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14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 ARTHUR KAYE IRA FCC AS CUSTODIAN
17 DTD 6-8-00 and HAYDEN LEASON,
Individually and On Behalf of All Others
18 Similarly Situated,
19 Plaintiffs,

20 v.
21

22 IMMUNOCELLULAR THERAPEUTICS,
23 LTD., DAVID FRACTOR, MANISH SINGH,
LAVOS, LLC, LIDINGO HOLDINGS, LLC,
24 KAMILLA BJORLIN, ANDREW HODGE, and
25 BRIAN NICHOLS,
26 Defendants.

Case No. 2:17-cv-03250-FMO (SK)

CLASS ACTION

**STIPULATION OF
SETTLEMENT**

Judge: Hon. Fernando M.
Olguin

1 **THIS STIPULATION OF SETTLEMENT**, dated September 13, 2018, is
2 made and entered into by and among the following Settling Parties to this Litigation:
3 (i) Lead Plaintiffs Arthur Kaye IRA FCC as Custodian DTD 6-8-00 (“Kaye”) and
4 Hayden Leason (“Leason”; together with Kaye, “Plaintiffs”) (on behalf of themselves
5 and all Members of the Settlement Class), by and through counsel of record in the
6 Litigation; and (ii) ImmunoCellular Therapeutics, Ltd. (“IMUC”), David Fractor,
7 Manish Singh, Lavos, LLC, Lidingo Holdings, LLC, Kamilla Bjorlin, Andrew Hodge,
8 and Brian Nichols (collectively, “Settling Defendants”; together with Plaintiffs, the
9 “Settling Parties”). The Stipulation is intended by the Settling Parties to fully, finally,
10 and forever resolve, release, discharge, and settle the Released Claims, upon and subject
11 to the terms and conditions hereof.

12 **I. THE LITIGATION**

13 On May 1, 2017, Plaintiff Arthur Kaye IRA FCC as Custodian DTD 6-8-00
14 (“Plaintiff Kaye”) filed a putative class action complaint against Defendants IMUC,
15 David Fractor, John S. Yu, Andrew Gengos, Manish Singh, Lavos, LLC, Lidingo
16 Holdings, LLC, Kamilla Bjorlin, Andrew Hodge, Brian Nichols, and Vincent Cassano
17 (the “Initial Defendants”), alleging violations of Section 10(b) of the Securities
18 Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder, as well as Section
19 20(a) of the Exchange Act. (ECF No. 1.)

20 On July 21, 2017, the Court appointed Plaintiffs Kaye and Leason as co-lead
21 plaintiffs for the proposed class. (ECF No. 35.)

22 On August 24, 2017, Plaintiffs filed a consolidated first amended complaint
23 (“FAC”), alleging violations of Sections 10(b) and 20(a) of the Exchange Act. (ECF
24 No. 43.)

25 On September 21, 2017, counsel for the Parties met and conferred regarding
26 Defendants’ anticipated motion to dismiss the FAC.

27
28

1 On September 25, 2017, the Parties filed a Joint Stipulation Regarding
2 Amendment to Consolidated First Amended Complaint and Briefing Schedule. (ECF
3 No. 48.)

4 On September 26, 2017, the Court issued an Order approving the September 25,
5 2017 Stipulation and setting a briefing schedule and hearing date of January 18, 2018
6 on Defendants' motion to dismiss. *Id.*

7 On October 13, 2017, Plaintiffs filed their Second Amended Complaint ("SAC"),
8 adding Christopher French and Stephen Ramey as defendants (collectively, with the
9 Initial Defendants, "Defendants"), and alleging violations of Sections 10(b) and 20(a)
10 of the Exchange Act. (ECF No. 53).

11 On November 10, 2017, all of the Initial Defendants save Brian Nichols and
12 Vincent Cassano filed a motion to dismiss the SAC. (ECF No. 58). Plaintiffs opposed
13 the motion on December 6, 2017 (ECF No. 67) and the Initial Defendants (save Brian
14 Nichols and Vincent Cassano) filed a reply on December 21, 2017 (ECF No. 75).

15 On May 29, 2018, the Court entered an order dismissing the SAC with leave to
16 amend and instructing Plaintiffs to file a Consolidated Third Amended Complaint
17 ("TAC") by June 15, 2018; Defendants to file any motion to dismiss the TAC by July
18 12, 2018; and that the Parties meet and confer with respect to any motion to dismiss the
19 TAC by June 19, 2018 (the "MTD Order"). (ECF No. 98.)

20 Following the Court's MTD Order, at the same time that Plaintiffs were preparing
21 to file the TAC, the Parties commenced settlement negotiations to resolve this Action.

22 On June 13, 2018, the Parties submitted a joint stipulation requesting an extension
23 of the deadline for Plaintiffs to file the TAC and a new briefing schedule for any motion
24 to dismiss. (ECF No. 100.)

25 On June 14, 2018, the Court so ordered the Parties' June 13, 2018 stipulation,
26 extending the time for Plaintiffs to file their TAC until June 29, 2018 and setting a
27 briefing schedule for any related motion to dismiss. (ECF No. 101.)

28 On June 27, 2018, the Parties submitted another joint stipulation requesting an

1 extension of the deadline for Plaintiffs to file the TAC and a new briefing schedule for
2 any motion to dismiss. (ECF No. 104.) Absent an order of the Court approving the
3 Parties' June 27, 2018 stipulation, Plaintiffs filed their TAC on June 29, 2018, removing
4 John S. Yu, Andrew Gengos, Vincent Cassano, Christopher French, and Stephen
5 Ramey as defendants. (ECF No. 105.)

6 On July 2, 2018, the Court entered the Parties' June 27, 2018 stipulation,
7 extending all deadlines in the Court's June 14, 2018 Order by a period of fourteen (14)
8 days and staying the case for those fourteen (14) days. (ECF No. 106.)

9 On July 11, 2018, Plaintiffs filed a Notice of Dismissal without prejudice, of
10 claims against John S. Yu and Andrew Gengos. (ECF No. 107.)

11 The Parties continued thereafter to engage in settlement discussions. On or
12 around July 17, 2018, the Parties agreed upon a settlement in principle. The following
13 day, they promptly notified the Court of their tentative agreement and requested the
14 Court to stay all pending deadlines to allow them time to negotiate and submit a written
15 settlement agreement and motion for preliminary approval of a class action settlement.
16 On July 25, 2018, the Court granted the request and vacated all deadlines pending
17 finalization and submission of the settlement documents to the Court. (ECF No. 109.)

18 **II. CLAIMS OF PLAINTIFFS AND BENEFITS OF SETTLEMENT**

19 Plaintiffs believe that the claims asserted in the Litigation have merit and that the
20 evidence developed to date supports the claims. However, Plaintiffs and their counsel
21 recognize and acknowledge the expense and length of continued proceedings necessary
22 to prosecute the Litigation against Defendants through trial and through appeals.
23 Plaintiffs and their counsel also have taken into account the uncertain outcome and the
24 risk of any litigation, especially in complex actions such as this Action, as well as the
25 difficulties and delays inherent in such litigation. Plaintiffs and their counsel also are
26 mindful of the inherent problems of proof, and possible defenses to the securities law
27 violations asserted in the Litigation. Plaintiffs and their counsel believe that the
28 Settlement set forth in this Stipulation confers substantial benefits upon the Settlement

1 Class. Based on their evaluation, Plaintiffs and Co-Lead Counsel have determined that
2 the Settlement set forth in this Stipulation is in the best interests of Plaintiffs and the
3 Settlement Class.

