formal public pronouncement, including any media release, that disparages the business or reputation of the other (including without limitation their officers, directors, management and employees).

**28. Binding Effect**

(A) The Parties intend this Settlement Agreement to be binding upon, and inure to the benefit of, the successors and assigns of CBA, the Released Parties, the Representative Plaintiffs,

and Settling Class Members to the fullest extent allowable under law. The Parties enter into this Settlement Agreement with full knowledge that adverse or favorable court decisions and/or other events, including those pertaining to any of the Representative Plaintiffs' capacity to serve as litigants or class representatives, may take place in the future that might affect the positions of either or both parties, including prior to Final approval of the Settlement. The Parties intend to be bound by this Settlement Agreement notwithstanding the possibility or occurrence of any such future events or changes in position, provided that such occurrences or events do not impair the Court's ability to certify the Settlement Class.

(B) The waiver by any Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

#### **29. Amendment**

This Settlement Agreement, the Supplemental Agreement described in Section 23 herein and any other agreements referenced herein, may be modified or amended only by a writing executed by Plaintiffs' Counsel, on behalf of Representative Plaintiffs and the Settlement Class, and CBA's Counsel on behalf of CBA.

#### **30. Integrated Agreement**

This Settlement Agreement, including any exhibits hereto, the Supplemental Agreement described in Section 23 herein and any other agreements referenced herein, contains the entire, complete, and integrated statement of each and every term and provision agreed to by and among the Parties and is not subject to any condition not provided for or referenced herein. This Settlement Agreement, including any exhibits hereto, the Supplemental Agreement described in Section 23 herein and any other agreements referenced herein, supersede all prior or

contemporaneous discussions, agreements, and understandings among the Parties to this Settlement Agreement with respect hereto, including the Term Sheet.

**31. Conduct of Counsel and Parties**

All Parties agree that all other Parties and their counsel have complied with Federal Rule of Civil Procedure 11 throughout the course of the Action and shall not make any applications for sanctions.

**32. CAFA Notices**

Within ten (10) Business Days of submission of this Settlement Agreement to the Court, CBA shall at its expense serve notices of the Settlement on State and Federal authorities as required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 (“CAFA Notices”). CBA will simultaneously serve copies of the CAFA Notices on Plaintiffs’ Counsel.

**33. Headings**

The headings set forth in this Settlement Agreement have been inserted for the convenience of reference only. Such headings shall not be considered a part of this Settlement Agreement, and neither shall they limit, modify, or affect in any way the meaning or interpretation of this Settlement Agreement.

**34. No Party is the Drafter**

None of the Parties shall be considered to be the drafter of this Settlement Agreement, any provision herein, or the Supplemental Agreement, for the purpose of any statute, case law, or rule of interpretation or construction that might cause any provision to be construed against the drafter.

**35. Choice of Law/Construction**

All terms within the Settlement Agreement, including any exhibits hereto and the Supplemental Agreement described in Section 23 herein, shall be governed by and interpreted according to the substantive laws of the State of New York, without regard to its choice of law or

conflict of laws principles, including N.Y. General Obligations Law § 15-108. Notwithstanding any other provision in this Settlement, CBA shall not be required to perform any act that in its reasonable opinion would result in the contravention of any obligation of CBA under Australian law provided, however, that the foregoing shall not apply to the payment provisions in Section 4 above or the overall level of cooperation to be provided by CBA as set forth in Section 5 above. To any extent that CBA comes to believe that it cannot perform any act that is required by this Settlement, CBA shall notify Plaintiffs' Counsel of same, the Parties shall meet and confer regarding the issues and, if there is a disagreement, such disagreement shall be resolved pursuant to Section 42 herein.

**36. Execution in Counterparts**

This Settlement Agreement and the Supplemental Agreement may be executed in one or more counterparts. Facsimile and scanned/PDF signatures shall be considered valid signatures. All executed counterparts shall be deemed to be one and the same instrument. There shall be no agreement until the fully signed counterparts have been exchanged and delivered on behalf of all Parties.

**37. Submission to and Retention of Jurisdiction**

The Parties, Released Parties, and the Settlement Class irrevocably submit, to the fullest extent permitted by law, to the exclusive jurisdiction of the United States District Court for the Southern District of New York for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement, any exhibits hereto or the Supplemental Agreement described in Section 23 herein, except for any matters within this Settlement Agreement that are subject to the dispute resolution procedures outlined in Section 42 below. For the purpose of such suit, action, or proceeding, to the fullest extent permitted by law, the Parties, Released Parties and the Settlement Class irrevocably waive and agree not to assert, by way of motion, as a defense, or

otherwise, any claim or objection that they are not subject to the jurisdiction of such Court, or that such Court is, in any way, an improper venue or an inconvenient forum or that the Court lacked power to approve this Settlement Agreement or enter any of the orders contemplated hereby. The Parties', Released Parties', and the Settlement Class' agreement as to submission to and retention of jurisdiction is solely for the purposes of effectuating the Settlement and for no other purpose. CBA and the Released Parties retain all of their objections, arguments, and defenses with respect to jurisdiction (including personal jurisdiction), and reserve all rights to contest jurisdiction, if the Settlement does not receive the Court's Final approval, if the Court's approval is reversed or vacated on appeal, if the Settlement is terminated, or if the Settlement otherwise fails to become effective. CBA and the Released Parties do not concede that the United States District Court for the Southern District of New York may properly exercise personal jurisdiction over them for any purpose other than the enforcement of the Settlement as expressly provided for in this Settlement Agreement, and maintain that no such personal jurisdiction would exist absent the consent provided for in this Section 37.

### **38. Contribution and Indemnification Bar**

The Settlement is expressly intended to absolve the Released Parties against any claims for contribution, indemnification, or similar claims from other Defendants arising out of or related in any way to the Released Claims, in the manner and to the fullest extent permitted under the law of New York or any other jurisdiction that might be construed or deemed to apply for claims of contribution, indemnification, or similar claims against any Released Party. Notwithstanding the foregoing, should any court determine that any Defendant is or was legally entitled to any kind of contribution or indemnification from CBA arising out of or related to the Released Claims, the Releasing Parties agree that any money judgment subsequently obtained by the Releasing Parties

against any Defendant shall be reduced to an amount such that, upon paying the entire amount, the Defendant would have no claim for contribution, indemnification, or similar claims against CBA.

