

1 **BURSOR & FISHER, P.A.**
L. Timothy Fisher (State Bar No. 191626)
2 Neal J. Deckant (State Bar No. 322946)
1990 North California Boulevard, Suite 940
3 Walnut Creek, CA 94596
Telephone: (925) 300-4455
4 Facsimile: (925) 407-2700
E-Mail: ltfisher@bursor.com
5 ndeckant@bursor.com

6 **BURSOR & FISHER, P.A.**
Joshua D. Arisohn (*pro hac vice*)
7 Alec M. Leslie (*pro hac vice*)
888 Seventh Avenue
8 New York, NY 10019
Telephone: 646-837-7150
9 Facsimile: (212) 989-9163
E-Mail: jarisohn@bursor.com
10 aleslie@bursor.com

11 *Interim Class Counsel*

LATHAM & WATKINS LLP
Elizabeth L. Deeley (CA Bar No. 230798)
Nicole C. Valco (CA Bar No. 258506)
Joseph C. Hansen (CA Bar No. 257147)
505 Montgomery Street, Suite 2000
San Francisco, CA 94111-6538
Telephone: +1.415.391.0600
E-Mail: elizabeth.deeley@lw.com
nicole.valco@lw.com
joseph.hansen@lw.com

Susan E. Engel (*pro hac vice*)
555 Eleventh Street, NW, Suite 1000
Washington, DC 20004
Telephone: +1.202.637.2200
E-Mail: susan.engel@lw.com

*Attorneys for Defendant Meta Platforms,
Inc. (formerly Facebook, Inc.)*

12
13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN FRANCISCO DIVISION**

16 LAWRENCE OLIN, HAROLD NYANJOM,
SHERON SMITH-JACKSON, JANICE
17 VEGA-LATKER, MARC BOEHM, and
RAVEN WINHAM, individually and on
18 behalf of all others similarly situated,

19 Plaintiffs,

20 v.

21 FACEBOOK, INC.,

22 Defendant.

Case No. 3:18-cv-01881-RS (TSH)

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE**

Hon. Richard Seeborg

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

	<u>Page</u>
I. RECITALS	1
II. DEFINITIONS.....	4
III. SETTLEMENT CLASS CERTIFICATION	8
IV. SETTLEMENT CONSIDERATION AND INJUNCTIVE RELIEF.....	9
V. SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT FOR REVIEW AND APPROVAL	10
VI. RELEASES AND DISMISSAL OF ACTION.....	12
VII. NOTICE PURSUANT TO 28 U.S.C. § 1715.....	15
VIII. ATTORNEYS’ FEES AND COSTS	15
IX. MODIFICATION OR TERMINATION OF SETTLEMENT AGREEMENT AND META’S RESERVATION OF RIGHTS.....	16
X. MISCELLANEOUS PROVISIONS.....	19

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class Action Settlement Agreement and Release, including Exhibits A-B hereto (“Settlement Agreement” or “Agreement”), is made and entered into by, between, and among Plaintiffs Lawrence Olin, Harold Nyanjom, Sheron Smith-Jackson, Janice Vega-Latker, Marc Boehm and Raven Winham (together, “Settlement Class Representatives”), on behalf of themselves and the Settlement Class as defined below, and Defendant Meta Platforms, Inc., formerly Facebook, Inc. (“Defendant” or “Meta”). Settlement Class Representatives, the Settlement Class, and Meta (collectively, the “Parties”) enter into this Agreement to effect a full and final settlement and dismissal of *Olin, et al. v. Facebook, Inc.*, Case No. 3:18-cv-01881 (RS) (TSH) (N.D. Cal.) (the “Action”).

I. RECITALS

1. WHEREAS, on March 27, 2017, Plaintiffs Anthony Williams, Tyoka Brumfield and Wendy Burnett filed a class action complaint in the United States District Court for the Northern District of California asserting claims against Meta on behalf of themselves and a proposed class of “all persons in the United States who installed the Facebook Messenger and Facebook Lite apps for Android, and granted Facebook permission to access their ‘Contact List’” under the California Consumers Legal Remedies Act (“CLRA”; Cal. Civ. Code § 1750, *et seq.*), California Unfair Competition Law (“UCL”; Cal. Bus. and Prof. Code § 17200, *et seq.*), California Computer Data Access and Fraud Act (“CDAFA”; Cal. Pen. Code § 502), California Constitutional Right to Privacy, Intrusion Upon Seclusion, Trespass to Personal Property, New York’s Deceptive Acts or Practices Law (“GBL § 349”; N.Y. Gen. Bus. Law § 349), and unjust enrichment; and alleging, *inter alia*, that when users installed the Facebook Messenger and Facebook Lite applications on their Android devices, they were prompted to grant Facebook access to the their “Contact Lists,” and that upon doing so, these apps uploaded users’ call and text logs (*see* Dkt. 1);