4 **III. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

5 Settling Defendants believe that the claims asserted in the Litigation are
6 completely without merit. Settling Defendants have denied and continue to deny any
7 and all wrongdoing whatsoever and maintain that their conduct was at all times proper
8 and in compliance with applicable provisions of law. Settling Defendants have denied,
9 and continue to deny each and all of the claims alleged by Plaintiffs in the Litigation
10 and deny that they have committed any of the wrongful acts or violations of law alleged
11 in any complaint filed by Plaintiffs, including that they made any material
12 misrepresentations or omissions. Settling Defendants deny all charges of wrongdoing
13 or liability against them arising out of any of the conduct, statements, acts, or omissions
14 alleged, or that could have been alleged, in the Litigation. Settling Defendants also
15 deny, among other things, the allegations that the Plaintiffs or the Settlement Class have
16 suffered damages or were harmed in any way by the conduct alleged in the TAC or its
17 predecessor complaints. In addition, Settling Defendants believe that they have
18 meritorious defenses to all claims alleged in the Litigation. Nonetheless, Settling
19 Defendants have agreed to enter into the Settlement to avoid the expense, distraction,
20 and time associated with continuing the Litigation. Settling Defendants have concluded
21 that further conduct of the Litigation would be protracted and expensive and that it is
22 desirable that the Litigation be fully and finally settled in the manner and upon the terms
23 and conditions set forth in this Stipulation. Nothing in this Stipulation shall be
24 construed or deemed to be an admission or concession on the part of any Defendant
25 with respect to any claim, fault, liability, wrongdoing, or damage whatsoever, or with
26 respect to the validity of the defenses that any Defendant has asserted or may assert.

27 **IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

28

1 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and
2 among Plaintiffs, on behalf of themselves and all Settlement Class Members, and
3 Settling Defendants, by and through their respective counsel of record, that, subject to
4 the approval of the Court pursuant to Federal Rule of Civil Procedure 23(e), the
5 Litigation, the Released Claims, and all matters encompassed within the scope of the
6 releases set forth herein shall be finally, fully, and forever compromised, settled, and
7 released, and the Litigation shall be dismissed with prejudice, upon and subject to the
8 terms and conditions of the Stipulation, as follows:

9 **DEFINITIONS**

10 As used in this Stipulation, the following terms have the meanings specified
11 below:

12 1.1 “Authorized Claimant” means any Settlement Class Member who files a
13 Proof of Claim and Release in such form and manner, and within such time, as the Court
14 shall prescribe and whose claim for recovery has been allowed pursuant to the terms of
15 the Stipulation.

16 1.2 “Claims Administrator” means A.B. Data, Ltd.

17 1.3 “Co-Lead Counsel” means Levi & Korsinsky, LLP and Wolf Popper LLP.

18 1.4 “Court” means the United States District Court for the Central District of
19 California.

20 1.5 “Defendants” means ImmunoCellular Therapeutics, Ltd. (“IMUC”),
21 David Fractor, Manish Singh, Lavos, LLC, Lidingo Holdings, LLC, Kamilla Bjorlin,
22 Andrew Hodge, Brian Nichols, John S. Yu, Andrew Gengos, Vincent Cassano,
23 Christopher French and Stephen Ramey.

24 1.6 “Effective Date” means the first date by which all of the events and
25 conditions specified in ¶ 9.1 of the Stipulation have been met and have occurred.

26 1.7 “Escrow Account” means the interest-bearing account deposited with the
27 Escrow Agent.
28

1 1.8 “Escrow Agent” means Signature Bank, subject to the control of Wolf
2 Popper LLP.

3 1.9 “Fee and Expense Application” means the application or applications Co-
4 Lead Counsel may submit for an award of attorneys’ fees not to exceed 25% of the
5 Settlement Amount, plus expenses incurred in connection with prosecuting the
6 Litigation, plus any interest on such attorneys’ fees and expenses at the same rate and
7 for the same time periods as earned by the Settlement Fund (until paid), as may be
8 awarded by the Court. The Fee and Expense Application may also include a request on
9 behalf of Lead Plaintiffs of their reasonable costs incurred in the representation of the
10 Class, including lost wages, not to exceed \$2,500 per Plaintiff.

11 1.10 “Fee and Expense Award” means the order of the Court authorizing the
12 payment from the Settlement Fund of Co-Lead Counsel’s attorneys’ fees and expenses
13 if and to the extent allowed by the Court. The Fee and Expense Award may include an
14 award on behalf of Lead Plaintiffs of their reasonable costs incurred in the
15 representation of the Class, including lost wages, not to exceed \$2,500 per Plaintiff.

16 1.11 “Final” means the time when any judgment or order, including the
17 Judgment, has not been reversed, vacated, or modified in any way and is no longer
18 subject to appellate review, either because: (i) no appeal has been filed and the time has
19 passed for any notice of appeal to be timely filed in the Action; or (ii) an appeal has
20 been filed and the court of appeals has either affirmed the underlying order or judgment
21 in its entirety or dismissed that appeal, and the time for any reconsideration or further
22 appellate review has passed; or (iii) the Supreme Court has either denied review or
23 granted review and either affirmed the underlying order or judgment in its entirety, or
24 affirmed the court of appeals’ decision affirming the order or judgment in its entirety or
25 dismissing the appeal. For purposes of this paragraph, an “appeal” shall include any
26 petition for a writ of certiorari or other writ that may be filed in connection with approval
27 or disapproval of this Settlement, but shall not include any appeal that concerns only
28 the issue of attorneys’ fees and/or expenses, the Plan of Allocation of the Settlement

1 Fund, the procedures for determining Authorized Claimants’ recognized claims, or
2 distribution of the Net Settlement Fund to Authorized Claimants. Any appeal or
3 proceeding relating solely to one or more of these excluded issues shall not in any way
4 delay or affect the time set forth above for the Judgment to become Final, or otherwise
5 preclude the Judgment from becoming Final.

6 1.12 “Final Approval Hearing” means the hearing to determine whether the
7 proposed Settlement embodied by this Stipulation is fair, reasonable, and adequate to
8 the Settlement Class, whether the Settlement Class should be certified for purposes of
9 effectuating the Settlement, and whether the Court should enter a Judgment approving
10 the proposed Settlement.

11 1.13 “IMUC” means ImmunoCellular Therapeutics, Ltd.

12 1.14 “Individual Defendants” means David Fractor, John S. Yu, Andrew
13 Gengos, Manish Singh, Kamilla Bjorlin, Andrew Hodge, Brian Nichols, Vincent
14 Cassano, Christopher French and Stephen Ramey.

15 1.15 “Judgment” means the Final Judgment and Order of Dismissal with
16 Prejudice to be rendered by the Court, in the form attached hereto as Exhibit B, or such
17 other substantially similar form agreed to by the Parties and approved by the Court.

18 1.16 “Lavos” means Lavos, LLC.

19 1.17 “Lidingo” means Lidingo Holdings, LLC.

20 1.18 “Litigation” and “Action” both mean and refer to this proceeding, *Kaye v.*
21 *ImmunoCellular Therapeutics, Ltd. et al.*, Case No. 2:17-cv-03250-FMO-SK, pending
22 in this Court.

23 1.19 “Net Settlement Fund” means the Settlement Fund less (i) any Fee and
24 Expense Award; (ii) Notice and Administration Costs; (iii) Taxes and Tax Expenses;
25 and (iv) other Court-approved deductions.

26 1.20 “Notice” means the Notice of Proposed Class Action Settlement, in the
27 form annexed hereto as Exhibit A-2 to the Preliminary Approval Order, or such other
28 substantially similar form agreed to by the Settling Parties and approved by the Court.

1 1.21 “Notice and Administration Costs” means the reasonable costs and
2 expenses that are actually incurred in connection with (i) providing notice of the
3 Settlement to the Settlement Class; (ii) locating Settlement Class Members; (iii)
4 assisting with the filing of claims; (iv) processing Proof of Claim and Release forms;
5 (v) administering and distributing the Net Settlement Fund to Authorized Claimants;
6 and (vi) paying escrow fees and costs, if any.

7 1.22 “Party” or “Parties” means individually or collectively, as the context
8 requires, Plaintiffs and the Settling Defendants.

9 1.23 “Person” means a natural person, individual, corporation, partnership,
10 limited partnership, association, joint stock company, joint venture, limited liability
11 company, professional corporation, estate, legal representative, trust or trustee,
12 unincorporated association, government or any political subdivision or agency thereof,
13 and any other type of legal, business or political entity.

14 1.24 “Plaintiffs” means and includes Arthur Kaye IRA FCC as Custodian DTD
15 6-8-00 and Hayden Leason, appointed as Co-Lead Plaintiffs by Order of the Court dated
16 July 21, 2017 (ECF No. 35).

