

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION**

DAN KOHL, *et al.*,

Plaintiff,

v.

LOMA NEGRA COMPANIA INDUSTRIAL  
ARGENTINA SOCIEDAD ANONIMA, LOMA  
NEGRA HOLDING GMBH, SERGIO FAIFMAN,  
MARCO GRADIN, RICARDO FONSECA DE  
MENDONÇA LIMA, LUIZ AUGUSTO KLE CZ,  
PAULO DINIZ, CARLOS BOERO HUGHES,  
DIANA MONDINO, SERGIO DANIEL ALONSO,  
BRADESCO SECURITIES INC., CITIGROUP  
GLOBAL MARKETS INC., HSBC SECURITIES  
(USA) INC., ITAU BBA USA SECURITIES, INC.,  
MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED AND MORGAN STANLEY &  
CO. LLC,

Defendants.

Index No. 653114/2018

Part 53

Hon. Andrew Borrok

**STIPULATION OF SETTLEMENT**

This Stipulation of Settlement, dated October 11, 2023 (the “Stipulation”), is made and entered into by and among: (i) Lead Plaintiff Dan Kohl (“Lead Plaintiff”), on behalf of himself and the Settlement Class; (ii) Defendant Loma Negra Compañía Industrial Argentina S.A. (“Loma” or the “Company”); and (iii) Defendants Bradesco Securities Inc., Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Itaú BBA USA Securities, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, and Morgan Stanley & Co. LLC (collectively, the “Underwriter Defendants” and, together with Loma, “Defendants”).<sup>1</sup> This Stipulation is intended by Lead Plaintiff and Defendants (collectively, the “Settling Parties”) to fully, finally, and forever resolve, discharge, and settle the Litigation and the Released Class Claims, as defined below, upon and subject to the terms and conditions hereof, subject to the approval of this Court pursuant to Article 9 of the New York Civil Practice Law and Rules (the “CPLR”).

#### **TERMS OF THE STIPULATION AND AGREEMENT OF SETTLEMENT**

Without any admission or concession on the part of Lead Plaintiff of any lack of merit of the Litigation whatsoever, and without any admission or concession of any liability or wrongdoing or lack of merit in the defenses whatsoever by Defendants, IT IS HEREBY STIPULATED AND AGREED by and among Lead Plaintiff (on behalf of himself and the Settlement Class) and Defendants, subject to the approval of the Court, that the Litigation shall be dismissed with prejudice, and all Released Class Claims as against the Released Defendant Parties, and all Released Defendants’ Claims, as against the Released Plaintiff Parties, shall be finally and fully compromised, settled, and released, upon and subject to the terms and conditions of this Stipulation, as follows:

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<sup>1</sup> The remaining persons listed as defendants in the caption, Loma Negra Holding GmbH, Sergio Faifman, Marco Gradin, Ricardo Fonseca De Mendonça Lima, Luiz Augusto Klecz, Paulo Diniz, Carlos Boero Hughes, Diana Mondino, Sergio Daniel Alonso, have never been served, appeared, or otherwise been made parties to this action. All capitalized terms not otherwise defined shall have the meanings ascribed to them in Section 1 herein.

**1. Certain Definitions**

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

1.1. “Authorized Claimant” means any Settlement Class Member who submits a valid Claim to the Claims Administrator that is accepted for payment.

1.2. “Claim(s)” means a paper claim submitted on a Proof of Claim and Release form or an electronic claim that is submitted to the Claims Administrator.

1.3. “Claims Administrator” means A.B. Data, Ltd., the firm previously retained by Lead Counsel pursuant to the Court’s Order dated December 2, 2021 (NYSCEF No. 147) to provide notices in connection with the Litigation and which shall administer this Settlement.

1.4. “Complaint” means the Second Amended Class Action Complaint for Violations of the Securities Act of 1933 (NYSCEF No. 29), filed in the Litigation on January 18, 2019.

1.5. “Court” means the Supreme Court of the State of New York, County of New York, Commercial Division.

1.6. “Defendants” collectively means Loma and the Underwriter Defendants.

1.7. “Defendants’ Counsel” collectively means White & Case LLP and Shearman & Sterling LLP.

1.8. “Effective Date,” or the date upon which the Settlement becomes “Effective,” means the first date by which all of the events and conditions specified in ¶7.1 of this Stipulation have been met, have occurred, or have been waived.

1.9. “Escrow Account” means a segregated interest-bearing escrow account established and maintained by the Escrow Agent pursuant to ¶2.5 of this Stipulation to receive the Settlement Amount.

1.10. “Escrow Agent” means Esquire Bank.

1.11. “Fee and Expense Application” means the application or applications Lead Counsel may submit to the Court for an award from the Settlement Fund for attorneys’ fees and payment of expenses incurred in connection with prosecuting the Litigation, plus interest earned on such attorneys’ fees and expenses at the same rate and for the same periods as earned by the Settlement Fund (until paid) as may be awarded by the Court. The Fee and Expense Application may also include an application for a Lead Plaintiff Award.

1.12. “Fee and Expense Award” means any attorneys’ fees and expenses awarded by the Court, as described in ¶6.1.

1.13. “Final” means, with respect to the Final Approval Order or Judgment: (a) if no appeal therefrom has been filed, the time has passed for any notice of appeal to be timely filed therefrom; or (b) if an appeal has been filed, either (i) the Final Approval Order or Judgment has been finally affirmed or (ii) the appeal from the Final Approval Order or Judgment has been dismissed, and the time for any reconsideration or further appellate review has passed. For purposes of this paragraph, an “appeal” shall include any motion for reconsideration or petition for a writ of *certiorari* or other writ that may be filed in connection with approval or disapproval of the Settlement. Any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to: (a) the Fee and Expense Award, any Lead Plaintiff Award, or any other award of attorneys’ fees, costs, or expenses to Lead Counsel or Lead Plaintiff; (b) the Plan of Allocation (as submitted or subsequently modified); or (c) the procedures for determining Authorized Claimants’ recognized Claims, shall not in any way delay, affect, or preclude the Final Approval Order or Judgment from becoming Final.

1.14. “Final Approval Order” means an Order Granting Final Approval of Class Action Settlement to be rendered by the Court substantially in the form attached hereto as Exhibit B, as

well as any form of order that may be entered by the Court in a form other than the form attached hereto as Exhibit B as to which none of the Settling Parties elects to terminate the Settlement by reason of such variance.

1.15. “Insurance Carriers” means Loma’s insurers.

1.16. “Investment Vehicle(s)” means any investment company, separately managed account, or pooled investment fund, including, but not limited to, mutual fund families, exchange traded funds, fund of funds, hedge funds, and employee benefit plans, in which Defendants, or any of them, have, has, or may have a direct or indirect interest, or as to which that Defendant or its affiliates may act as an investment advisor or manager, but in which any Defendant alone or together with its, his, or her respective affiliates, is not a majority owner or does not hold a majority beneficial interest.