**39. Reservation of Rights**

This Settlement Agreement does not settle or compromise any claims by Representative Plaintiffs or any Settlement Class Member asserted against any Defendant or any potential defendant other than CBA and the Released Parties. The rights of any Settlement Class Member against any other Person other than CBA and the Released Parties are specifically reserved by Representative Plaintiffs and the Settlement Class Members.

**40. Notices**

All notices and other communications under this Settlement Agreement shall be sent to the Parties to this Settlement Agreement at their address set forth on the signature page herein, *viz*, if to Representative Plaintiffs, then to: Vincent Briganti & Geoffrey M. Horn, Lowey Dannenberg, P.C., 44 South Broadway, Suite 1100, White Plains, New York 10601, and Christopher Lovell, Lovell, Stewart, Halebian, Jacobson LLP, 500 Fifth Avenue, Suite 2440, New York, New York 10110; and if to CBA, then to: Jeffrey T. Scott and Mark A. Popovsky, 125 Broad Street, New York, New York 10004, or such other address as each party may designate for itself, in writing, in accordance with this Settlement Agreement.

**41. Authority**

In executing this Settlement Agreement, Plaintiffs' Counsel represent and warrant that they have been fully authorized to execute this Settlement Agreement on behalf of the Representative Plaintiffs and the Settlement Class (subject to final approval by the Court after notice to all Settlement Class Members), and that all actions necessary for the execution of this Settlement Agreement have been taken. CBA's Counsel represents and warrants that they have been fully

authorized to execute this Settlement Agreement on behalf of CBA, and that all actions necessary for the execution of this Settlement Agreement have been taken.

**42. Disputes or Controversies**

(A) Except as otherwise provided herein, any dispute or controversy arising out of or relating to the Settlement Agreement or Supplemental Agreement shall be decided first by discussion among counsel for the Parties and, failing that, by confidential mediation. The mediation shall be conducted by JAMS, Inc., formerly known as Judicial Arbitration and Mediation Services (“JAMS”), and the mediator shall be selected and agreed upon by the Parties. If the Parties are unable to agree on the mediator within thirty (30) calendar days from the date on which the mediation is commenced, JAMS shall appoint the mediator. The seat of mediation shall be New York, New York. If mediation fails to resolve the dispute, it shall be decided by arbitration, in each case administered by a sole neutral arbitrator agreed upon by all Parties at JAMS, in accordance with its procedures and Comprehensive Arbitration Rules & Procedures then in effect (“Rules”) and in accordance with the Expedited Procedures in those Rules (or such other alternative dispute resolution organization as all parties shall agree), except as modified herein. If the Parties are unable to agree on the sole arbitrator within thirty (30) calendar days from the date on which the arbitration is commenced, JAMS (or any dispute resolution organization agreed upon by the Parties) shall appoint the sole arbitrator. The seat of arbitration shall be New York, New York. Any appeal therefrom shall be heard by the United States District Court for the Southern District of New York.

(B) The arbitration shall be conducted on a strictly confidential basis, and the Parties shall not disclose the existence or nature of any claim; any documents, correspondence, briefing, exhibits, or information exchanged or presented in connection with any claim; or any rulings, decisions, or results in the context of arbitration (collectively, “Arbitration Materials”) to any third

party, except as permitted in section 10 of the Stipulation and Protective Order (and such persons shall also be bound by these confidentiality terms), under seal in any judicial proceeding commenced in connection with this Section 42, or to the extent that such disclosure is required or advisable pursuant to bank regulatory requirements, SEC requirements, or other legal or regulatory requirements.

(C) Subject to any timely appeals under this Section 42, the arbitral decision shall be final and binding upon the parties hereto. Any arbitral award may be entered as a judgment or order in any court of competent jurisdiction. Except as the Rules may provide, the Parties shall share JAMS's administrative fees and the mediator's or arbitrator's fees and expenses. Each Party shall be responsible for such Party's attorneys' fees and costs except as otherwise provided by any applicable statute or other law. Either Party may commence litigation in any state or federal court of competent jurisdiction located in New York County, New York to obtain injunctive relief in aid of arbitration, to compel arbitration, or to confirm or vacate an arbitrator's award. The Parties agree to take all steps necessary to protect the confidentiality of the Arbitration Materials in connection with any such proceeding, agree to use their best efforts to file all confidential information (and documents containing confidential information) under seal, and agree to the entry of an appropriate protective order encompassing the confidentiality terms of any settlement agreement.

#### **43. Stay**

The Parties stipulate and agree that all proceedings and deadlines in the Action (including with respect to discovery, except with respect to CBA's cooperation obligations as provided in Section 5 above) between Representative Plaintiffs and CBA shall be stayed pending the Court's entry of the Conditional Certification Order. The stay will automatically be dissolved if (a) the Court does not enter the Conditional Certification Order, the Final Approval Order, or the Final

Judgment, or (b) the Court enters the Final Approval Order and the Final Judgment and appellate review is sought and, on such review, the Final Approval Order or the Final Judgment is finally vacated, modified, or reversed, unless all Parties, in their sole discretion, within thirty (30) calendar days from the date of the mailing of such ruling to such Parties, provide written notice to all other Parties hereto of their intent to proceed with the Settlement under the terms of the Conditional Certification Order, the Final Approval Order, or the Final Judgment, as modified by the Court or on appeal. If the stay is dissolved, the Parties agree to work together in order to seek modification of the case schedule herein so that the Parties are returned to their respective litigation positions prior to the Settlement.

*[remainder of page intentionally left blank]*

Dated: December 10, 2021

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*Additional Plaintiffs' Counsel for Orange County Employees Retirement System*

Dated: December 10, 2021

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Commonwealth Bank of Australia*

EXECUTION VERSION

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD DENNIS, SONTERRA CAPITAL MASTER FUND, LTD., FRONTPOINT FINANCIAL SERVICES FUND, L.P., FRONTPOINT ASIAN EVENT DRIVEN FUND, L.P., FRONTPOINT FINANCIAL HORIZONS FUND, L.P., AND ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Docket No. 16-cv-06496 (LAK)

Plaintiffs,

*-against-*

JPMORGAN CHASE & CO., JPMORGAN CHASE BANK, N.A., JPMORGAN CHASE BANK, N.A. AUSTRALIA BRANCH, BNP PARIBAS, S.A., BNP PARIBAS, AUSTRALIA BRANCH, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS N.V., RBS GROUP (AUSTRALIA) PTY LIMITED, UBS AG, UBS AG, AUSTRALIA BRANCH, AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD., COMMONWEALTH BANK OF AUSTRALIA, NATIONAL AUSTRALIA BANK LIMITED, WESTPAC BANKING CORPORATION, DEUTSCHE BANK AG, DEUTSCHE BANK AG, AUSTRALIA BRANCH, HSBC HOLDINGS PLC, HSBC BANK AUSTRALIA LIMITED, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, LLOYDS TSB BANK PLC, AUSTRALIA, MACQUARIE GROUP LTD., MACQUARIE BANK LTD., ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, ROYAL BANK OF CANADA, AUSTRALIA BRANCH, MORGAN STANLEY, MORGAN STANLEY AUSTRALIA LIMITED, CREDIT SUISSE GROUP AG, CREDIT SUISSE AG, ICAP PLC, ICAP AUSTRALIA PTY LTD., TULLETT PREBON PLC, TULLETT PREBON (AUSTRALIA) PTY LTD., AND JOHN DOES NOS. 1-50.