17 1.25 “Plan of Allocation” means a plan or formula for allocation of the Net
18 Settlement Fund to be approved by the Court, which plan or formula will govern the
19 distribution of the Net Settlement Fund to Authorized Claimants. Any Plan of
20 Allocation is not part of the Stipulation, and Released Persons shall have no
21 responsibility for the Plan of Allocation or its implementation and no liability with
22 respect thereto. Any order or proceedings relating to the Plan of Allocation shall not
23 operate to terminate or cancel this Stipulation or affect the finality of the Judgment or
24 any other orders entered by the Court pursuant to this Stipulation.

25 1.26 “Postcard Notice” means the “Postcard Notice of Proposed Class Action
26 Settlement, in the form annexed hereto as Exhibit A-1 to the Preliminary Order, or such
27 substantially similar form agreed to by the Settling Parties and approved by the Court.
28

1 1.27 “Preliminary Approval Order” means the [Proposed] Order Granting
2 Preliminary Approval of Settlement and Directing Dissemination of Notice to
3 Settlement Class, in the form annexed hereto as Exhibit A, or such other substantially
4 similar form agreed to by the Settling Parties, as entered by the Court.

5 1.28 “Proof of Claim and Release” means a completed Proof of Claim and
6 Release, substantially in the form of Exhibit A-4 attached hereto, signed under penalty
7 of perjury and supported by such documents as are specified in the Proof of Claim and
8 Release, submitted as required under ¶ 7.3 herein.

9 1.29 “Related Persons” shall mean: (1) with respect to IMUC, Lidingo, and
10 Lavos, each of their predecessors, successors, past, present or future parents,
11 subsidiaries, and affiliates, each of their respective past or present officers, directors,
12 agents, partners, principals, members, employees, attorneys, advisors, auditors and
13 accountants, insurers and reinsurers, and any firm, trust, corporation, or other entity in
14 which IMUC, Lidingo, or Lavos has or had a controlling interest; and (2) with respect
15 to the Individual Defendants, their respective spouses, immediate family members,
16 heirs, successors, executors, estates, administrators, attorneys, agents, accountants,
17 insurers or reinsurers, personal representatives, trusts, community property, and any
18 other entity in which any of them has a controlling interest, and as to such entities, each
19 and all of their predecessors, successors, past, present or future parents, subsidiaries,
20 affiliates, and each of their respective past or present officers, directors, shareholders,
21 agents, partners, principals, members, employees, attorneys, advisors, trustees, auditors
22 and accountants, insurers and reinsurers.

23 1.30 “Released Claims” means any and all claims (including Unknown Claims
24 as defined in ¶ 1.44 hereof), duties, debts, demands, rights, disputes, suits, matters,
25 damages, losses, obligations, proceedings, issues, judgments, liabilities, and causes of
26 action of every nature and description whatsoever (including, but not limited to, any
27 claims for damages, whether compensatory, consequential, special, punitive, exemplary
28 or otherwise; restitution; rescission; interest; attorneys’ fees; expert or consulting fees;

1 and any other costs, expenses, charges, or liability whatsoever), whether based on
2 federal, state, local, statutory, common, administrative, or foreign law or any other law,
3 rule or regulation, or at equity, whether known or unknown, discoverable or
4 undiscoverable, concealed or hidden, suspected or unsuspected, liquidated or
5 unliquidated, fixed or contingent, choate or inchoate, accrued or unaccrued, matured or
6 unmatured, at law or in equity, whether class, derivative, or individual in nature, which
7 now exist or heretofore have existed or have been or could have been asserted in any
8 forum, whether foreign or domestic, by Plaintiffs or any Settlement Class Member, or
9 any Person claiming through or on behalf of any of them, against any of the Released
10 Persons based upon, arising out of, or relating in any way to the claims, allegations,
11 acts, events, facts, matters, transactions, occurrences, statements, representations,
12 misrepresentations or omissions that are, were, or could have been alleged in the
13 Litigation, including, but not limited to, any claim arising out of any purchase or
14 acquisition of IMUC securities on the open market during the Settlement Class Period.
15 Expressly excluded from Released Claims are: (i) the matters set forth in ¶ 6.5 of this
16 Stipulation; and (ii) the shareholder derivative claims asserted in *Wiener et al. v. Fractor*
17 *et al.*, pending in the Superior Court of the State of California, County of Los Angeles.

18 1.31 “Released Persons” means each and all of the Defendants, and their
19 respective Related Persons.

20 1.32 “Settlement” means the settlement between Plaintiffs, on behalf of
21 themselves and all Settlement Class Members, and Settling Defendants on the terms set
22 forth in this Stipulation.

23 1.33 “Settlement Amount” means One Million One Hundred and Fifty
24 Thousand Dollars (\$1,150,000).

25 1.34 “Settlement Class” and “Settlement Class Members” mean and include,
26 for purposes of this Settlement, and to be certified pursuant to Fed. R. Civ. P. 23 for the
27 purpose of effectuating this Settlement only: all Persons who purchased or otherwise
28 acquired IMUC common stock on the open market during the Settlement Class Period,

1 including Plaintiffs. Excluded from the Settlement Class are Defendants; members of
2 the Defendants' immediate families; officers, directors, and subsidiaries of IMUC; any
3 firm, entity, or corporation wholly owned by any Defendant and/or any member(s) of a
4 Defendant's immediate family; any trust of which a Defendant is the settlor or which is
5 for his benefit and/or that of any member of his immediate family (as defined by SEC
6 regulations); and the legal representatives, heirs, or successors-in-interest of the Settling
7 Defendants. Also excluded from the Settlement Class are those Persons who timely
8 and validly request exclusion from the Settlement Class in accordance with the
9 instructions provided in the Notice.

10 1.35 "Settlement Class Period" means the period between May 1, 2012 and May
11 30, 2014, inclusive.

12 1.36 "Settlement Fund" means the Settlement Amount, plus any accrued
13 interest earned thereon.

14 1.37 "Settling Defendants" has the meaning set forth in the introductory
15 paragraph of this Stipulation.

16 1.38 "Settling Parties" has the meaning set forth in the introductory paragraph
17 of this Stipulation.

18 1.39 "Stipulation" means this Stipulation of Settlement, including the recitals
19 and Exhibits hereto, each of which is incorporated by reference as though set forth in
20 the Stipulation itself.

21 1.40 "Summary Notice" means the summary notice describing the Settlement
22 of the Litigation and the Final Approval Hearing, in the form annexed hereto as Exhibit
23 A-3 to the Preliminary Approval Order, or such other substantially similar form agreed
24 to by the Settling Parties and approved by the Court.

25 1.41 "Supplemental Agreement" means the confidential agreement described in
26 ¶ 9.5 of this Stipulation.

27 1.42 "Taxes" means all federal, state and local taxes of any kind (including any
28 estimated taxes, interest or penalties) arising with respect to the income earned by the

1 Settlement Fund, including any taxes or tax detriments that may be imposed upon
2 Defendants or their counsel with respect to any income earned on the Settlement Fund
3 for any period during which the Settlement Fund does not qualify as a “Qualified
4 Settlement Fund” for federal or state income tax purposes.

5 1.43 “Tax Expenses” means any expenses and costs incurred in connection with
6 the calculation and payment of Taxes or the preparation of tax returns and related
7 documents including, without limitation, expenses of tax attorneys and/or accountants
8 and mailing and distribution costs and expenses relating to filing (or failing to file) the
9 returns described in ¶ 2.9.