1.17. “Initial Public Offering” means the public offering, pursuant to the Offering Materials, of Loma American Depository Shares, that commenced on November 1, 2017 and closed on November 3, 2017.

1.18. “Judgment” means a Final Judgment and Order of Dismissal with Prejudice to be rendered by the Court substantially in the form attached hereto as Exhibit C, as well as any form of final judgment that may be entered by the Court in a form other than the form attached hereto as Exhibit C as to which none of the Settling Parties elects to terminate the Settlement by reason of such variance.

1.19. “Lead Counsel” means the law firm of Levi & Korsinsky, LLP.

1.20. “Lead Plaintiff” means Dan Kohl.

1.21. “Lead Plaintiff Award” means any award by the Court to the Lead Plaintiff for his or its service on behalf of the Settlement Class or for Lead Plaintiff’s reasonable time, costs and expenses directly relating to the representation of the Settlement Class.

1.22. “Litigation” means the action captioned *Dan Kohl, et al. v. Loma Negra Compañía Industrial Argentina S.A., et al.*, Index No. 653114/2018, pending in the Supreme Court of the State of New York, County of New York.

1.23. “Loma’s Counsel” means White & Case LLP.

1.24. “Net Settlement Fund” means the Settlement Fund less: (a) any Fee and Expense Award, including interest thereon; (b) any Lead Plaintiff Award; (c) Notice and Administration Expenses; (d) Taxes and Tax Expenses; and (e) other Court-approved deductions.

1.25. “Notice” means the Notice of Proposed Settlement of Class Action, which is to be sent to Members of the Settlement Class, substantially in the form attached hereto as Exhibit A-1.

1.26. “Notice and Administration Expenses” means reasonable costs and expenses actually incurred in connection with: providing Notice of the Settlement to the Settlement Class by mail, publication, and other means; locating Settlement Class Members; assisting with the submission of Claims; processing Proof of Claim and Release forms; paying any escrow fees or Tax Expenses; or otherwise administering the Settlement.

1.27. “Offering Materials” means the registration statement filed by the Company with the United States Securities and Exchange Commission (“SEC”) on Form F-1 on or about September 5, 2017, along with subsequent amendments thereto filed with the SEC on September 27, 2017; October 12, 2017; and October 19, 2017; and declared effective by the SEC on October 31, 2017 (collectively, “Registration Statement”), and any documents incorporated therein,

including the final prospectus filed by Loma with the SEC on Form 424B4 with the SEC on November 2, 2022 (the “Prospectus”).

1.28. “Opt-Out Date” is the deadline by which Settlement Class members may seek to exclude themselves from the Settlement Class and from participation in the Settlement. Opt-Out has the meaning set forth in ¶3.3.

1.29. “Person(s)” means an individual, corporation (including all divisions and subsidiaries), limited liability corporation, professional corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, including a Person’s heirs, beneficiaries, executors, administrators, predecessors, successors, representatives, or assignees when acting in their capacity as such.

1.30. “Plaintiff’s Counsel” means any attorney or firm who has appeared in the Litigation on behalf of Lead Plaintiff or the Settlement Class or is included in the Fee and Expense Application.

1.31. “Plan of Allocation” means the plan or formula of allocation described in the Notice or any alternate plan approved by the Court whereby the Net Settlement Fund shall be distributed to Authorized Claimants. Any Plan of Allocation is not part of this Stipulation and neither Defendants nor their Related Parties shall have any responsibility or liability with respect thereto.

1.32. “Preliminary Approval Order” means the proposed order preliminarily approving the Settlement, preliminarily certifying the Settlement Class, and directing dissemination of Notice to the Settlement Class, substantially in the form of Exhibit A attached hereto.

1.33. “Proof of Claim and Release” means the Proof of Claim and Release form for submitting a Claim, which, subject to approval of the Court, shall be substantially in the form attached hereto as Exhibit A-2, and that a Settlement Class Member must complete and submit should that Settlement Class Member seek to share in a distribution of the Net Settlement Fund.

1.34. “Prospectus” has the meaning set forth in ¶1.27.

1.35. “Registration Statement” has the meaning set forth in ¶1.27.

1.36. “Related Parties” when used in reference to a Person, means and includes (i) the Person; (ii) for natural persons, each of that Person’s immediate family members and any trust of which the Person is settler or which is for the benefit of any such Person and/or member of his family, and, for non-natural persons, each of their direct or indirect parents, controlling shareholders, subsidiaries, and other affiliates; and (iii), for any of the Persons listed in sub-parts (i) or (ii) of this definition, their respective present and former employees, members, partners, principals, officers, directors, controlling shareholders, agents, attorneys, advisors (including financial or investment advisors), accountants, auditors, consultants, underwriters, investment bankers, commercial bankers, entities providing fairness opinions, general or limited partners or partnerships, limited liability companies, members, investment funds, investment sub-funds, joint venturers, insurers, reinsurers, predecessors, successors, estates, immediate family members, spouses, heirs, executors, trusts, trustees, administrators, agents, attorneys, legal or personal representatives, assigns, and assignees of each of them, and any controlling person thereof, in their capacities as such, and any entity in which such Person has a controlling interest.

1.37. “Released Class Claims” means all claims, debts, actions, losses, rights, suits, sums of money, accounts, liabilities, reckonings, bonds, bills, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, awards, extents, executions, and

demands whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability), and causes of action of every nature and description, including both known claims and Unknown Claims (as defined in ¶1.54 hereof), whether arising under federal, state, common, statutory, administrative or foreign law, or any other law, rule or regulation, whether in law or in equity, whether class or individual in nature, whether fixed or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether matured or unmatured, whether direct, indirect, or inconsequential, whether suspected or unsuspected, which the Released Plaintiff Parties, in their individual capacities and/or in their capacities as purchasers of Loma American Depository Shares ("ADSs"), ever had, now has, or hereafter can, shall, or may have, whether in their own right or by assignment, transfer or grant from any other person, thing or entity that: (i) have been asserted in this Litigation by Lead Plaintiff or any other Settlement Class Member against any of the Released Defendant Parties; or (ii) could have been asserted in any court or forum by Lead Plaintiff or any other Settlement Class Member against any of the Released Defendant Parties, that arise out of, are based upon, or relate in any way, directly or indirectly, to the allegations, transactions, facts, statements, matters or occurrences, representations or omissions involved, set forth, or referred to in the Complaint or that relate to the purchase, acquisition, holding, sale, and/or disposition of Loma ADSs issued in or pursuant and/or traceable to Loma's Initial Public Offering. Released Class Claims shall not include: (i) any claims relating to the enforcement of the Settlement; or (ii) any claims of any person or entity who or which submits a request for exclusion from the Settlement Class that is accepted by the Court.