Defendants.

**EXHIBIT A**

**[PROPOSED] ORDER  
GRANTING CONDITIONAL  
CLASS CERTIFICATION FOR  
PURPOSES OF CLASS ACTION  
SETTLEMENT WITH  
COMMONWEALTH BANK OF  
AUSTRALIA**

This putative class action comes before the Court on Representative Plaintiffs’<sup>1</sup> Consolidated Motion for Conditional Class Certification for Purposes of Class Action Settlement with Commonwealth Bank of Australia (“CBA”) (“Motion”) and on the Stipulation and Agreement of Settlement as to Defendant CBA dated December 10, 2021 (“Settlement Agreement”) entered into by Representative Plaintiffs and CBA in the above-entitled action (“Action”). The Court has reviewed the Motion, Settlement Agreement, and attached exhibits, which set forth the terms and conditions for a proposed settlement of and for dismissal of the Action with prejudice as against CBA; and the Court having read and considered the Settlement Agreement and the attached exhibits finds that the Motion should be granted.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that:

1. All defined terms used in this Order shall have the same meanings as set forth in the Settlement Agreement, except as otherwise defined herein. Representative Plaintiffs and CBA are referred to collectively as the “Parties.”

2. In the Action only and solely for purposes of the Settlement, this Court: (i) has personal jurisdiction over Representative Plaintiffs and CBA, and (ii) subject matter jurisdiction over the Action to consider the Settlement Agreement and all exhibits thereto.

3. For purposes of settlement only, pursuant to Fed. R. Civ. P. 23(a) and (b)(3), the Court hereby certifies a Settlement Class consisting of: all Persons (including both natural persons and entities) who purchased, acquired, sold, held, traded, or otherwise had any interest in, BBSW-Based Derivatives during the period January 1, 2003 through August 16, 2016, inclusive (“Settlement Class Period”), provided that, if Representative Plaintiffs expand the putative or certified class in this Action in or through any subsequent amended complaint, class motion, or Other Settlement, the defined

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<sup>1</sup> “Representative Plaintiffs” are Richard Dennis, Orange County Employees Retirement System (“OCERS”), and any subsequently named plaintiff(s) that may be added to this Action through amended or supplemental pleadings.

Settlement Class in this Order and the Settlement Agreement shall be expanded so as to be coterminous with such expansion. Excluded from the Settlement Class are the Defendants and any parent, subsidiary, affiliate or agent of any Defendant or any co-conspirator whether or not named as a Defendant, and the United States Government. Investment Vehicles are not to be excluded from the Settlement Class solely on the basis of being deemed to be Defendants or affiliates, subsidiaries, parents or agents of Defendants or controlled by Defendants or affiliates, subsidiaries, parents or agents of Defendants. However, to the extent that any Defendant or any entity that might be deemed to be an affiliate, subsidiary, parent or agent thereof (i) managed or advised, and (ii) directly or indirectly held a beneficial interest in, said Investment Vehicle during the Settlement Class Period, that beneficial interest in the Investment Vehicle is excluded from the Settlement Class.

4. Solely for the purposes of effectuating the Settlement, the Court conditionally finds and concludes that the requirements of Fed. R. Civ. P. 23(a) and 23(b)(3) have been satisfied as follows:

- (a) the Settlement Class Members are so numerous that joinder of all Settlement Class Members is impracticable;
- (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions;
- (c) the claims of the Representative Plaintiffs are typical of the claims of the Settlement Class;
- (d) Representative Plaintiffs and Class Counsel (as defined in Paragraph 5 below) will fairly and adequately represent and protect the interests of all of the Settlement Class Members; and

- (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

5. If for any reason the Effective Date of the Settlement, as defined in Section 1(O) and Section 19 of the Settlement Agreement, does not occur, the Settlement Agreement, including any amendment(s) thereof, and this Order conditionally certifying the Settlement Class solely for purposes of the Settlement shall, without the need for further action by the Court or either of the Parties, be null and void, of no further force or effect, and without prejudice to any party, and may not be introduced as evidence or referred to in any actions or proceedings by any person or entity. Each party shall be restored to his, her or its respective position as it existed as of March 20, 2021. In such circumstances, each of the Parties shall retain its currently existing rights to seek or to object to the certification of this litigation as a class action under Fed. R. Civ. P. 23, or any state or federal rule, statute, law, or provision, and to contest and appeal any grant or denial of certification in this litigation or in any other litigation on any other grounds.

6. The Court appoints Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP as Class Counsel to such Settlement Class for purposes of the Settlement, having determined that the requirements of Rule 23(g) of the Federal Rules of Civil Procedure are fully satisfied by this appointment.

7. The Court appoints Citibank, N.A. as Escrow Agent for purposes of the Settlement Fund defined in the Settlement Agreement. The Court preliminarily approves the establishment of the Settlement Fund as qualified settlement funds pursuant to Section 468B of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder.

8. Plaintiffs Richard Dennis and OCERS will serve as representatives of the Settlement Class for purposes of the Settlement.

9. The timing, plan, and forms of the Class Notice to the Settlement Class and the date of the Fairness Hearing before this Court to consider any member(s) of the Settlement Class's objections to final approval of the Settlement and to consider the fairness, adequacy and reasonableness of the proposed Settlement and Settlement Agreement shall all be determined by separate order of this Court.

10. At a later date, Class Counsel shall submit for the Court's approval a proposed plan of distribution of the Settlement Funds.

11. This civil action was commenced after February 18, 2005. The Court directs CBA to notify the appropriate Federal and State officials under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 ("CAFA"). Counsel for CBA shall, at or before the Fairness Hearing, file with the Court proof of compliance with CAFA.