10 1.44 “Unknown Claims” means any and all claims, debts, demands, obligations,
11 disputes, rights, issues, controversies, causes of action, suits, matters, damages, or
12 liabilities of every kind, nature, description and character whatsoever that Plaintiffs
13 and/or any Settlement Class Member does not know or suspect to exist in his, her, or its
14 favor at the time this Stipulation or the Judgment is entered which, if known by him,
15 her, or it, would or might have affected his, her, or its settlement with and release of the
16 Released Persons, or would or might have affected his, her, or its decision: (i) not to
17 object to this Settlement; (ii) not to exclude himself, herself, or itself from the
18 Settlement Class; or (iii) to release the Released Claims. Plaintiffs and Settlement Class
19 Members may hereafter discover facts in addition to or different from those which they
20 now know or believe to be true with respect to the subject matter of the Released Claims.
21 Nevertheless, upon the Effective Date, Plaintiffs shall expressly, fully, finally, and
22 forever settle and release, and each Settlement Class Member shall be deemed to have,
23 and by operation of the Judgment shall have, fully, finally, and forever settled and
24 released, any and all Released Claims, whether known or unknown, discoverable or
25 undiscoverable, concealed or hidden, suspected or unsuspected, liquidated or
26 unliquidated, fixed or contingent, choate or inchoate, accrued or unaccrued, matured or
27 unmatured, which now exist, or heretofore have existed, upon any theory of law or
28 equity now existing or coming into existence in the future, including, but not limited to,

1 conduct that is negligent, intentional, with or without malice, or a breach of any duty,
2 law or rule, without regard to the subsequent discovery or existence of such different or
3 additional facts. With respect to any and all Released Claims, the Settling Parties
4 stipulate and agree that, upon the Effective Date, Plaintiffs shall expressly waive and
5 relinquish, and each of the Settlement Class Members shall be deemed to have waived
6 and relinquished, and by operation of the Judgment shall have waived and relinquished,
7 any and all provisions, rights, and benefits conferred by any law of any state or territory
8 of the United States, or principle of common law, which is similar, comparable or
9 equivalent to California Civil Code Section 1542, which provides:

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

14 Plaintiffs acknowledge, and the Settlement Class Members shall be deemed by
15 operation of the Judgment to have acknowledged, that the inclusion of Unknown Claims
16 in the definition of Released Claims and the foregoing waiver were separately bargained
17 for and a key element of the Settlement of which this release is a material and essential
18 part.

19 **THE SETTLEMENT**

20 ***The Settlement Fund***

21 2.1 In consideration of the terms of this Stipulation, and in full settlement of
22 all Released Claims against all Released Persons, IMUC shall pay or cause to be paid
23 the Settlement Amount to a separate, interest-bearing Escrow Account designated and
24 controlled by the Claims Administrator on behalf of Plaintiffs and the Settlement Class
25 no later than twenty-one (21) days after both of the following have taken place: (a) the
26 Court has entered the Preliminary Approval Order granting preliminary approval of the
27 Settlement; and (b) IMUC's counsel have received from Co-Lead Counsel a Form W-
28 9 providing the tax identification number for the Escrow Account. No other Defendant

1 or Released Person shall be responsible for any payments of any kind under this
2 Stipulation.

3 2.2 The payments described in ¶ 2.1 are the only payments to be made by or
4 on behalf of Defendants in connection with this Settlement. All fees, costs, and
5 expenses incurred by or on behalf of Plaintiffs and Settlement Class Members
6 associated with this Settlement, including, but not limited to, Taxes, Tax Expenses,
7 Notice and Administration Costs, and any Fee and Expense Award shall be paid from
8 the Settlement Fund, and in no event shall Released Persons bear any responsibility or
9 liability for any such fees, costs, or expenses.

10 2.3 This is not a claims-made settlement. Upon the occurrence of the Effective
11 Date, neither IMUC nor any other Person that paid any portion of the Settlement Fund
12 on Defendants' behalf shall have any right to the return of the Settlement Fund or any
13 portion thereof irrespective of the collective amount of losses of Authorized Claimants,
14 the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants
15 from the Net Settlement Fund. In no instance shall IMUC (or any other Defendant or
16 Released Person) be required to pay any amount in excess of the Settlement Amount.

17 ***The Escrow Agent***

18 2.4 The Escrow Agent shall invest the Settlement Amount(s) deposited
19 pursuant to ¶ 2.1 hereof in short-term United States agency or other Treasury securities
20 or other instruments backed by the full faith and credit of the United States Government
21 or fully insured by the United States Government or an agency thereof, and shall
22 reinvest the proceeds of these instruments as they mature in similar instruments at their
23 then-current market rates. All risks related to the investment of the Settlement Fund
24 shall be borne by the Escrow Agent, and the Released Persons shall have no
25 responsibility for, interest in, or liability whatsoever with respect to any investment
26 decisions or actions taken, or any transactions executed, by the Escrow Agent.

27 2.5 The Escrow Agent shall not disburse the Settlement Fund except as
28 provided in the Stipulation or by an order of the Court.

1 2.6 Subject to further order and/or directions as may be made by the Court, or
2 as provided in the Stipulation, the Escrow Agent is authorized to execute such
3 transactions as are consistent with the terms of the Stipulation.

4 2.7 All funds held by the Escrow Agent shall be deemed and considered to be
5 in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court,
6 until such time as such funds shall be distributed or returned pursuant to this Stipulation
7 and/or further order(s) of the Court.

8 2.8 Without further order of the Court, the Settlement Fund may be used by
9 Co-Lead Counsel to pay Notice and Administration Costs actually incurred consistent
10 with this Stipulation and ¶ 18 of the Preliminary Approval Order in a cumulative amount
11 not to exceed \$50,000.

12 ***Taxes***

13 2.9 (a) The Settling Parties and the Escrow Agent agree to treat the
14 Settlement Fund as being at all times a “Qualified Settlement Fund” within the meaning
15 of Treas. Reg. § 1.468B-1. In addition, the Escrow Agent shall timely make such
16 elections as necessary or advisable to carry out the provisions of this ¶ 2.9, including
17 the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest
18 permitted date. Such elections shall be made in compliance with the procedures and
19 requirements contained in such regulations. It shall be the responsibility of the Escrow
20 Agent to timely and properly prepare and deliver the necessary documentation for
21 signature by all necessary parties, and thereafter to cause the appropriate filing to timely
22 occur.

23 (b) For the purpose of § 1.468B of the Internal Revenue Code of 1986,
24 as amended, and the regulations promulgated thereunder, the “administrator” shall be
25 the Escrow Agent. The Escrow Agent shall timely and properly file all informational
26 and other tax returns necessary or advisable with respect to the Settlement Fund
27 (including, without limitation, the returns described in Treas. Reg. § 1.468B-2(k)).
28 Such returns (as well as the election described in ¶ 2.9(a) hereof) shall be consistent

1 with this ¶ 2.9 and in all events shall reflect that all Taxes (including any estimated
2 Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid
3 out of the Settlement Fund as provided in ¶ 2.9(c) hereof.

4 (c) All Taxes and Tax Expenses shall be paid out of the Settlement
5 Fund; in no event shall any Released Person, their counsel, or their insurers have any
6 responsibility for, or liability whatsoever with respect to, the Taxes or the Tax Expenses.
7 The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of the
8 Released Persons harmless for any Taxes and Tax Expenses (including, without
9 limitation, Taxes payable by reason of any such indemnification). Further, Taxes and
10 Tax Expenses shall be treated as, and considered to be, a cost of administration of the
11 Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement
12 Fund without prior order from the Court, and the Escrow Agent shall be authorized
13 (notwithstanding anything herein to the contrary) to withhold from distribution to
14 Authorized Claimants any funds necessary to pay such amounts, including the
15 establishment of adequate reserves for any Taxes and Tax Expenses (as well as any
16 amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)). In
17 all events neither Defendants nor their counsel and insurers, nor any other Released
18 Person, shall have any responsibility for or liability whatsoever with respect to any
19 Taxes or Tax Expenses or the filing of any tax returns or other documents with the
20 Internal Revenue Service or any state or local taxing authority in connection with the
21 Settlement Fund. The Settling Parties agree to cooperate with the Escrow Agent, each
22 other, and their tax attorneys and accountants to the extent reasonably necessary to carry
23 out the provisions of this paragraph.

24 ***Termination of the Settlement***

25 2.10 In the event that the Stipulation is not approved, or is terminated, canceled,
26 or fails to become effective or Final for any reason, the Settlement Amount, including
27 accrued interest, less any Notice and Administration Costs, Taxes, and Tax Expenses
28

1 paid, incurred or due and owing shall be refunded to such Persons that paid the
2 Settlement Amount(s) in accordance with ¶¶ 8.3 and 9.6 herein.