1.38. "Released Defendants' Claims" means any and all claims and causes of action of every nature and description whatsoever, including both known claims and Unknown Claims, as

defined in ¶1.54 hereof, against Released Plaintiff Parties that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against any Defendant in the Litigation, except for claims relating to the enforcement of the Settlement. “Released Defendants’ Claims” do not include claims between or among Defendants or any combination of Defendants, including claims for indemnification.

1.39. “Released Defendant Party” or “Released Defendant Parties” mean Defendants, Defendants’ Counsel, and their Related Parties, including each of the persons originally included as defendants in this case, *i.e.*, Loma Negra Holding Gmbh, Sergio Faifman, Marco Gradin, Ricardo Fonseca De Mendonça Lima, Luiz Augusto Klecz, Paulo Diniz, Carlos Boero Hughes, Diana Mondino, Sergio Daniel Alonso.

1.40. “Released Plaintiff Party” or “Released Plaintiff Parties” mean each and every Settlement Class Member, Lead Plaintiff, Lead Counsel, Plaintiff’s Counsel, and their Related Parties.

1.41. “Request for Exclusion” has the meaning set forth in ¶3.3.

1.42. “Settlement” means the resolution of the Litigation in accordance with the terms and provisions of this Stipulation.

1.43. “Settlement Amount” means twenty-four million, six hundred thousand U.S. dollars (\$24,600,000.00) to be paid into the Escrow Account pursuant to Section 2.b. of this Stipulation.

1.44. “Settlement Class” means, consistent with the Court’s December 2, 2021 Order certifying the class in this Litigation (NYSCEF Doc. No. 147), all Persons and entities who purchased or otherwise acquired Loma’s American Depository Shares pursuant and/or traceable to the Registration Statement and Prospectus incorporated therein, as amended, issued by Loma in

connection with its Initial Public Offering. Excluded from the Settlement Class are: (a) Defendants; (b) the individuals originally named as defendants in the Litigation and members of their immediate families; (c) the respective parents and subsidiaries of Loma and the Underwriter Defendants; (d) the officers and directors of Loma and the Underwriter Defendants and their immediate families, (e) any entity in which any Defendant has or had a direct or indirect majority ownership interest; and (f) the legal representatives, heirs, successors, or assigns of any such excluded party. Notwithstanding any aforementioned exclusions from the definition of “Settlement Class,” Investment Vehicles shall not be excluded from the Settlement Class. Also excluded from the Settlement Class is any Person who would otherwise be a Member of the Settlement Class, but who validly and timely has submitted, or submits, a Request for Exclusion in accordance with the requirements set by the Court.

1.45. “Settlement Class Member” or “Member of the Settlement Class” mean a Person who falls within the definition of the Settlement Class, as set forth in ¶1.44 above.

1.46. “Settlement Fund” means the Settlement Amount plus all interest and accretions thereto.

1.47. “Settlement Hearing” means the hearing set by the Court to consider whether the Settlement should be approved as fair, reasonable, and adequate within the meaning of Article 9 of the CPLR, which may be held by videoconference (or as otherwise directed by the Court).

1.48. “Settling Parties” collectively means Defendants and Lead Plaintiff, on behalf of himself and the Settlement Class.

1.49. “Summary Notice” means the summary notice of proposed Settlement and hearing for publication, substantially in the form attached hereto as Exhibit A-3.

1.50. “Tax” or “Taxes” mean any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax, and additional amounts imposed with respect thereto) imposed by any governmental authority, including, but not limited to, any local, state, and federal taxes.

1.51. “Tax Expenses” means expenses and costs incurred in connection with the operation and implementation of ¶2.18 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in ¶2.18, and/or costs incurred in connection with the taxation of the Settlement Fund, distributions, or other payments from the Escrow Account, or the filing of any federal, state, or local returns).

1.52. “Termination Notice” has the meaning set forth in ¶7.4.

1.53. “Underwriter Defendants” means collectively Bradesco Securities Inc., Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Itaú BBA USA Securities, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, and Morgan Stanley & Co. LLC.

1.54. “Unknown Claims” means (a) any and all Released Class Claims that any of the Released Plaintiff Parties do not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties, which, if known by him, her, or it, might have affected his, her, or its settlement with and release of the Released Defendant Parties, or might have affected his, her, or its decision(s) with respect to the Settlement, including, but not limited to, whether or not to object to the Settlement or seek exclusion from the Settlement Class; and (b) any and all Released Defendants’ Claims that any of the Released Defendant Parties do not know or suspect to exist in his, her, or its favor at the time of the release of the Released Plaintiff Parties that, if known by him, her, or it, might have affected his, her, or its settlement and release of the Released

Plaintiff Parties. With respect to (a) any and all Released Class Claims and (b) any and all Released Defendants' Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Settling Parties shall expressly waive, and each Released Plaintiff Party and Released Defendant Party shall be deemed to have, and by operation of the Judgment shall have expressly waived, the provisions, rights, and benefits of California Civil Code §1542, which provides:

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

and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code §1542. Lead Plaintiff and Defendants acknowledge, and each of the Released Plaintiff Parties and each of the Released Defendant Parties by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Class Claims and Released Defendants' Claims was separately bargained for and is a key element of the Settlement.

## **2. The Settlement**

2.1. The obligations incurred pursuant to this Stipulation are: (a) subject to approval by the Court and the Final Approval Order, reflecting such approval, becoming Final; and (b) in full and final disposition of the Litigation and any and all Released Class Claims and Released Defendants' Claims upon and subject to the terms and conditions set forth herein.

### **a. The Settlement Amount**

2.2. The Settlement Amount shall be paid into the Escrow Account in accordance with the provisions of Section 2.b., below. The Settlement Amount is an all-in settlement number, meaning that it includes all attorneys' fees to Lead Counsel, administrative costs, expenses, Settlement Class benefits, Lead Plaintiff Award, taxes, and other costs associated with the

Settlement, and Defendants shall have no obligation to make any other payments pursuant to this Stipulation and/or in connection with this Settlement.

2.3. The Underwriter Defendants shall not be required to make any payments under this Stipulation and/or in connection with the Settlement.

2.4. The Released Defendant Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the administration of the Settlement or the actions or decisions of the Claims Administrator and shall have no liability whatsoever to the Released Plaintiff Parties in connection with such administration, including, but not limited to: (a) any act, omission, or determination by Lead Counsel, the Escrow Agent, and/or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (b) the management, investment, or distribution of the Settlement Fund; (c) the Plan of Allocation; (d) the determination, administration, calculation, or payment of any Claims asserted against the Settlement Fund; (e) any loss suffered by, or fluctuation in value of, the Settlement Fund; or (f) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund, distributions, or other payments from the Escrow Account, or the filing of any federal, state, or local returns.