12. All proceedings in the Action as to CBA, other than proceedings as may be necessary to implement the proposed Settlement or to effectuate the terms of the Settlement Agreement, are hereby stayed and suspended until further order of this Court. Pending determination of whether the Settlement should be approved, Representative Plaintiffs, Class Counsel and Settlement Class Members are barred and enjoined from commencing or prosecuting any Released Claims against any of the Released Persons.

13. Neither this Order, the Settlement Agreement, the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or Settlement, whether or not the Settlement shall become Final, is or shall be deemed or construed to be an admission, adjudication, or evidence of (a) any violation of any statute or law or of the validity of any claims, alleged wrongdoing, or liability of CBA or any Released Party; (b) the truth of any of the claims, defenses or allegations alleged in the Action; (c) the incurrence of any

damage, loss, or injury by any Person; (d) the existence or amount of any artificiality of any benchmark or other interest rate; (e) any fault or omission of CBA or any Released Party in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; or (f) the propriety of certification of a class other than solely for purposes of the Settlement. Further, neither this Order, the Settlement Agreement (including its exhibits), nor the Settlement contained therein, whether or not the Settlement shall become Final, nor any negotiations, documents and discussions associated with them, nor the Final Approval Order and Final Judgment, may be discoverable or used directly or indirectly, in any way, whether in the Action or in any other action or proceeding of any nature, whether by the Settlement Class or any Person, except if warranted by existing law in connection with a dispute under the Settlement Agreement or an action in which the Settlement Agreement is asserted as a defense (in which case this paragraph does not apply). All rights of CBA and Representative Plaintiffs are reserved and retained if the Settlement does not become Final in accordance with the terms of the Settlement Agreement.

14. Neither this Order, the Settlement Agreement, the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement is or may be used as an admission or evidence that the claims of Representative Plaintiffs lacked merit in any proceeding against anyone in any court, administrative agency, or other tribunal.

15. Except as otherwise provided herein, in the event that the Settlement Agreement is terminated, vacated, not approved, or the Effective Date fails to occur for any reason, then the Parties shall be deemed to have reverted to their respective status in the Action as of March 20, 2021 and the Settlement Amount, and all interest earned in the Settlement Fund on that Settlement

Amount, shall be refunded, reimbursed, and repaid to CBA to the extent provided in the Settlement Agreement.

16. All funds held by the Escrow Agent shall be deemed and considered to be *in custodial legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Settlement Agreement, returned to the Person(s) paying the same pursuant to the Settlement Agreement and/or further order(s) of the Court.

17. If the Settlement is terminated pursuant to Sections 22 or 23 of the Settlement Agreement or if the Settlement is ultimately not approved or does not become final for any reason, the Court will modify any existing scheduling order to ensure that the Parties will have sufficient time to prepare for the resumption of litigation.

18. The Court's conditional certification of the Settlement Class and appointment of Representative Plaintiffs as class representatives, as provided herein is without prejudice to, or waiver of, the rights of any Defendant to contest any other request by Representative Plaintiffs to certify a class. The Court's findings in this Conditional Certification Order shall have no effect on the Court's ruling on any motion to certify any class in this litigation, or appoint class representatives, and no party may cite or refer to the Court's approval of the Settlement Class as binding or persuasive authority with respect to any motion to certify such class or appoint class representatives.

19. The Court hereby orders CBA to produce documents to the Representative Plaintiffs consistent with and solely to the extent of its cooperation obligations provided in Section 5 of the Settlement Agreement.

20. If any deadline herein falls on a Saturday, Sunday or legal holiday, such deadline shall be extended until the next Business Day that is not a Saturday, Sunday or legal holiday.

**ENTERED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Hon. Lewis A. Kaplan  
United States District Judge

EXECUTION VERSION

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD DENNIS, SONTERRA CAPITAL MASTER FUND, LTD., FRONTPOINT FINANCIAL SERVICES FUND, L.P., FRONTPOINT ASIAN EVENT DRIVEN FUND, L.P., FRONTPOINT FINANCIAL HORIZONS FUND, L.P., AND ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Docket No. 16-cv-06496 (LAK)

Plaintiffs,

*-against-*

JPMORGAN CHASE & CO., JPMORGAN CHASE BANK, N.A., JPMORGAN CHASE BANK, N.A. AUSTRALIA BRANCH, BNP PARIBAS, S.A., BNP PARIBAS, AUSTRALIA BRANCH, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS N.V., RBS GROUP (AUSTRALIA) PTY LIMITED, UBS AG, UBS AG, AUSTRALIA BRANCH, AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD., COMMONWEALTH BANK OF AUSTRALIA, NATIONAL AUSTRALIA BANK LIMITED, WESTPAC BANKING CORPORATION, DEUTSCHE BANK AG, DEUTSCHE BANK AG, AUSTRALIA BRANCH, HSBC HOLDINGS PLC, HSBC BANK AUSTRALIA LIMITED, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, LLOYDS TSB BANK PLC, AUSTRALIA, MACQUARIE GROUP LTD., MACQUARIE BANK LTD., ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, ROYAL BANK OF CANADA, AUSTRALIA BRANCH, MORGAN STANLEY, MORGAN STANLEY AUSTRALIA LIMITED, CREDIT SUISSE GROUP AG, CREDIT SUISSE AG, ICAP PLC, ICAP AUSTRALIA PTY LTD., TULLETT PREBON PLC, TULLETT PREBON (AUSTRALIA) PTY LTD., AND JOHN DOES NOS. 1-50.

Defendants.

**EXHIBIT B**

**[PROPOSED]  
FINAL APPROVAL ORDER OF  
CLASS ACTION SETTLEMENT  
WITH COMMONWEALTH  
BANK OF AUSTRALIA**

This matter came for a duly-noticed hearing on \_\_\_\_\_ 202\_\_ (the “Fairness Hearing”), upon the Representative Plaintiffs’<sup>1</sup> Motion for Final Approval of Class Action Settlement with Commonwealth Bank of Australia (“CBA”) in the action captioned *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) (the “Action”), which was consented to by CBA (together with Representative Plaintiffs, the “Parties”). Due and adequate notice of the Stipulation and Agreement of Settlement, dated December 10, 2021 (the “Settlement Agreement”) having been given to the Settlement Class Members, the Fairness Hearing having been held and the Court having considered all papers filed and proceedings had in the Action, and otherwise being fully informed in the premises and good cause appearing therefor,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. This Final Approval Order hereby incorporates by reference the definitions in the Settlement Agreement and all terms used herein, except as otherwise expressly defined herein, shall have the same meanings as set forth in the Settlement Agreement.