3 **PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL HEARING**

4 3.1 Promptly after execution of the Stipulation, Co-Lead Counsel shall submit
5 the Stipulation together with its Exhibits to the Court, and Co-Lead Counsel shall apply
6 for entry of the Preliminary Approval Order, substantially in the form of Exhibit A
7 attached hereto, requesting, among other things, the preliminary approval of the
8 Settlement set forth in the Stipulation; approval for mailing the Postcard Notice in the
9 form of Exhibit A-1 attached hereto, or such other substantially similar form agreed to
10 by the Parties and approved by the Court; and publication of the Summary Notice, in
11 the form of Exhibit A-3 attached hereto, or such other substantially similar form agreed
12 to by the Settling Parties and approved by the Court.

13 3.2 Lead Counsel shall request that, after notice is given, the Court hold a Final
14 Approval Hearing to consider and determine, among other things, whether to approve
15 the Settlement pursuant to the terms of this Stipulation as fair, reasonable, and adequate,
16 and whether the Judgment, substantially in the form of Exhibit B attached hereto, should
17 be entered approving the Settlement and dismissing the Litigation with prejudice. At
18 or after the Final Approval Hearing, Co-Lead Counsel also will request that the Court
19 approve the proposed Plan of Allocation and the Fee and Expense Application.

20 **CERTIFICATION OF THE SETTLEMENT CLASS**

21 4.1 For purposes of this Settlement only, and subject to approval by the Court,
22 the Settling Parties stipulate to: (i) certification of the Settlement Class pursuant to Rules
23 23(a) and (b)(3) of the Federal Rules of Civil Procedure; (ii) appointment of Plaintiffs
24 as the class representatives for the Settlement Class; and (iii) appointment of Co-Lead
25 Counsel as counsel to the Settlement Class.

26 4.2 Nothing in this Stipulation shall serve in any fashion, either directly or
27 indirectly, as evidence of or support for certification of a class other than for purposes
28 of the Settlement. If this Stipulation is terminated, the Settlement is not approved by

1 the Court, or the Effective Date does not occur for any reason, any certification of the
2 Settlement Class will be null and void and the Litigation shall proceed as if the
3 Settlement Class had never been certified. Settling Defendants expressly reserve all
4 rights and grounds to oppose class certification in the event the Settlement is terminated
5 or the Effective Date does not occur for any reason.

6 **REQUESTS FOR EXCLUSION**

7 5.1 Settlement Class Members requesting exclusion from the Settlement Class
8 shall be requested to provide certain information in the manner described in the
9 Settlement Notice. Any request for exclusion must also be signed by the Person
10 requesting exclusion.

11 5.2 All Persons who submit valid and timely requests for exclusion in the
12 manner set forth in the Notice shall have no rights under the Stipulation, shall not share
13 in the distribution of the Net Settlement Fund, and shall not be bound by the Stipulation
14 or the Judgment. The deadline for submitting requests for exclusion shall be set by the
15 Court, but shall be no later than twenty-one (21) calendar days before the Final
16 Approval Hearing. Exclusion requests may not be submitted by e-mail, unless
17 otherwise ordered by the Court.

18 5.3 Copies of all requests for exclusion received by the Claims Administrator,
19 Co-Lead Counsel and counsel for Settling Defendants, together with copies of all
20 written revocations of requests for exclusion, shall be delivered to counsel for all Parties
21 within five (5) calendar days of receipt and in no event later than fourteen (14) calendar
22 days before the Final Approval Hearing.

23 **RELEASES**

24 6.1 The satisfaction of the obligations incurred pursuant to this Stipulation
25 shall be in full and final disposition of the Litigation and any and all Released Claims.

26 6.2 Upon the Effective Date, Plaintiffs and all other Settlement Class
27 Members, each of their respective Related Persons, and all other Persons who have or
28 claim the right, ability, standing, or capacity to assert, prosecute, or maintain on behalf

1 of any Settlement Class Member any of the Released Claims (or to obtain the proceeds
2 of any recovery therefrom) shall be deemed to have, and by operation of the Judgment
3 shall have, fully, finally, and forever released, relinquished, discharged, and dismissed
4 all Released Claims (including Unknown Claims) against the Released Persons,
5 whether or not such Settlement Class Member executes and delivers a Proof of Claim
6 and Release form, seeks or obtains a distribution from the Net Settlement Fund, is
7 entitled to receive a distribution under the Plan of Allocation approved by the Court, or
8 has objected to any aspect of the Stipulation or the Settlement, the Plan of Allocation,
9 or Co-Lead Counsel's Fee and Expense Application.

10 6.3 Upon the Effective Date, Plaintiffs, all Settlement Class Members and
11 anyone claiming through or on behalf of any of them, shall be forever barred and
12 enjoined from commencing, instituting, maintaining or continuing to prosecute any
13 action or proceeding in any court of law or equity, arbitration tribunal, administrative
14 forum, or other forum of any kind, asserting any of the Released Claims (including
15 Unknown Claims) against any of the Released Persons; provided, however, that nothing
16 herein shall in any way restrict or impair the rights of any Settling Party to enforce the
17 terms of the Stipulation and Settlement.

18 6.4 Upon the Effective Date, Settling Defendants shall be deemed to have, and
19 by operation of the Judgment shall have, fully, finally, and forever released,
20 relinquished, and discharged Plaintiffs, Settlement Class Members, Co-Lead Counsel
21 and their respective Related Persons from all claims (including Unknown Claims)
22 arising out of, relating to, or in connection with the institution, prosecution, assertion,
23 settlement, or resolution of the Litigation; provided, however, that nothing herein shall
24 in any way restrict or impair the rights of any Defendant or other Released Person to
25 enforce the terms of the Stipulation and Settlement.

26 6.5 Nothing in this Stipulation constitutes or reflects a waiver or release of any
27 rights or claims of Defendants with respect to their insurers and/or the insurers' Related
28 Persons, including, but not limited to, any rights or claims under any directors and

1 officers' liability insurance or other applicable insurance coverage maintained by
2 IMUC.

3 **ADMINISTRATION AND CALCULATION OF CLAIMS AND SUPERVISION**
4 **AND DISTRIBUTION OF SETTLEMENT FUND**

5 7.1 The Claims Administrator, subject to such supervision and direction of Co-
6 Lead Counsel and the Court as may be necessary under the circumstances, shall
7 administer and calculate the claims submitted by Settlement Class Members and shall
8 oversee distribution of the Net Settlement Fund to Authorized Claimants.

9 7.2 The Settlement Fund shall be applied as follows:

10 (a) To pay the Notice and Administrative Costs, including:

11 i. Printing and mailing of the Postcard Notice, Notice and Proof
12 of Claim and Release to the Settlement Class;

13 ii. Publication of the Summary Notice;

14 iii. The Claims Administrator's costs and fees for services
15 performed in connection with the administration of the Settlement contemplated by this
16 Stipulation;

17 iv. Costs to reimburse brokers or nominees in connection with
18 dissemination of the Postcard Notice and Notice to the Class;

19 v. Fees and expenses reasonably and actually incurred in
20 locating members of the Settlement Class;

21 (b) To pay the fees and expenses reasonably and actually incurred in
22 connection with assisting with the filing of claims and processing of Proofs of Claim
23 and Releases;

24 (c) To pay escrow fees and costs, if any;

25 (d) To pay Taxes and Tax Expenses;

26 (e) After the Judgment is Final, to pay the Fee and Expense Award; and
27
28

1 (f) After the Effective Date, to distribute the balance of the Net
2 Settlement Fund to Authorized Claimants as allowed by the Stipulation and Plan of
3 Allocation, as approved by the Court.

4 7.3 After the Effective Date, and in accordance with the terms of the
5 Stipulation, the Plan of Allocation, or such further orders of the Court as circumstances
6 may warrant or require, the Net Settlement Fund shall be distributed to Authorized
7 Claimants, subject to and in accordance with the following: Within one hundred ten
8 (110) days after the mailing of the Postcard Notice or such other time as may be set by
9 the Court, each Person claiming to be an Authorized Claimant shall be required to
10 submit to the Claims Administrator a completed Proof of Claim and Release,
11 substantially in the form of Exhibit A-4 attached hereto, signed under penalty of perjury
12 and supported by such documents as are specified in the Proof of Claim and Release.
13 All Proof of Claim and Release forms must be submitted by the date specified in the
14 Notice, unless such period is extended by the Court.