**b. Payment of the Settlement Amount**

2.5. Promptly after execution of this Stipulation, Lead Counsel shall cause the Escrow Agent to establish the Escrow Account or to identify it if such account was established in advance of the Preliminary Approval Order.

2.6. Once the Escrow Account is established or identified, Lead Counsel will provide to Loma's Counsel all information necessary to effectuate a transfer of funds to the Escrow Account, including (i) complete and accurate wire transfer instructions (including bank name and ABA routing number, address, account name, and number); (ii) payment address; and (iii) a

complete and executed Form W-9 for the Settlement Fund that reflects a valid tax identification number (collectively, the “Payment Information”).

2.7. Within 30 days of the date that Lead Counsel supplies the Payment Information called for in ¶2.6, and provided the Preliminary Approval Order was entered, Loma, on behalf of all Defendants, shall pay and/or cause to be paid by Insurance Carriers and/or any Related Parties a total of \$18,600,000 (USD) (“Payment A”) into the Escrow Account.

2.7.1. Should Lead Counsel make a reasonable and good-faith determination that Loma has failed to comply with its payment obligation set forth in ¶2.7 hereto, Lead Counsel shall immediately provide written notice of same, in accordance with the notice provisions set forth in ¶9.14 and specifying the basis for such determination, to Loma’s Counsel. If any such failure has not been cured within ten (10) business days of such notice (“Cure Period”), then Lead Plaintiff shall have the option to terminate this Stipulation by providing written notice of his election to do so to Loma within 30 business days after expiration of the Cure Period.

2.7.2. The Settling Parties understand and acknowledge that Payment A will be paid from multiple sources in multiple payments. The Settling Parties further understand and acknowledge that Payment A will be primarily made by Insurance Carriers, not by Loma itself, and that while Loma will exercise its best efforts to ensure that Payment A is timely made, Loma cannot be responsible for, or guarantee, the behavior of insurers. In the event Payment A is not timely paid in full into the Escrow Account, Loma shall not have any liability for any reason, and the sole remedy of Lead Plaintiff and the Settlement Class will be to terminate this Settlement Agreement. Under no circumstances will any failure to transfer Payment A into the

Escrow Account by any party create any claim or cause of action, whether in contract, tort, or otherwise, against Loma, the Insurance Carriers, or any Related Party.

2.8. On the 365th day after execution of this Stipulation, Loma, on behalf of all Defendants, shall pay and/or cause to be paid by Insurance Carriers and/or any Related Parties a total of \$6,000,000 (USD) (“Payment B”) into to the Escrow Account.

2.9. Any failure to initiate, make or receive Payment B shall nonetheless not prevent the distribution of Payment A to Authorized Claimants as provided in ¶5.9. However, as provided in ¶7.4, Lead Plaintiff shall have no right to terminate the Settlement or this Stipulation after any distributions of the Settlement Fund to Authorized Claimants.

2.10. Lead Counsel will instruct the Escrow Agent to notify Lead Counsel and Loma’s Counsel promptly, and in any event within 5 business days, after receiving each of the payments described in ¶¶2.7 and 2.8.

2.11. Loma and Lead Plaintiff, and their respective counsel, agree to cooperate to supply any documentation needed to facilitate the payments contemplated in ¶¶2.7 and 2.8 hereto.

2.12. Lead Plaintiff does not have or assert, and this Stipulation does not create, any direct claims for Lead Plaintiff or for any Settlement Class Member against any of the Insurance Carriers, under this Stipulation or otherwise.

2.13. In the event that this Stipulation or the Settlement is not approved, or is terminated, canceled, or the Effective Date otherwise fails to occur for any reason, including, without limitation, in the event the Final Approval Order or Judgment is reversed, vacated, or altered following any appeal taken therefrom, or is successfully collaterally attacked, then, within 20 business days thereof, the Settlement Fund, less Notice and Administration Expenses, Taxes, or Tax Expenses that have been paid, incurred, or are chargeable to the Settlement Fund pursuant to

¶¶2.16 and/or 2.18 hereof, shall be refunded by the Escrow Agent to the accounts designated by Loma. Additionally, in such event, the Escrow Agent or its designee shall apply for any Tax refund owed on the Settlement Amount and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund, to the paying parties in a manner that Loma's counsel shall direct.

**c. The Escrow Agent**

2.14. The Escrow Agent shall invest the Settlement Amount in United States Agency or Treasury Securities or other instruments backed by the Full Faith & Credit of the United States government or an agency thereof, or fully insured by the United States government or an agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. 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 once the funds are received by the Escrow Agent, and the Released Defendant Parties shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions or the actions of the Escrow Agent, or any transactions executed by the Escrow Agent.

2.15. The Settlement Fund, net of any Taxes, shall be used to pay: (a) the Notice and Administration Expenses of the Settlement referred to in ¶1.26 hereof; (b) any Fee and Expense Award or Lead Plaintiff Award made by the Court pursuant to the Fee and Expense Application, as defined in ¶¶1.11, 1.12, and 1.21 hereof; and (c) any other fees, payments, or awards subsequently approved by the Court. The balance of the Settlement Fund after the above payments shall be the Net Settlement Fund, which shall be distributed to the Authorized Claimants, as provided in ¶¶5.2-5.12 hereof. The Settlement Fund held by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such

time as the Net Settlement Fund shall be distributed to Authorized Claimants, or returned pursuant to this Stipulation and/or further order of the Court. The Escrow Agent shall not disburse the Settlement Fund except as provided in this Stipulation, by an order of the Court, or with the prior written agreement of all Defendants' Counsel.

2.16. Notwithstanding the fact that the Effective Date of the Settlement has not yet occurred, Lead Counsel may pay from the Settlement Fund, without further approval from Defendants or order of the Court, Notice and Administration Expenses (as defined in ¶1.26 herein) actually incurred and paid or payable, up to the sum of \$150,000.00. Before the Final Approval Order becomes Final, all such Notice and Administration Expenses in excess of \$150,000.00 shall be paid from the Settlement Fund subject to prior approval of the Court. After the Final Approval Order becomes Final, Notice and Administration Expenses may be paid as incurred and as approved by Lead Counsel, without approval of Defendants or further order of the Court.

2.17. Lead Counsel shall cause the Claims Administrator to disseminate (a) the Notice, substantially in the form of Exhibit A-1 attached hereto, (b) the Proof of Claim and Release, substantially in the form of Exhibit A-2 attached hereto, and (c) the Summary Notice, substantially in the form of Exhibit A-3 attached hereto, to the Settlement Class in accordance with this Stipulation and as ordered by the Court. To the extent there are updates or modifications to the Notice, Proof of Claim and Release, and Summary Notice provided to the Settlement Class, such updates will be reflected on a class action website to be maintained by the Claims Administrator for the purpose of providing Settlement Class Members with information relating to this Settlement. The Released Defendant Parties shall have no responsibility for, or liability whatsoever with respect to, the Notice and Administration Expenses, nor shall they have any responsibility or liability whatsoever for any claims with respect thereto.