2. For purposes only of the settlement of the Released Claims<sup>2</sup> set forth in the Settlement Agreement (the “Settlement”), the Court hereby finally certifies the Settlement Class:

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<sup>1</sup> “Representative Plaintiffs” are Richard Dennis, Orange County Employees Retirement System (“OCERS”), and any subsequently named plaintiff(s).

<sup>2</sup> “Released Claims” means any and all manner of claims, including unknown claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, set-offs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class, derivative, or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys’ fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which Settling Class Members or any of them ever had, now has, or hereafter can, shall or may have, representatively, derivatively or in any other capacity, against the Released Parties arising from or relating in any way to the claims, allegations or conduct alleged in the Action, or which could have been alleged in the Action against the Released Parties, concerning any:

- (i) BBSW-Based Derivatives;
- (ii) BBSW-Based Deposits or Loans (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.);
- (iii) Prime Bank Bills or Prime Bank eligible securities purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such

All Persons (including both natural persons and entities) who purchased, acquired, sold, held, traded, or otherwise had any interest in BBSW-Based Derivatives during the period January 1, 2003 through August 16, 2016, inclusive, provided that, if Representative Plaintiffs expand the putative or certified class in this Action in or through any subsequent amended complaint, class motion, or other settlement, the defined Settlement Class shall be expanded so as to be coterminous with such expansion. Excluded from the Settlement Class are the Defendants and any parent, subsidiary, affiliate or agent of any Defendant or any co-conspirator whether or not named as a Defendant, and the United States Government.

3. Based on the record, the Court reconfirms that the applicable provisions of Rule 23 of the Federal Rules of Civil Procedure have been satisfied for purposes only of the Settlement.

4. In so holding, the Court finds that, solely for purposes of settlement, the Settlement Class meets all of the applicable requirements of FED. R. CIV. P. 23(a) and (b)(3). The Court hereby finds, in the specific context of this Settlement, that: (i) the Settlement Class is so numerous that joinder of all Settlement Class Members is impracticable, FED. R. CIV. P. 23(a)(1); (ii) common questions of law and fact exist with regard to CBA's alleged manipulation of BBSW and the prices of BBSW-Based Derivatives, FED. R. CIV. P. 23(a)(2); (iii) the Representative Plaintiffs' claims in this litigation are typical of those of the Settlement Class Members, FED. R. CIV. P. 23(a)(3); and (iv) the Representative Plaintiffs' interests do not conflict with, and are co-extensive with, those of absent

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financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.); or

- (iv) any similar financial instruments priced, benchmarked, or settled to BBSW purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.), including additional financial instruments or claims subsequently alleged in the Action, or in which any of the foregoing otherwise had any interest;

including, but not limited to, any alleged manipulation of BBSW under any statute, regulation, or common law, or any purported conspiracy, collusion, racketeering activity, or other improper conduct relating to BBSW (including, but not limited to, all claims under Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, and any other federal or state statute, regulation, or the common law). The following claims shall not be released by this Settlement: (i) any claims against former CBA employees arising solely from those former employees' conduct or alleged conduct that occurred while not employed by CBA; (ii) any claims against the named Defendants in this Action other than CBA and other than any John Doe Defendants to the extent they are current or former employees of CBA (solely in their capacity as employees of CBA); or (iii) any claims against any Defendant not affiliated with CBA who may be subsequently added in this Action. *See* Settlement Agreement § 13.

Settlement Class Members; and (v) Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP (“Class Counsel”) have adequately represented the interests of the Settlement Class, FED. R. CIV. P. 23(a)(4). The Court also finds that common issues of fact and law predominate over any questions affecting only individual members and that a class action is superior to other available methods for fairly and efficiently adjudicating this controversy. FED. R. CIV. P. 23(b)(3).

5. Representative Plaintiffs are hereby approved to serve as representatives of such Settlement Class for purposes of the Settlement.

6. Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP are appointed Class Counsel to the Settlement Class for the purposes of the Settlement.

7. In the Action only and solely for purposes of the Settlement, this Court: (i) has personal jurisdiction over Representative Plaintiffs and CBA, and all Settlement Class Members, and (ii) subject matter jurisdiction over the Action to consider the Settlement Agreement and all exhibits attached thereto.

8. The Court finds that the mailed notice, publication notice, website, and Class Notice plan implemented pursuant to the Settlement Agreement and approved by the Court in the Order dated \_\_\_\_\_, 202\_\_: (a) constituted the best practicable notice; (b) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, of their right to exclude themselves from or object to the proposed Settlement, of their right to appear at the Fairness Hearing, of the Distribution Plan, and of Class Counsel’s application for an award of attorneys’ fees, Incentive Award(s), and for reimbursement of expenses associated with the Action; (c) provided a full and fair opportunity to all Settlement Class Members to be heard with respect to the foregoing matters; and (d) met all applicable requirements of Federal Rule of Civil Procedure 23, Due Process, and any other applicable rules or law. Based upon CBA’s submission to the Court dated \_\_\_\_\_, 202\_\_, the Court further finds that CBA

has complied with the obligations imposed on it under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

9. The Court finds that \_\_\_ Settlement Class Members have validly requested to be excluded from the Settlement Class as it relates to the Settlement. Those excluded members of the Settlement Class are identified at ECF No. \_\_\_ and in Exhibit 1 hereto. The excluded members of the Settlement Class as to the Settlement with CBA identified in Exhibit 1 hereto shall have no rights with respect to the Settlement Agreement, shall receive no payment from the sums provided for in the Settlement Agreement and shall be deemed to have excluded themselves from the Action as against CBA, including but not limited to any and all future prosecution of the Action against CBA.

10. The Court finds that \_\_\_ objections to the proposed Settlement have been submitted. Notwithstanding the [lack of] objections, the Court has independently reviewed and considered all relevant factors and has conducted an independent examination into the propriety of the proposed Settlement. [The Court finds all objections are without merit and they are hereby overruled.]

11. It is hereby determined that all Settling Class Members are bound by the Settlement Agreement and this Final Approval Order regardless of whether such Settling Class Members execute and deliver a Proof of Claim and Release.

12. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby finally approves the Settlement, as set forth in the Settlement Agreement, and finds that the Settlement is, in all respects, fair, reasonable and adequate, and in the best interests of the Settlement Class, including the Representative Plaintiffs. In reaching this conclusion, the Court considered the factors set forth in *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000). This Court further finds that the Settlement set forth in the Settlement Agreement is the result of arm's-length negotiations between

experienced counsel representing the interests of the Parties, and that Class Counsel and the Representative Plaintiffs adequately represented the Settlement Class for the purpose of entering into and implementing the Settlement Agreement. The Court finds that the relief provided by the Settlement is adequate and Settlement Class Members are treated equitably. Accordingly, the Settlement embodied in the Settlement Agreement is hereby approved in all respects. The Parties are hereby directed to carry out the Settlement Agreement in accordance with all of its terms and provisions, including the termination provisions.

13. Notwithstanding the entry of this Final Approval Order, if the Settlement Agreement is validly terminated by Representative Plaintiffs or CBA, is disapproved in whole or in part by the Court, any appellate court, or any other court of review, or does not become Final in accordance with its terms, then the provisions of this Final Approval Order shall be null and void with respect to the Settlement; Representative Plaintiffs' and Settling Class Members' claims shall be reinstated; CBA's defenses shall be reinstated; the certification of the Settlement Class and final approval of the proposed Settlement, and all actions associated with it, including but not limited to any requests for exclusion from the Settlement previously submitted and deemed to be valid, shall be vacated and be of no force and effect; the Settlement Agreement, including its exhibits, and any and all negotiations, documents, and discussions associated with it and the releases set forth in the Settlement Agreement, shall be without prejudice to the rights of any Party, and of no force or effect; and the Parties shall be returned to their respective positions before the Settlement Agreement was signed. Notwithstanding the language in this section, any provision(s) in the Settlement Agreement that the Parties have agreed shall survive their termination shall continue to have the same force and effect intended by the Parties.

14. The Settlement Fund defined in the Settlement Agreement has been established as a trust and as a fiduciary account (the "Settlement Fiduciary Account"). The Court approves the

establishment of the Settlement Fiduciary Account under the Settlement Agreement as qualified settlement funds pursuant to Section 468B of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder.

15. Without affecting the finality of the Final Approval Order for purposes of appeal, the Court reserves exclusive jurisdiction over the implementation and enforcement of the Settlement Agreement and the Settlement contemplated thereby and over the enforcement of this Final Approval Order. The Court also retains exclusive jurisdiction to resolve any disputes that arise out of or relate to the Settlement Agreement, the Settlement, or the Settlement Fund (except for such disputes and controversies as are subject to Section 42 of the Settlement Agreement, which disputes and controversies shall be governed by the respective terms of such section), to consider or approve administration costs and fees, including but not limited to fees and expenses incurred to administer the Settlement after the entry of the Final Approval Order, and to consider or approve the amounts of distributions to Settlement Class Members. In addition, without affecting the finality of this Final Approval Order, the Representative Plaintiffs, CBA, and the Settlement Class hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York for any suit, action, proceeding, or dispute arising out of or relating to this Final Approval Order or the Settlement Agreement. Any disputes involving the Representative Plaintiffs, CBA, or Settling Class Members concerning the implementation of the Settlement Agreement shall be submitted to the Court, except for those disputes subject to confidential mediation pursuant to Section 42 of the Settlement Agreement.

16. Each Settling Class Member must execute a release and covenant not to sue, in conformity with the Settlement Agreement, as incorporated into the Proof of Claim and Release form, in order to receive the Settling Class Member's share, if any, of the Net Settlement Fund defined in the Settlement Agreement. The Court hereby confirms the appointment of A.B. Data,

Ltd. as Settlement Administrator and directs that the Settlement Administrator shall ensure that each Proof of Claim and Release form provided to Settling Class Members contains a copy of such release and covenant not to sue. However, Settling Class Members' claims shall be released pursuant to Section 13 of the Settlement Agreement regardless of whether the Settling Class Member executes a release and covenant not to sue.

17. The Court declares that the Settlement Agreement and the Final Approval Order shall be binding on, and shall have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings against the Released Parties involving the Released Claims that are maintained by or on behalf of any Releasing Party regardless of whether the Releasing Party previously initiated or subsequently initiates individual litigation or other proceedings involving the Released Claims, and even if such Releasing Party never received actual notice of the Action or the proposed Settlement.

18. The Court hereby approves the release and covenant not to sue set forth in Section 13 of the Settlement and directs dismissal of the Action as against CBA (but not any other Defendant) fully, finally and with prejudice, pursuant to the terms of the Settlement and the Final Judgment to be entered concurrently herewith.

19. The Court permanently bars and enjoins the Releasing Parties and all Settling Class Members from: (a) filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction against CBA or any Released Parties based on the Released Claims; (b) filing, commencing, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any Settlement Class Members (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), against CBA or any Released Parties based on the Released Claims; (c) organizing members of the Settlement Class into a separate group, class, or subclass for purposes of pursuing as a

purported class action any lawsuit or administrative, regulatory, arbitration, or other proceeding (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) against CBA or any Released Parties based on the Released Claims; or (d) assisting any third party in the prosecution of any Released Claims against CBA or any Released Parties.

20. The Court permanently bars and enjoins claims by any Person against CBA or any Released Parties for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment or otherwise. To the extent permitted by law, the Court permanently bars and enjoins claims against CBA and any Released Parties for contribution or indemnification (however denominated) for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment, or otherwise by (a) any of the other Defendants currently named in the Action; (b) any other Person formerly named as a party in the Action; or (c) any other Person subsequently added or joined as a party in the Action. Should any court determine that any Defendant is or was legally entitled to any kind of set-off, apportionment, contribution, or indemnification from CBA or any Released Parties arising out of or related to Released Claims, the Releasing Parties agree that any money judgment subsequently obtained by the Releasing Parties against any Defendant shall be reduced to an amount such that, upon paying the entire amount, the Defendant would have no claim for set-off, apportionment, contribution, indemnification, or similar claims against CBA or any Released Parties.

21. The Court permanently bars and enjoins claims by CBA or any Released Parties against any other Defendants for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment or otherwise. To the extent permitted by law, the Court permanently bars and enjoins claims by CBA and any Released Parties for contribution or indemnification (however denominated) from other Defendants for all or a portion of any amounts paid or awarded

in the Action by way of settlement, judgment, or otherwise against any of the other Defendants currently named in the Action and absolves the other Defendants against any claims for contribution, indemnification, or similar claims from the Released Parties arising out of or related in any way to the Released Claims, in the manner and to the fullest extent permitted under the law of New York or any other jurisdiction that might be construed or deemed to apply for claims of contribution, indemnification, or similar claims against any of the other Defendants. For the avoidance of doubt, this paragraph shall not bar any claims, including claims for contribution or indemnification (however denominated) by CBA and/or any Released Parties against any third parties other than other Defendants in this Action.