15 7.4 Except as otherwise ordered by the Court, all Settlement Class Members
16 who fail to timely submit a Proof of Claim and Release within such period described in
17 ¶ 7.3 above, or such other period as may be ordered by the Court, shall be forever barred
18 from receiving any payments pursuant to the Stipulation and the Settlement set forth
19 herein, but will in all other respects be subject to and bound by the provisions of the
20 Stipulation, the releases contained herein, and the Judgment. Notwithstanding the
21 foregoing, Co-Lead Counsel shall have the discretion to accept late-submitted claims
22 so long as distribution of the Net Settlement Fund is not materially delayed thereby.

23 7.5 The Claims Administrator shall calculate the Claims of Authorized
24 Claimants, determine the extent to which claims shall be allowed, and oversee
25 distribution of the Net Settlement Fund in accordance with the Plan of Allocation set
26 forth in the Notice and approved by the Court. If there is any balance remaining in the
27 Net Settlement Fund after six (6) months from the date of initial distribution of the Net
28 Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise), Co-

1 Lead Counsel shall, if feasible, reallocate such balance among Authorized Claimants in
2 an equitable and economic fashion. Thereafter, any balance which still remains in the
3 Net Settlement Fund shall be, subject to the payment of any additional previously
4 unreimbursed Notice and Administration Costs, donated to an appropriate, non-profit
5 501(c)(3) charitable organization as determined by Co-Lead Counsel.

6 7.6 Settling Defendants, their counsel, and their insurers shall have no role in,
7 responsibility for, interest in, or liability with respect to any of the following: (i) any
8 act, omission, or determination of Co-Lead Counsel, the Escrow Agent, or the Claims
9 Administrator, or any of their respective designees or agents, in connection with
10 administering the Settlement; (ii) the management, investment, or distribution of the
11 Settlement Fund; (iii) the Plan of Allocation; (iv) the review, determination,
12 administration, calculation, or payment of any claims asserted against the Settlement
13 Fund; (v) any losses suffered by, or fluctuations in the value of, the Settlement Fund; or
14 (vi) the payment or withholding of any Taxes, Tax Expenses, and/or costs incurred in
15 connection with the taxation of the Settlement Fund or filing of any returns. No Person
16 shall have any claim of any kind against any Released Person with respect to the
17 administration, investment, distribution, and/or supervision of the Settlement Fund, and
18 Lead Plaintiff, all Settlement Class Members, and Co-Lead Counsel release all Released
19 Persons from any and all liability arising from or with respect to the administration,
20 investment, distribution, and/or supervision of the Settlement Fund.

21 7.7 It is understood and agreed by the Settling Parties that any proposed Plan
22 of Allocation of the Net Settlement Fund including, but not limited to, any adjustments
23 to an Authorized Claimant's claim set forth therein, is not a part of this Stipulation and
24 is to be considered by the Court separately from the Court's consideration of the
25 fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation. It
26 is further understood and agreed by the Settling Parties that any order or proceeding
27 relating to the Plan of Allocation shall not operate to terminate or cancel this Stipulation
28 or affect or delay the finality of the Court's Judgment approving this Stipulation and the

1 Settlement set forth herein (including the releases contained herein), or any other orders
2 entered pursuant to this Stipulation.

3 **CO-LEAD COUNSEL’S ATTORNEYS’ FEES AND EXPENSES**

4 8.1 Co-Lead Counsel may submit the Fee and Expense Application for an
5 award of attorneys’ fees not to exceed 25% of the Settlement Amount, plus expenses
6 incurred in connection with prosecuting the Litigation, plus any interest on such
7 attorneys’ fees and expenses at the same rate and for the same time periods as earned
8 by the Settlement Fund (until paid), as may be awarded by the Court. Any Fee and
9 Expense Award shall be payable solely from the Settlement Fund. Aside from payment
10 of the Settlement Amount, no Defendant or any other Released Person shall have any
11 obligation to pay any portion of Co-Lead Counsel’s attorneys’ fees or Litigation
12 expenses or the Fee and Expense Award, and Settling Defendants take no position with
13 respect to Co-Lead Counsel’s Fee and Expense Application.

14 8.2 The Fee and Expense Award, if and to the extent allowed by the Court,
15 shall be paid to Co-Lead Counsel from the Settlement Fund upon the Court’s entry of
16 the Judgment, notwithstanding the existence of any timely filed objections thereto, or
17 any appeal or potential for appeal therefrom, or collateral attack on the Settlement or
18 any part thereof, subject to Co-Lead Counsel’s obligation to make appropriate refunds
19 or repayments to the Settlement Fund as specified below in ¶ 8.3. An award of
20 attorneys’ fees and/or expenses is not a necessary term of this Stipulation and is not a
21 condition of the Settlement embodied herein. Neither Plaintiffs nor Co-Lead Counsel
22 may cancel or terminate the Settlement based on this Court’s or any appellate court’s
23 ruling with respect to attorneys’ fees and/or Litigation expenses.

24 8.3 If the Effective Date does not occur, or the Judgment is reversed or
25 modified, or the Fee and Expense Award is reduced or reversed, or the Stipulation is
26 canceled or terminated for any other reason, and in the event that the Fee and Expense
27 Award has been paid to any extent, then Co-Lead Counsel shall within seven (7) days
28 after (a) receiving notice of termination of the Settlement from Defendants’ Counsel or

1 (b) any order reversing or modifying the Judgment or reducing or reversing the Fee and
2 Expense Award has become Final, refund to the Settlement Fund the fees and expenses
3 previously paid to Co-Lead Counsel from the Settlement Fund, plus interest thereon at
4 the same rate as earned by the Settlement Fund, in an amount consistent with such
5 termination, reversal or modification. Co-Lead Counsel receiving fees and expenses
6 agree as a condition of receiving such fees and expenses that they are subject to the
7 jurisdiction of the Court for the purpose of enforcing this paragraph. Each Co-Lead
8 Counsel agrees that the Court may, upon application of Settling Defendants and notice
9 to Co-Lead Counsel, summarily issue orders including, but not limited to, judgments
10 and attachment orders and may make appropriate findings of or sanctions for contempt,
11 should such law firm fail timely to repay fees and expenses pursuant to this ¶ 8.3.

12 8.4 The procedure for and the allowance or disallowance by the Court of any
13 Fee and Expense Application or Award to be paid out of the Settlement Fund, are not
14 part of the Settlement set forth in this Stipulation, and are to be considered by the Court
15 separately from the Court's consideration of the fairness, reasonableness, and adequacy
16 of the Settlement. Any order or proceeding relating to the Fee and Expense Application,
17 or any appeal from any order relating thereto or reversal or modification thereof, shall
18 not operate to terminate or cancel this Stipulation, or affect or delay the finality of the
19 Judgment approving the Stipulation and the Settlement and releases set forth herein.

20 8.5 The Released Persons shall have no responsibility for, or liability with
21 respect to any Fee and Expense Application or the payment of any Fee and Expense
22 Award to Co-Lead Counsel out of the Settlement Fund. The Released Persons shall
23 have no responsibility for, or liability with respect to, the allocation of any Fee and
24 Expense Award among Co-Lead Counsel and/or any other Person who may assert some
25 claim thereto, and the Released Persons take no position with respect thereto.
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1 **CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL,**
2 **CANCELLATION OR TERMINATION**

3 9.1 The Effective Date of this Stipulation shall be the date when all of the
4 following shall have occurred and is conditioned on the occurrence of all of the
5 following events:

6 (a) Lead Counsel and Settling Defendants' Counsel have executed this
7 Stipulation and the Supplemental Agreement;

8 (b) The Court has entered the Preliminary Approval Order as described
9 in ¶ 3.1 hereof;

10 (c) IMUC has paid or caused to be paid into the Escrow Account the
11 Settlement Amount as set forth in ¶ 2.1;

12 (d) IMUC has not notified Co-Lead Counsel of its election to terminate
13 the Settlement pursuant to ¶ 9.5 hereof or, if such election has been made, the resulting
14 termination has been withdrawn pursuant to the terms of the Supplemental Agreement;

15 (e) The Court has entered the Judgment, substantially in the form of
16 Exhibit B attached hereto, or such other substantially similar form agreed to by the
17 Settling Parties;

18 (f) No Settling Party has given notice of its election to terminate the
19 Settlement pursuant to ¶ 9.3, and the time for doing so has expired; and

20 (g) The Judgment has become Final, as defined in ¶ 1.11 hereof.