**d. Taxes**

2.18. The Settling Parties agree as follows:

(a) The Settlement Fund shall be treated as being, at all times, a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B-1, and the regulations promulgated thereunder. The Settlement Fund shall be established pursuant to the Court’s subject matter jurisdiction within the meaning of Treas. Reg. §1.468B-1(c)(1). The Escrow Agent shall timely make such elections, as necessary or advisable, to carry out the provisions of this ¶2.18, including the “relation-back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Lead Counsel to cause the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties and thereafter to cause the appropriate filing to occur.

(b) For the purpose of §1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” (as defined in Treas. Reg. §1.468B-2(k)(3)) shall be Lead Counsel. Lead Counsel shall cause the Escrow Agent to timely and properly file all informational and other federal, state, or local tax returns necessary or advisable with respect to the earnings on the Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)). Such returns (as well as the elections described in ¶2.18(a) hereof) shall be consistent with this ¶2.18 and, in all events, shall reflect that all Taxes (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.18(c) hereof. The Released Defendant Parties shall not have any liability or responsibility for any such Taxes.

(c) All (i) Taxes (including any estimated Taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Defendant Parties or their counsel with respect to any income earned by the Settlement Fund for any period, after the deposit of the Settlement Amount, during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes; and (ii) Tax Expenses, shall be paid out of the Settlement Fund by the Escrow Agent; in all events the Released Defendant Parties and their counsel shall have no liability or responsibility whatsoever for the Taxes or the Tax Expenses. Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund, without prior order from the Court, and the Escrow Agent shall also be obligated to withhold, and shall be responsible for withholding, from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. §1.468B-2(l)(2)). Neither the Settling Parties, nor their counsel, nor any of the Insurance Carriers are responsible nor shall they have any liability for any Taxes or Tax Expenses. The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶2.18.

2.19. This is not a claims-made settlement. As of the Effective Date, the Released Defendant Parties, and/or any other Person funding the Settlement on their behalf, shall not have any right to the return of the Settlement Fund or any portion thereof for any reason, and shall not have liability should Claims made exceed the amount available in the Settlement Fund for payment

of such Claims. The Released Defendant Parties shall not be liable for the loss of any portion of the Settlement Fund, nor have any liability, obligation, or responsibility for the payment of Claims, Taxes, legal fees, or any other expenses payable from the Settlement Fund.

### **3. Preliminary Approval Order and Settlement Hearing**

3.1. Lead Counsel shall use its best efforts, within seven (7) calendar days following execution of this Stipulation, to submit this Stipulation, together with its exhibits, to the Court and shall apply for entry of the parties' agreed-upon Preliminary Approval Order, substantially in the form of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the Settlement set forth in this Stipulation and approval for the mailing of the Notice and publication of the Summary Notice, substantially in the forms of Exhibits A-1 and A-3 attached hereto, and the scheduling of the Settlement Hearing at which the Court will consider whether to grant Final approval of the Settlement, approve the Plan of Allocation, and issue an order concerning the Fee and Expense Application for the Fee and Expense Award and Lead Plaintiff Award. The Notice shall include the general terms of the Settlement set forth in this Stipulation, the proposed Plan of Allocation, the general terms of the Fee and Expense Application, and the date of the Settlement Hearing.

3.2. The Claims Administrator shall disseminate the Notice and Summary Notice to the Settlement Class in accordance with this Stipulation and as ordered by the Court.

3.3. Any Settlement Class Member who has, or wishes to, request exclusion from the Settlement Class ("Opt-Out") must submit a written request ("Request for Exclusion") within the time and in the manner specified in the Court's Preliminary Approval Order and the Notice. The deadline for submitting a valid Request for Exclusion (the "Opt-Out Date") is to be set by the Court in the Preliminary Approval Order, but the Parties shall request that the Opt-Out Date be set so that all Requests for Exclusion are postmarked (for U.S. Mail) or received by the private carrier

(for FedEx, UPS, etc.) at least twenty-one (21) calendar days before the Settlement Hearing. A Request for Exclusion is valid only if it is personally signed by the Settlement Class Member, and otherwise complies with all the requirements set forth in the Preliminary Approval Order and the Notice. Group opt-outs, including “mass” or “class” opt-outs, are not permitted. Any Settlement Class Member who does not submit a timely written Request for Exclusion will be bound by all proceedings, orders, and judgments in the Litigation, whether or not he, she, or it timely submits a Proof of Claim and Release.

3.4. Any Settlement Class Member who wishes to object to the fairness, reasonableness, or adequacy of the Settlement, or the Plan of Allocation, or to any aspect of the Fee and Expense Application must do so in the manner specified and within the deadlines specified in the Preliminary Approval Order and the Notice. The deadline for submitting such objections is to be set by the Court in the Preliminary Approval Order, but the Parties shall request that the deadline be the same as the Opt-Out Date, *i.e.*, all objections must be postmarked (for U.S. Mail), received by the private carrier (for FedEx, UPS, etc.), or filed with the Court at least twenty-one (21) calendar days before the Settlement Hearing. An objection is valid only if it is personally signed by the Settlement Class Member, and otherwise complies with all the requirements set forth in the Preliminary Approval Order and the Notice.

3.5. As set forth in ¶2.17 above, it shall be the responsibility of the Claims Administrator to disseminate the Notice and otherwise implement the Notice program contemplated by the Preliminary Approval Order, as approved by the Court.

#### **4. Mutual Releases**

4.1. Upon the Effective Date, as defined in ¶1.8 hereof, Lead Plaintiff shall, and each and every Released Plaintiff Party shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever waived, released, relinquished, discharged, and dismissed each and

every one of the Released Class Claims against each and every one of the Released Defendant Parties. Upon the Effective Date, the Released Plaintiff Parties will be forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative or other forum, foreign or domestic, asserting the Released Class Claims against any and all of the Released Defendant Parties, whether or not such Released Plaintiff Party executes and delivers the Proof of Claim and Release or shares in the Net Settlement Fund. Claims to enforce the terms of this Stipulation are not released. In exchange for the mutual releases and other consideration set forth herein, including full payment of the Settlement Amount by or on behalf of Defendants, Lead Plaintiff will, as provided for in the Judgment, also consent to the dismissal with prejudice of the Litigation as set forth herein.

4.2. Any Proof of Claim and Release that is executed by a Settlement Class Member shall release all Released Class Claims against the Released Defendant Parties and shall be substantially in the form contained in Exhibit A-2 attached hereto.