22. Neither the Settlement Agreement (nor its respective exhibits), whether or not it shall become Final, nor any negotiations, documents exchanged among counsel for the Representative Plaintiffs and CBA in connection with settlement discussions, and discussions associated with them, nor the Final Approval Order and Final Judgment are or shall be deemed or construed to be an admission, adjudication, or evidence of: (a) any violation of any statute or law or of the validity of any claims, alleged wrongdoing, or liability of CBA or any Released Party; (b) the truth of any of the claims or allegations alleged in the Action; (c) the incurrence of any damage, loss, or injury by any Person; (d) the existence or amount of any artificiality of any interest benchmark or other interest rate; (e) any fault or omission of CBA or any Released Party in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; or (f) the propriety of certification of a class other than solely for purposes of the Settlement. Further, neither the Settlement Agreement (nor its exhibits), whether or not it shall become Final, nor any negotiations, documents exchanged among counsel for the Representative Plaintiffs and CBA in connection with settlement discussions, and discussions associated with them, nor the Final Approval Order and Final Judgment, may be discoverable, offered or received in evidence, or used directly or indirectly,

in any way, whether in the Action or in any other action or proceeding of any nature, by any Person, except if warranted by existing law in connection with a dispute under the Settlement Agreement or an action (including this Action) in which the Settlement Agreement is asserted as a defense.

Notwithstanding anything to the contrary herein, the foregoing provisions do not apply to discovery or cooperation materials provided by CBA to the Representative Plaintiffs or by the Representative Plaintiffs to the CBA in connection with the Settlement or the Action. The Parties, without the need for approval from the Court, may adopt such amendments, modifications, and expansions of the Settlement Agreement and all exhibits thereto as (i) shall be consistent in all material respects with the Final Approval Order; and (ii) do not limit the rights of Settling Class Members.

23. The Court finds that, during the course of the Action, the Parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure as to each other.

24. Any data or other information provided by Settlement Class Members in connection with the submission of claims shall be held in strict confidence, available only to the Settlement Administrator, Class Counsel, and experts or consultants acting on behalf of the Settlement Class. In no event shall a Settlement Class Member's data or personal information be made publicly available, except as provided for herein or upon Court Order for good cause shown.

25. The Distribution Plan and the Proof of Claim and Release Form are each approved as fair, reasonable, and adequate.

26. The word "days," as used herein, means calendar days. In the event that any date or deadline set forth herein falls on a weekend or federal or state legal holiday, such date or deadline shall be deemed moved to the first business day thereafter.

27. The Court's certification of the Settlement Class and appointment of the Representative Plaintiffs as class representatives, as provided herein, is without prejudice to, or

waiver of, the rights of any Defendant to contest any other request by the Representative Plaintiffs to certify a class. The Court's findings in this Final Approval Order shall have no effect on the Court's ruling on any motion to certify any class or to appoint class representatives in this litigation or any challenge to the Representative Plaintiffs' capacity to litigate or to represent a putative class, and no party may cite or refer to the Court's approval of the Settlement Class as binding or persuasive authority with respect to any such motion or challenge.

28. Class Counsel's request for attorneys' fees and reimbursement of expenses (and Incentive Awards for the Representative Plaintiffs) shall be the subject of a separate order by the Court.

**IT IS SO ORDERED.**

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 202\_\_.

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Hon. Lewis A. Kaplan  
United States District Judge

EXECUTION VERSION

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD DENNIS, SONTERRA CAPITAL MASTER FUND, LTD., FRONTPOINT FINANCIAL SERVICES FUND, L.P., FRONTPOINT ASIAN EVENT DRIVEN FUND, L.P., FRONTPOINT FINANCIAL HORIZONS FUND, L.P., AND ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Docket No. 16-cv-06496 (LAK)

Plaintiffs,

*-against-*

JPMORGAN CHASE & CO., JPMORGAN CHASE BANK, N.A., JPMORGAN CHASE BANK, N.A. AUSTRALIA BRANCH, BNP PARIBAS, S.A., BNP PARIBAS, AUSTRALIA BRANCH, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS N.V., RBS GROUP (AUSTRALIA) PTY LIMITED, UBS AG, UBS AG, AUSTRALIA BRANCH, AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD., COMMONWEALTH BANK OF AUSTRALIA, NATIONAL AUSTRALIA BANK LIMITED, WESTPAC BANKING CORPORATION, DEUTSCHE BANK AG, DEUTSCHE BANK AG, AUSTRALIA BRANCH, HSBC HOLDINGS PLC, HSBC BANK AUSTRALIA LIMITED, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, LLOYDS TSB BANK PLC, AUSTRALIA, MACQUARIE GROUP LTD., MACQUARIE BANK LTD., ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, ROYAL BANK OF CANADA, AUSTRALIA BRANCH, MORGAN STANLEY, MORGAN STANLEY AUSTRALIA LIMITED, CREDIT SUISSE GROUP AG, CREDIT SUISSE AG, ICAP PLC, ICAP AUSTRALIA PTY LTD., TULLETT PREBON PLC, TULLETT PREBON (AUSTRALIA) PTY LTD., AND JOHN DOES NOS. 1-50.

Defendants.

**EXHIBIT C**

**[PROPOSED]  
FINAL JUDGMENT AND  
ORDER OF DISMISSAL WITH  
PREJUDICE OF  
COMMONWEALTH BANK OF  
AUSTRALIA**

This matter came for a duly-noticed hearing on \_\_\_\_ 202\_\_ (the “Fairness Hearing”), upon Representative Plaintiffs’<sup>1</sup> Motion for Final Approval of Class Action Settlement with Commonwealth Bank of Australia (“CBA”) in the action captioned *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) (the “Action”), which was consented to by CBA (together with Representative Plaintiffs, the “Parties”). The Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

1. This Final Judgment hereby incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated December 10, 2021 between Representative Plaintiffs and CBA, ECF No. \_\_\_\_ (the “Settlement Agreement”), and all terms used herein, except as otherwise expressly defined herein, shall have the same meanings as set forth in the Settlement Agreement.
2. Upon the Effective Date of the Settlement, the Action, including each claim in the Action, is hereby dismissed with prejudice on the merits as to CBA (but not any other Defendant) without fees or costs except as provided by the terms of the Settlement.
3. Upon the Effective Date of the Settlement, the Action shall be dismissed fully, finally and in its entirety against CBA and any John Doe Defendants to the extent they are current or former CBA employees (solely in that capacity) with prejudice.