21 9.2 Upon the occurrence of all of the events referenced in ¶ 9.1 hereof, any and
22 all remaining interest or right of Settling Defendants in or to the Settlement Fund, if
23 any, shall be absolutely and forever extinguished. If any of the conditions specified in
24 ¶ 9.1 hereof are not met, then the Stipulation shall be canceled and terminated subject
25 to ¶ 9.7 hereof unless Co-Lead Counsel and counsel for Settling Defendants mutually
26 agree in writing to otherwise proceed with the Stipulation.

27 9.3 Settling Defendants and Plaintiffs shall each have the right to terminate the
28 Settlement and this Stipulation by providing written notice of their election to do so (a

1 “Termination Notice”) to all other Parties hereto within thirty (30) days of: (a) the
2 Court’s declining to enter the Preliminary Approval Order in any material respect;
3 (b) the Court’s refusal to approve this Stipulation or any material part of it; (c) the
4 Court’s declining to enter the Judgment in any material respect; or (d) the date upon
5 which the Judgment is modified or reversed in any material respect by the court of
6 appeals or the Supreme Court. However, no order of the Court or modification or
7 reversal on appeal of any order of the Court concerning the Plan of Allocation or the
8 amount of any attorneys’ fees, costs, expenses, and interest awarded by the Court to Co-
9 Lead Counsel shall constitute grounds for cancellation or termination of the Stipulation.

10 9.4 If the Settlement Fund payable pursuant to ¶ 2.1 of this Settlement
11 Stipulation is not paid, then Plaintiffs, in their sole discretion, may either: (i) terminate
12 the Settlement by providing written notice to all Parties; or (ii) enforce the terms of the
13 Stipulation and seek a judgment effecting the terms of the Settlement set forth herein.
14 Failure of IMUC to cause the Settlement Fund to be paid shall not serve as a basis for
15 any Settling Defendant to terminate the Settlement.

16 9.5 If, prior to the Final Approval Hearing, the aggregate number of shares of
17 IMUC Common Stock purchased by Persons who would otherwise be Settlement Class
18 Members, but who, in accordance with the provisions in the Notice, timely and validly
19 request exclusion from the Settlement Class, exceeds the sum specified in a separate
20 supplemental agreement between Plaintiffs and Defendants (the “Supplemental
21 Agreement”), IMUC shall have the option (which option shall be exercised on behalf
22 of all Defendants in its sole discretion) to terminate this Stipulation and the Settlement
23 in accordance with the procedures set forth in the Supplemental Agreement, without
24 providing any further reason for its decision to exercise its option to terminate. For
25 purposes of the Supplemental Agreement, any request for exclusion that results in the
26 exclusion of the Settlement Class Member from the Settlement Class, by order of the
27 Court or otherwise, shall be treated as timely and valid. The Supplemental Agreement
28 is confidential and will not be filed with the Court unless requested by the Court or a

1 dispute among the Settling Parties concerning its interpretation or application arises
2 and, in that event, the Settling Parties shall request that the Supplemental Agreement be
3 filed and maintained under seal. In the event of a termination of the Settlement pursuant
4 to the Supplemental Agreement, this Stipulation shall become null and void and of no
5 further force and effect.

6 9.6 Unless otherwise ordered by the Court, in the event the Stipulation is
7 terminated or canceled, or the Effective Date fails to occur for any reason, then within
8 seven (7) days after written notification of such event is sent by counsel for Defendants
9 or Co-Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued
10 interest), less any Notice and Administration Costs reasonably and actually incurred
11 pursuant to ¶ 2.8 and Taxes and Tax Expenses that have been paid pursuant to ¶ 2.9
12 hereof, shall be refunded to the entity or entities that provided the funds, based on their
13 *pro rata* contribution to the Settlement Fund, as indicated in writing to Co-Lead Counsel
14 and the Escrow Agent by IMUC's counsel. The Escrow Agent or its designee shall
15 apply for any tax refund owed on the Settlement Fund and pay the proceeds, after
16 deduction of any fees or expenses incurred in connection with such application(s) for
17 refund, in a similar *pro rata* manner, pursuant to written instructions from Defendants'
18 counsel.

19 9.7 In the event that the Stipulation is not approved by the Court or the
20 Settlement set forth in the Stipulation is terminated or fails to become effective for any
21 reason, the Settling Parties shall be deemed to have reverted to their respective status
22 and positions in the Litigation as of the date and time immediately prior to the execution
23 of this Stipulation. In such event, the terms and provisions of the Stipulation, with the
24 exception of ¶¶ 2.5, 2.7–2.10, 4.2, 8.3, 9.6–9.8, 10.2–10.4, 11.3, 11.13–11.14 hereof,
25 shall have no further force and effect with respect to the Settling Parties and shall not
26 be used in this Litigation or in any other proceeding for any purpose, and any judgment
27 or order entered by the Court in accordance with the terms of the Stipulation shall be
28 treated as vacated, *nunc pro tunc*. No order of the Court or modification or reversal on

1 appeal of any order of the Court concerning the Plan of Allocation or the amount of any
2 Fee and Expense Award shall constitute grounds for cancellation or termination of the
3 Stipulation.

4 9.8 Notwithstanding any provision herein to the contrary, if the Effective Date
5 does not occur, or if the Stipulation is terminated pursuant to its terms, neither Plaintiffs
6 nor Co-Lead Counsel shall have any obligation to repay any amounts actually and
7 properly disbursed pursuant to ¶¶ 2.8–2.9 hereof. In addition, any Notice and
8 Administrative Costs, Taxes and Tax Expenses already incurred and properly
9 chargeable pursuant to ¶¶ 2.8–2.9 hereof at the time of such termination or cancellation,
10 but which have not been paid, shall be paid by the Escrow Agent in accordance with
11 the terms of the Stipulation prior to the balance being refunded in accordance with
12 ¶¶ 2.10 and 9.6 hereof.

13 **NO ADMISSION OF WRONGDOING**

14 10.1 The Settling Parties intend this Settlement to be a final and complete
15 resolution of all disputes between them with respect to the Litigation. The Settlement
16 compromises claims that are contested and shall not be deemed an admission by any
17 Settling Party as to the merits of any claim or defense. The Judgment will contain a
18 finding that, during the course of the Litigation, the Parties and their respective counsel
19 at all times complied with the requirements of Federal Rule of Civil Procedure 11. The
20 Settling Parties agree that the terms of the Settlement were negotiated in good faith and
21 reflect a settlement that was reached voluntarily after consultation with competent legal
22 counsel.

23 10.2 Whether or not the Settlement is approved by the Court, and whether or
24 not the Settlement is consummated, the fact and terms of this Stipulation, including its
25 exhibits, all negotiations, discussions, drafts, and proceedings in connection with this
26 Settlement, and any act performed or document signed in connection with the
27 Settlement, shall not, in this or any other court, administrative agency, arbitration forum,
28 or other tribunal, constitute an admission of, or evidence of, or be deemed to create any

1 inference of: (i) any acts of wrongdoing or lack thereof; (ii) any fault, misstatement,
2 omission or liability on the part of any of the Defendants or the Released Persons to
3 Plaintiffs, the Settlement Class, or anyone else; (iii) any deficiency of any claim or
4 defense that has been or could have been asserted in the Litigation; or (iv) any damages,
5 or lack of damages, suffered by Plaintiffs, the Settlement Class, or anyone else.

6 10.3 The Stipulation and the Settlement contained herein, and any act
7 performed or document executed pursuant to or in furtherance of the Stipulation or the
8 Settlement: (i) is not nor may be deemed to be or used as an admission of, or evidence
9 of, the validity of any Released Claim, or of any wrongdoing or liability of any
10 Defendant; and (ii) is not and may not be deemed to be or used as an admission of, or
11 evidence of, any fault or omission of any Defendant in any civil, criminal or
12 administrative proceeding in any court, administrative agency or other tribunal.