4.3. Upon the Effective Date, each of the Released Defendant Parties shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Defendants' Claims against the Released Plaintiff Parties. Upon the Effective Date, the Released Defendant Parties will be forever barred and enjoined from commencing, instituting, prosecuting, or maintaining any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative or other forum, foreign or domestic, asserting the Released Defendants' Claims against any and all of the Released Plaintiff Parties. Claims to enforce the terms of this Stipulation are not released. Notwithstanding the foregoing, nothing in this Stipulation or its exhibits shall be construed as limiting, modifying, or

otherwise affecting any insurance coverage or policies that may be available to any of the Released Defendant Parties.

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

5.1. The Claims Administrator, subject to such supervision and direction of Lead Counsel and the Court, as may be necessary or as circumstances may require, shall administer and calculate the Claims submitted by Settlement Class Members and shall oversee distribution of the Net Settlement Fund to Authorized Claimants. As provided in ¶2.4 above, the Released Defendant Parties and Defendants' Counsel shall have no responsibility whatsoever for, or interest in, the administration of the Settlement or the actions or decisions of the Claims Administrator once the Escrow Agent takes possession of the Settlement Amount. The Released Plaintiff Parties release the Released Defendant Parties from any and all liability and claims arising from, or with respect to, the administration, investment, or distribution of the Settlement Fund.

5.2. The Settlement Fund shall be applied as follows:

- (a) to pay all Notice and Administration Expenses;
- (b) to pay the Taxes and Tax Expenses;
- (c) to pay the Fee and Expense Award and Lead Plaintiff Award, if and to the extent allowed by the Court; and
- (d) to distribute the Net Settlement Fund to Authorized Claimants, as provided by this Stipulation, the Plan of Allocation, or the orders of the Court.

5.3. All Proof of Claim and Release forms must be completed and postmarked (for U.S. mail) or received by the private carrier (for FedEx, UPS, etc.), or received electronically by the Claims Administrator, within 120 calendar days after the mailing of the Notice, or such other time as may be set by the Court. Proof of Claim and Release forms shall be substantially in the form

of Exhibit A-2 attached hereto, signed under penalty of perjury, and supported by such documents as specified in the Proof of Claim and Release and as are reasonably available to the Authorized Claimant.

5.4. Except as otherwise ordered by the Court, all Settlement Class Members who fail to timely submit a valid Proof of Claim and Release within such period, or such other period as may be ordered by the Court, or otherwise allowed, and have not requested to be excluded from the Settlement Class, shall be forever barred from receiving any payments pursuant to this Stipulation and the Settlement set forth herein, but will, in all other respects, be subject to and bound by the provisions of this Stipulation, the releases contained herein, and the Judgment, and will be barred from bringing any action against the Released Defendant Parties concerning the Released Class Claims. Notwithstanding the foregoing or any other provision of this Section 5, Lead Counsel shall have the discretion (but not an obligation) to accept late-submitted but otherwise valid Claims for processing by the Claims Administrator, so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby. Lead Counsel shall also have the right, but not the obligation, to advise the Claims Administrator to waive what Lead Counsel deem to be *de minimis* or formal or technical defects in any Proof of Claim and Release submitted. No Person shall have any claim against Lead Plaintiff, Lead Counsel, the Claims Administrator, or any Settlement Class Member by reason of the exercise or non-exercise of such discretion.

5.5. Each Proof of Claim and Release shall be submitted to and reviewed by the Claims Administrator, under the supervision of Lead Counsel, who shall determine, in accordance with this Stipulation and the approved Plan of Allocation, the extent, if any, to which each Claim shall be allowed, subject to review by the Court pursuant to ¶5.7 below.

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

5.7. If any claimant whose timely Claim has been rejected, in whole or in part, for curable deficiency desires to contest such rejection, the claimant must, within 20 calendar days after the date of mailing of the notice required in ¶5.6 above, or a lesser period of time if the Claim was untimely, serve upon the Claims Administrator a notice and statement of reasons indicating the claimant's grounds for contesting the rejection, along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a Claim cannot be otherwise resolved, Lead Counsel shall thereafter present the claimant's request for review to the Court.

5.8. Each claimant who declines to be excluded from the Settlement Class shall be deemed to have submitted to the jurisdiction of the Court, with respect to the claimant's Claim, including, but not limited to, all releases provided for herein and in the Judgment, and the Claim will be subject to investigation and discovery under the CPLR, provided that such investigation and discovery shall be limited to the claimant's status as a Settlement Class Member and the validity and amount of the claimant's Claim. In connection with processing the Proofs of Claim and Release, no discovery shall be allowed on the merits of the Litigation or the Settlement. All

proceedings with respect to the administration, processing, and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court, but shall not, in any event, delay or affect the finality of the Judgment. All Settlement Class Members, other claimants, and parties to the Settlement expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations.

5.9. Notwithstanding the fact that the Effective Date of the Settlement has not yet occurred, in the event Payment B has not been paid into the Settlement Fund by the time all timely submitted claim forms have been processed and the Settlement is ready for distribution and the Final Approval Order has become Final, Lead Counsel, in its sole discretion, may choose to make two separate distributions to Authorized Claimants of Payment A and Payment B.

5.10. No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00. If there is any balance remaining in the Net Settlement Fund six months after the date of the initial distribution(s) of the Net Settlement Fund, Lead Counsel shall, if feasible, after payment of any outstanding Notice and Administration Expenses, reallocate such balance among Authorized Claimants who negotiated the checks sent in the initial distribution and who would receive a minimum of \$10.00 as part of an additional distributions. These additional distributions shall be repeated every six months until the balance remaining in the Net Settlement Fund is reduced to a *de minimis* level such that, in the reasonable judgment of Lead Counsel, it no longer makes economic sense, considering costs of distribution, to attempt to make further distributions. Any balance that thereafter still remains in the Net Settlement Fund after such reallocation(s) and payments, which is not feasible or economical to reallocate, shall be donated to the City Bar Fund, a 501(c)(3) non-profit charitable corporation benefiting the New

York City Bar Justice Center, or another 501(c)(3) organization serving the public interest designated by Lead Counsel that has no affiliation or financial relationship with Lead Counsel, Lead Plaintiff, Defendants, their Related Parties, or Defendants' Counsel, and is approved by the Court.

5.11. No Person shall have any claim against the Released Defendant Parties, the Released Plaintiff Parties, or the Claims Administrator based on determinations or distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

5.12. It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an Authorized Claimant's Claim set forth therein, is not a part of this Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel this Stipulation or affect the finality of the Court's Judgment approving this Stipulation and the Settlement set forth herein, or any other orders entered pursuant to this Stipulation.