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<sup>1</sup> The “Representative Plaintiffs” are Richard Dennis, Orange County Employees Retirement System (“OCERS”), and any subsequently named plaintiff(s). Unless otherwise noted, ECF citations are to the docket in *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.).

4. The Releasing Parties<sup>2</sup> fully, finally and forever released, relinquished and discharged from and covenanted not to sue the Released Parties<sup>3</sup> for any and all manner of claims, including unknown claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, set-offs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class, derivative, or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys' fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which Settling Class Members or any of them ever had, now

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<sup>2</sup> "Releasing Parties" means each and every Representative Plaintiff, Fund Liquidation Holdings, LLC, Sonterra Capital Master Fund, Ltd., FrontPoint Financial Services Fund, L.P., FrontPoint Asian Event Driven Fund, L.P., and FrontPoint Financial Horizons Fund, L.P., and each and every Settling Class Member on their own behalf and on behalf of their respective predecessors, successors and assigns, direct and indirect parents, subsidiaries, divisions, related entities, associates and affiliates, and on behalf of their current and former officers, directors, advisors, representatives, employees, agents, principals, managers, members, trustees, participants, representatives, fiduciaries, beneficiaries, consultants, attorneys, accountants, auditors, insurers or legal representatives in their capacity as such, and the predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing in their capacity as such, whether or not they object to the Settlement or make a claim for payment from the Settlement Fund. Notwithstanding that the U.S. Government is excluded from the Settlement Class, with respect to any Settling Class Member that is a government entity, Releasing Parties include any and every Settling Class Member as to which the government entity has the legal right to release such claims. As used in this provision, "affiliates" means entities controlling, controlled by, or under common control with a Releasing Party. For the avoidance of doubt, the "Releasing Parties" include all Persons (including both natural persons and entities) entitled to bring or release claims on behalf of Settling Class Members relating to the Released Claims, including, but not limited to, the Settling Class Members' transactions, interests or positions in, or ownership of, BBSW-Based Derivatives, BBSW-Based Deposits or Loans, or any similar financial instruments priced, benchmarked, or settled to BBSW held by Representative Plaintiffs, Fund Liquidation Holdings, LLC, Sonterra Capital Master Fund, Ltd., FrontPoint Financial Services Fund, L.P., FrontPoint Asian Event Driven Fund, L.P., and FrontPoint Financial Horizons Fund, L.P., or Settling Class Members (to the extent such similar financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.). See Settlement Agreement § 1(LL).

<sup>3</sup> "Released Parties" means CBA, its predecessors, successors and assigns, its past, present, and future direct and indirect parents, subsidiaries, divisions, related entities, associates and affiliates, and each of CBA's and each of the foregoing's respective current, former and future officers, directors, advisors, representatives, employees, principals, managers, members, partners, participants, agents (in their capacity as agents of CBA), shareholders (in their capacity as shareholders of CBA), representatives, fiduciaries, beneficiaries, consultants, attorneys, accountants, auditors, insurers, or legal representatives, and the predecessors, successors, heirs, executors, administrators, trustees and assigns of each of the foregoing and any John Doe Defendants named or subsequently named in this Action (to the extent they are current or former employees of any of the foregoing but solely in that capacity). As used in this provision, "affiliates" means entities controlling, controlled by, or under common control with a Released Party. For the avoidance of doubt, for purposes of this Settlement, "Released Parties" shall not include any named Defendants other than CBA. See Settlement Agreement § 1(KK).

has, or hereafter can, shall or may have, representatively, derivatively or in any other capacity, against the Released Parties arising from or relating in any way to the claims, allegations or conduct alleged in the Action, or which could have been alleged in the Action against the Released Parties, concerning any:

- a. BBSW-Based Derivatives;
- b. BBSW-Based Deposits or Loans (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.);
- c. Prime Bank Bills or Prime Bank eligible securities purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.); or
- d. any similar financial instruments priced, benchmarked, or settled to BBSW purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.), including additional financial instruments or claims subsequently alleged in the Action, or in which any of the foregoing otherwise had any interest;

including, but not limited to, any alleged manipulation of BBSW under any statute, regulation, or common law, or any purported conspiracy, collusion, racketeering activity, or other improper conduct relating to BBSW (including, but not limited to, all claims under Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the Racketeer

Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, and any other federal or state statute, regulation, or the common law).

5. The following claims shall not be released by the Settlement: (i) any claims against former CBA employees arising solely from those former employees' conduct or alleged conduct that occurred while not employed by CBA; (ii) any claims against the named Defendants in this Action other than CBA and other than any John Doe Defendants to the extent they are current or former employees of CBA (solely in their capacity as employees of CBA); or (iii) any claims against any Defendant not affiliated with CBA who may be subsequently added in this Action.

6. Although the foregoing release is not a general release, the foregoing release constitutes a waiver by the Parties and each Settling Class Member of any and all rights and provisions under Section 1542 of the California Civil Code (to the extent it applies to the Action), which provides as follows:

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.

This release also constitutes a waiver of any and all provisions, rights, and benefits of any federal, state or foreign law, rule, regulation, or principle of law or equity that is similar, comparable, equivalent to, or which has the effect of, Section 1542 of the California Civil Code. Releasing Parties and Settling Class Members shall be deemed to acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of the Settlement Agreement, but that it is their intention to release fully, finally, and forever all of the Released Claims, and in furtherance of such intention, the release shall be irrevocable and remain in effect notwithstanding the discovery or

existence of any such additional or different facts. In entering and making this Settlement Agreement, the Parties assume the risk of any mistake of fact or law and the release shall be irrevocable and remain in effect notwithstanding any mistake of fact or law.

7. Upon the Effective Date, each of the Releasing Parties shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Released Parties and agrees and covenants not to sue any of the Released Parties on the basis of any Released Claims or to assist any third party in prosecuting any Released Claims against any Released Party.

8. The Court, finding no just reason for delay, directs pursuant to Rule 54(b) of the Federal Rules of Civil Procedure that the judgment of dismissal as to CBA shall be final and entered forthwith.

**IT IS SO ORDERED.**

Signed this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

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Hon. Lewis A. Kaplan  
United States District Judge