13 10.4 The Stipulation and the Settlement contained herein, and any act
14 performed or document executed pursuant to or in furtherance of the Stipulation or the
15 Settlement: (i) shall not be construed against any Released Parties, Plaintiffs, or any
16 other Settlement Class Member as an admission, concession, or presumption that the
17 consideration to be given hereunder represents the amount that could or would have
18 been recovered after trial; and (ii) shall not be construed as or admitted in evidence as
19 an admission, concession, or presumption against Plaintiffs or any other member of the
20 Settlement Class that any of their claims are without merit or that damages recoverable
21 under the Consolidated Complaint would not have exceeded the Settlement Amount.

22 **MISCELLANEOUS PROVISIONS**

23 11.1 The Settling Parties: (i) acknowledge that it is their intent to consummate
24 this Settlement; (ii) agree to cooperate to the extent reasonably necessary to effectuate
25 and implement all terms and conditions of the Stipulation; and (iii) agree to exercise
26 their reasonable best efforts to accomplish the foregoing terms and conditions of the
27 Stipulation.

28

1 11.2 Pending final determination of whether the Stipulation should be
2 approved, Co-Lead Counsel, Plaintiffs, and all Settlement Class Members are barred
3 and enjoined from commencing, maintaining or prosecuting any action asserting any
4 Released Claims against any Released Persons in any forum.

5 11.3 All agreements made and orders entered during the course of the Litigation
6 relating to the confidentiality of information shall survive this Stipulation.

7 11.4 All of the Exhibits to the Stipulation are material and integral parts hereof
8 and are fully incorporated herein by this reference.

9 11.5 This Stipulation shall not be construed more strictly against one Settling
10 Party than another merely by virtue of the fact that it, or any part of it, may have been
11 prepared by counsel for one of the Settling Parties, it being recognized that it is the
12 result of arm's-length negotiations between the Settling Parties and that all Settling
13 Parties have contributed substantially and materially to the preparation of this
14 Stipulation.

15 11.6 The Stipulation may be amended or modified only by a written instrument
16 signed by or on behalf of all Settling Parties or their respective successors-in-interest.

17 11.7 The Stipulation and the Exhibits attached hereto and the Supplemental
18 Agreement constitute the entire agreement among the Settling Parties, and no
19 representations, warranties, or inducements have been made to any Settling Party
20 concerning the Stipulation, its Exhibits, or the Supplemental Agreement other than the
21 representations, warranties, and covenants contained and memorialized in such
22 documents. Except as otherwise provided herein, each Settling Party shall bear its own
23 costs.

24 11.8 Co-Lead Counsel, on behalf of the Settlement Class, are expressly
25 authorized by Plaintiffs to take all appropriate actions required or permitted to be taken
26 by the Settlement Class pursuant to the Stipulation to effectuate its terms and also are
27 expressly authorized to enter into any modifications or amendments to the Stipulation
28 on behalf of the Settlement Class that they deem appropriate.

1 11.9 Each counsel or other Person executing the Stipulation or any of its
2 Exhibits on behalf of any Settling Party hereto hereby warrants that such Person has the
3 full authority to do so.

4 11.10 The waiver by one Settling Party of any breach of this Stipulation by any
5 other Settling Party shall not be deemed a waiver of any other prior or subsequent breach
6 of this Stipulation.

7 11.11 The Stipulation may be executed in one or more counterparts, including by
8 signature transmitted by email in pdf format. Each and all executed counterparts shall
9 be deemed one and the same instrument. A complete set of executed counterparts shall
10 be filed with the Court.

11 11.12 The Stipulation shall be binding upon, and inure to the benefit of, the
12 successors and assigns of the Settling Parties hereto.

13 11.13 The Court shall retain jurisdiction with respect to implementation and
14 enforcement of the terms of the Stipulation, and all Settling Parties submit to the
15 jurisdiction of the Court for purposes of implementing and enforcing the Settlement
16 embodied in the Stipulation.

17 11.14 The Stipulation and the Exhibits hereto shall be considered to have been
18 negotiated, executed and delivered, and to be wholly performed, in the State of
19 California, and the rights and obligations of the Parties to the Stipulation shall be
20 construed and enforced in accordance with, and governed by, the internal, substantive
21 laws of the State of California without giving effect to that State's choice-of-law
22 principles, except to the extent that federal law requires that federal law govern.

23 11.15 Pending approval by the Court of the Settlement, all proceedings in the
24 Litigation shall be stayed.

25 11.16 The Released Persons may file the Stipulation and/or the Judgment in any
26 action or proceeding that may be brought against them in order to support a defense or
27 counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith
28

1 settlement, judgment bar or reduction, or any other theory of claim preclusion or issue
2 preclusion or similar defense or counterclaim.

3 11.17 If any Party is required to give notice to the other Parties under this
4 Stipulation, such notice shall be in writing and shall be deemed to have been duly given
5 upon receipt by hand delivery, facsimile transmission, or electronic mail. Notice shall
6 be provided to the counsel indicated on the signature block below.

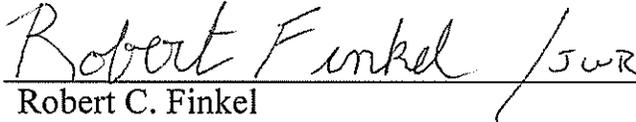
7 11.18 Within twenty-one (21) days following the Parties' execution of the
8 Stipulation, and without any charge to Plaintiffs or the Settlement Class, IMUC shall
9 provide such shareholder lists as may be within its possession, custody, or control, as
10 appropriate for providing notice to the Class.

11 IN WITNESS WHEREOF, the Parties hereto have caused the Stipulation to be
12 executed, by their duly authorized attorneys, dated as of September 13, 2018.

13 AGREED TO AND ACCEPTED:

14 Dated: September 13, 2018

WOLF POPPER LLP
ROBERT C. FINKEL


Robert C. Finkel

Counsel for Lead Plaintiffs

19 Dated: September 13, 2018

LEVI & KORSINSKY LLP
ROSEMARY M. RIVAS (209147)
JAMES GROHSGAL (321587)

Rosemary M. Rivas
Counsel for Lead Plaintiffs

28

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14 Dated: September 13, 2018 WOLF POPPER LLP
15 ROBERT C. FINKEL

16
17 _____
18 Robert C. Finkel

19 *Counsel for Lead Plaintiffs*

20 Dated: September 13, 2018 LEVI & KORSINSKY LLP
21 ROSEMARY M. RIVAS (209147)
22 JAMES GROHSGAL (321587)

23 _____
24 Rosemary M. Rivas
25 *Counsel for Lead Plaintiffs*

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Dated: September 13, 2018

GLANCY PRONGAY & MURRAY LLP
LIONEL Z. GLANCY (134180)
ROBERT V. PRONGAY (270796)
LESLEY F. PORTNOY (304851)
CHARLES H. LINEHAN (307439)

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Dated: September 13, 2018

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Therapeutics, Ltd., David Fractor, John Y. Yu,
and Andrew Gengos*

Dated: September 13, 2018

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Edward Gartenberg
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Kamilla Bjorlin, and Andrew Hodge*

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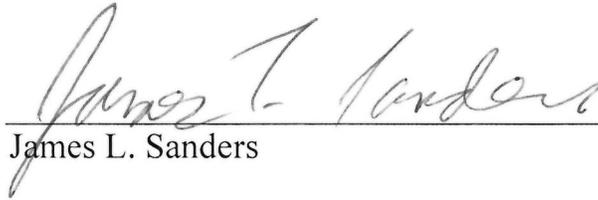

Edward Gartenberg

*Counsel for Defendants Lidingo Holdings, LLC,
Kamilla Bjorlin, and Andrew Hodge*

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Dated: September 13, 2018

REED SMITH LLP
JAMES L. SANDERS (126291)
FRANCISCA M. MOK (206063)



James L. Sanders

*Counsel for Defendants Manish Singh and Lavos,
LLC*

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PROOF OF SERVICE BY ELECTRONIC POSTING

I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On September 13, 2018, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Central District of California, for receipt electronically by the parties listed on the Court’s Service List.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 13, 2018, at Los Angeles, California.

s/ Lionel Z. Glancy

Lionel Z. Glancy

Mailing Information for a Case 2:17-cv-03250-FMO-SK Arthur Kaye IRA FCC as Custodian DTD 6-8-00 v. ImmunoCellular Therapeutics, Ltd. et al

Electronic Mail Notice List

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- **James L Sanders**
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Manual Notice List

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