## **6. Fee and Expense Application**

6.1. Lead Counsel may submit a Fee and Expense Application or Application(s) to the Court for a Fee and Expense Award, to be paid from the Settlement Fund. The Fee and Expense Application may include a request for a Lead Plaintiff Award.

6.2. The amount of attorneys' fees and expenses awarded by the Court is within the sole discretion of the Court. Any Fee and Expense Award, as awarded by the Court, shall be paid to Lead Counsel from the Settlement Fund, as ordered, immediately upon award, subject to Lead Counsel's obligation to refund or repay the amount of the Fee and Expense Award to the

Settlement Fund (plus interest at the same rate earned by the Fund) if and when, as a result of any appeal or otherwise, the amount of fees or expenses awarded is reduced or modified. Lead Counsel shall allocate the attorneys' fees among Plaintiff's Counsel in a manner in which it, in good faith, believes reflects the contributions of such counsel to the initiation, prosecution, and resolution of the Litigation.

6.3. Any Lead Plaintiff Award approved by the Court shall be paid to the Lead Plaintiff from the Settlement Fund after the Final Approval Order becomes Final.

6.4. In the event that the Final Approval Order or other order granting (in whole or in part) the Fee and Expense Award is reversed or modified, or this Stipulation is canceled or terminated for any other reason and such reversal, modification, cancellation, or termination becomes Final and not subject to review, then, to the extent that the Fee and Expense Award has been paid, Lead Counsel and such other Plaintiff's Counsel, who have received any portion of the Fee and Expense Award, shall, within ten business days from receiving notice from Defendants' Counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund such fees and expenses previously paid to them from the Settlement Fund, plus interest thereon, at the same rate as earned on the Settlement Fund in an amount consistent with such reversal, modification, cancellation, or termination.

6.5. Any Fee and Expense Application shall be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement, as set forth in this Stipulation, and shall have no effect on the terms of this Stipulation or the validity or enforceability of the Settlement. The approval of the Settlement, and its becoming Final, shall not be contingent on nor otherwise affected by the grant or denial, in whole or in part, of any Fee and Expense Application, Award, nor by any appeals or modifications of any resulting Fee and

Expense Award or Lead Plaintiff Award. Any order or proceeding relating to the Fee and Expense Application, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Stipulation, or affect or delay the finality of the Judgment approving this Stipulation and the Settlement of the Litigation set forth therein.

6.6. Any fees and/or expenses awarded by the Court shall be paid solely from the Settlement Fund. Defendants shall have no responsibility for, and no liability whatsoever with respect to, any payment of attorneys' fees or expenses (including Taxes) to Plaintiff's Counsel, Lead Plaintiff, or any other Person who receives payment from the Net Settlement Fund.

6.7. Defendants shall have no responsibility for, and no liability whatsoever with respect to, the allocation among Plaintiff's Counsel or any other Person who may assert some claim thereto of any Fee and Expense Award that the Court may make in the Litigation.

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

7.1. The Effective Date of the Settlement shall be conditioned on the occurrence of all of the following events:

- (a) the Court has entered the Preliminary Approval Order directing notice to the Settlement Class;
- (b) the full Settlement Amount of \$24,600,000 has been deposited in full into the Escrow Account;
- (c) the Court has entered the Final Approval Order;
- (d) the Final Approval Order has become Final, as defined in ¶1.13 hereof;
- (e) this Stipulation has not been terminated by any party;
- (f) the Court has entered the Judgment; and
- (g) the Judgment has become Final, as defined in ¶1.13 hereof.

7.2. Upon the Effective Date, any and all remaining interest or right of the Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished.

7.3. Defendant Loma shall have the right to terminate the Settlement and render it null and void in the event that Settlement Class Members, who purchased or otherwise acquired more than a certain percentage of Loma ADSs subject to the Settlement, timely and validly exclude themselves from the Settlement Class, as set forth in a separate agreement (the “Supplemental Agreement”) executed between Lead Plaintiff and Defendants, by and through their counsel. The Settling Parties agree to maintain the confidentiality of the Supplemental Agreement, which is being executed concurrently herewith. The Supplemental Agreement shall not be filed with the Court unless and until the Court requires the Settling Parties to file the Supplemental Agreement or disclose its terms. If submission of the Supplemental Agreement is ordered by the Court, the Settling Parties will seek to have the Supplemental Agreement submitted to the Court *in camera* or filed under seal, but such disclosure shall be carried out to the fullest extent possible in accordance with the practices of the Court, so as to preserve the confidentiality of the Supplemental Agreement, particularly the threshold aggregate number of shares.

7.4. Lead Plaintiff and Defendant Loma shall each have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so (“Termination Notice”) to all other parties hereto within 30 calendar days of: (a) the Court’s final and non-appealable refusal to enter the Preliminary Approval Order in any material respect; (b) the Court’s final and non-appealable refusal to approve this Stipulation or any material part thereof; (c) the Court’s final and non-appealable refusal to enter the Final Approval Order in any material respect; (d) the Court’s final and non-appealable refusal to enter the Judgment in any material respect; or (e) the date upon which the Judgment is reversed, vacated, or altered in any material respect

following any appeal taken therefrom; provided, however that Lead Plaintiff shall have no right to terminate the Settlement or this Stipulation after any distributions of the Settlement Fund to Authorized Claimants, including under ¶5.9. For avoidance of doubt, no order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation, the Fee and Expense Award, or any Lead Plaintiff Award, shall operate to terminate or cancel this Stipulation or constitute grounds for cancellation or termination of this Stipulation.

7.5. In the event that this Stipulation is not approved, or this Stipulation or the Settlement is validly terminated, canceled, or the Final Approval Order otherwise fails to become Final for any reason, the Settling Parties shall be restored to their respective positions in the Litigation as of December 1, 2022. In such event, the terms and provisions of this Stipulation, with the exception of ¶¶1.1-1.54, 2.14-2.19, 6.4-6.5, 7.4-7.5, and 9.7 hereof, shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or any Fee and Expense Award shall operate to terminate or cancel this Stipulation or constitute grounds for cancellation or termination of this Stipulation.

7.6. Loma represents that, to the best of its knowledge, it is not “insolvent” within the meaning of 11 U.S.C. § 101(32) or under Argentine law as of the time the Stipulation is executed, and does not expect to be as of the time the payment of the Settlement Amount is actually transferred or made as reflected in the Stipulation. In the event of a final order of a court of competent jurisdiction, not subject to any further proceedings, determining the transfer of the Settlement Amount to the Escrow Account, or any portion thereof, by Loma, the Insurance

Carriers, or any other Person to be a voidable preference, voidable transfer, fraudulent transfer, or similar transaction under Title 11 of the United States Code (Bankruptcy), or applicable state or foreign law, and any portion thereof is required to be refunded, and such refunded amount is not otherwise promptly deposited into the Escrow Account, then, at the election of Lead Plaintiff, the Settling Parties shall jointly move the Court to vacate and set aside the releases given and Judgment entered, the Settling Parties shall be restored to their litigation positions as of December 1, 2022, and the Settlement Fund (less any amounts disbursed pursuant to ¶¶2.15-2.19, 5.1-5.12) shall be promptly returned.

**8. No Admission of Wrongdoing**

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

(a) is, may be deemed to be, or shall be offered as an admission of, or evidence of, the validity of any Released Claim as against a Released Defendant Party or a Released Defendant Claim as against a Released Plaintiff Party;

(b) shall be offered or received against any Defendant as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any Defendant of the truth of any allegations by Lead Plaintiff or any Member of the Settlement Class or the validity of any claim that has been, or could have been, asserted in the Litigation, or the deficiency of any defense that has been, or could have been, asserted in the Litigation or in any other litigation, including, but not limited to, litigation of the

Released Class Claims, or of any liability, negligence, fault, or wrongdoing of any kind of any of the Defendants or in any way referred to for any other reason as against any of the Defendants, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(c) shall be offered or received against any Defendant as evidence of a presumption, concession, or admission of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by any Defendant, or against Lead Plaintiff or any Member of the Settlement Class, as evidence of any infirmity in the claims of Lead Plaintiff and the Settlement Class;

(d) shall be offered or received against any Defendant as evidence of a presumption, concession, or admission of any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason, as against any of the parties to this Stipulation, in any other civil, criminal, or administrative action or proceeding; provided, however, that if this Stipulation is approved by the Court, Defendants and their Related Parties may refer to it to effectuate the release granted them hereunder; or

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

## **9. Miscellaneous Provisions**

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

9.2. The Settling Parties intend the Settlement to be a final and complete resolution of all disputes between them with respect to the Litigation and all Released Class Claims and Released Defendants' Claims. The Settlement compromises all claims that were or are contested and shall not be deemed an admission by any Settling Party, as to the merits of any claim or defense. The Final Approval Order will contain a finding that, during the course of the Litigation, the Settling Parties and their respective counsel at all times complied with the requirements of 22 New York Code, Rules and Regulations Part 130, and any other applicable law or rule similar to Federal Rule of Civil Procedure 11. The Settling Parties agree that the Settlement Amount and other terms of the Settlement were negotiated in good faith and at arm's length by the Settling Parties with the assistance of an experienced professional mediator, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

9.3. The Settling Parties and their counsel agree not to assert in any statement made to any media representative (whether or not for attribution) that the Litigation was commenced or prosecuted by Lead Plaintiff or defended by Defendants in bad faith or without a reasonable basis, nor will they deny that the Litigation was commenced and prosecuted and defended in good faith and is being settled voluntarily after consultation with competent legal counsel. In all events, Settling Parties and their counsel shall not make any accusations of wrongful or actionable conduct by any party concerning the prosecution, defenses, and resolution of the Litigation and shall not otherwise suggest that the Settlement constitutes an admission of any claim or defense alleged. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum regarding the Litigation, including that the Litigation was brought or defended in bad faith or without a reasonable basis.

9.4. Lead Plaintiff and its attorneys will not disparage Defendants in any statement about the Settlement, the Litigation, or any other matter. Defendants and their attorneys will not disparage Lead Plaintiff in any public statements about the Settlement, the Litigation, or any other matter. Defendants, Lead Plaintiff and their respective attorneys shall provide 48 hours advance notice to all Settling Parties of any intention to issue a press release or make other public announcement of the Settlement.

9.5. Defendants and/or the Released Defendant Parties may file this Stipulation and/or the Judgment from the Litigation in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, statute of limitations, statute of repose, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim, or to effectuate any liability protection under any applicable insurance policy. The Settling Parties may file this Stipulation and/or the Judgment in any action that may be brought to enforce the terms of this Stipulation and/or Judgment. All Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement.

9.6. All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Stipulation.

9.7. All of the exhibits to this Stipulation and the Supplemental Agreement are material and integral parts hereof and are fully incorporated herein by this reference.

9.8. This Stipulation, along with its exhibits and the Supplemental Agreement, may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

9.9. This Stipulation and the exhibits attached hereto, together with the Supplemental Agreement, constitute the entire agreement among the Settling Parties hereto, as to the subject matter hereof, and supersede any prior or contemporaneous written or oral agreements or understandings between the Settling Parties. No representations, warranties, or inducements have been made to any party concerning this Stipulation, its exhibits, or the Supplemental Agreement, other than the representations, warranties, and covenants contained and memorialized in such documents.

9.10. Except as otherwise provided herein, each party shall bear his, her, or its own fees and costs.

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

9.12. Each counsel or other Person executing this Stipulation, its exhibits, the Supplemental Agreement, or any related Settlement document, on behalf of any party hereto, hereby warrants that such Person has the full authority to do so on behalf of their respective clients, and that they have the authority to take appropriate action required or permitted to be taken pursuant to this Stipulation to effectuate its terms, without requiring additional consent, approval, or authorization of any other Person, board, entity, tribunal, or other regulatory or governmental authority.

9.13. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set

of executed counterparts shall be filed with the Court. Signatures sent by facsimile or PDF documents via e-mail shall be deemed originals.

9.14. All notices, requests, demands, claims, and other communications hereunder shall be in writing and shall be deemed duly given (a) when delivered personally to the recipient; (b) one business day after being sent to the recipient by reputable overnight courier service (charges prepaid), with delivery acknowledged by the carrier; (c) one business day after receipt of an electronic return read receipt if sent by email; or (d) seven business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient, as set forth below:

***If to Lead Plaintiff or to Lead Counsel:***

LEVI & KORINSKY, LLP  
Shannon L. Hopkins  
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9.15. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties.

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

9.17. The waiver by one Settling Party of any breach of this Stipulation by any other party shall not be deemed a waiver by any other Settling Party or a waiver of any other prior or subsequent breach of this Stipulation.

9.18. Pending approval of the Court of this Stipulation and its exhibits, all proceedings in the Litigation shall be stayed and all Members of the Settlement Class shall be barred and enjoined from prosecuting any of the Released Class Claims against any of the Released Defendant Parties consistent with any applicable orders of the Court.

9.19. This Stipulation, its exhibits, and the Supplemental Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of New York, and the rights and obligations of the parties to this Stipulation shall be construed and enforced in accordance with, and governed by, the internal substantive laws of New York without

giving effect to its choice-of-law principles, except to the extent that federal law requires that federal law govern.

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

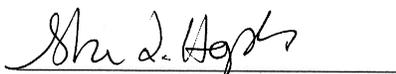
9.21. This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling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

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

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

IN WITNESS THEREOF, the parties hereto have caused this Stipulation to be executed by their duly authorized attorneys, as of October 11, 2023.

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