2. WHEREAS, four other complaints were filed in the United States District Court for the Northern District of California alleging similar facts and asserting similar classwide claims against Meta, including *Renken, et al. v. Facebook, Inc.*, Case No. 5:18-cv-01896 (filed March 27,

1 2018); *Tracy v. Facebook, Inc.*, Case No. 3:18-cv-02128 (filed April 9, 2018); *Sternemann, et al.*
2 *v. Facebook, Inc.*, Case No. 3:18-cv-02677 (filed May 7, 2018); and *Condelles v. Facebook, Inc.*,
3 Case No. 3:18-cv-02727 (filed May 9, 2018);

4 3. WHEREAS, the Court related the other four complaints to this Action (*see*
5 Dkts. 18, 27, 42, 44), and on June 26, 2018, consolidated them and appointed Bursor & Fisher,
6 P.A. as interim lead counsel (Dkt. 51);

7 4. WHEREAS, on July 13, 2018, the plaintiffs filed a First Amended Consolidated
8 Class Action Complaint asserting CLRA, UCL, CDAFA, California Constitutional Right to
9 Privacy, Intrusion Upon Seclusion, Trespass to Personal Property, GBL § 349, and unjust
10 enrichment claims on behalf of themselves and a proposed class of “all persons in the United States
11 who installed the Facebook Messenger and Facebook Lite apps for Android, and granted Facebook
12 permission to access their ‘Contact List’” (*see* Dkt. 52);

13 5. WHEREAS, on December 18, 2018, the Court issued an order granting Meta’s
14 motion to dismiss the First Amended Consolidated Class Action Complaint, dismissing the claims
15 under Trespass to Personal Property, UCL, CLRA, and GBL § 349 without leave to amend, and
16 dismissing all other claims with leave to amend (*see* Dkt. 85);

17 6. WHEREAS, on January 22, 2019, Settlement Class Representatives Lawrence
18 Olin, Harold Nyanjom, Sheron Smith-Jackson, and Janice Vega-Latker filed a Second Amended
19 Consolidated Class Action Complaint asserting claims under the CDAFA, California
20 Constitutional Right to Privacy, Intrusion Upon Seclusion, unjust enrichment, and fraud on behalf
21 of themselves and a proposed class of “all persons in the United States who installed the Facebook
22 Messenger and Facebook Lite apps for Android, and granted Facebook permission to access their
23 ‘Contacts’” (Dkt. 88);

24 7. WHEREAS, on August 29, 2019, the Court issued an order granting in part and
25 denying in part Meta’s motion to dismiss the Second Amended Consolidated Class Action
26 Complaint, dismissing the allegations relating to the Facebook Lite application without prejudice
27 and otherwise denying the motion (*see* Dkt. 128);

28

1 8. WHEREAS, on September 13, 2019, Plaintiffs Williams, Brumfield, and Burnett
2 voluntarily dismissed their claims pursuant to Federal Rule of Civil Procedure 41(a), which action
3 was unopposed by Meta (Dkt. 137);

4 9. WHEREAS, on December 18, 2020, Settlement Class Representatives Lawrence
5 Olin, Harold Nyanjom, Sheron Smith-Jackson, Janice Vega-Latker, Blake Carlyle, Marc Boehm,
6 and Raven Winham filed a Third Amended Consolidated Class Action Complaint asserting claims
7 under the CDAFA, California Constitutional Right to Privacy, Intrusion Upon Seclusion, unjust
8 enrichment, fraud, and the California Invasion of Privacy Act (“CIPA”; Cal. Pen. Code §§ 631,
9 632, 635) on behalf of themselves and a proposed class of “all persons in the United States who
10 installed the Facebook Messenger app for Android, and granted Facebook permission to access
11 their ‘Contacts’” (Dkt. 184);

12 10. WHEREAS, on May 14, 2021, the Court issued an order granting Meta’s motion
13 to dismiss the Third Amended Consolidated Class Action Complaint, dismissing the CIPA claims
14 with leave to amend within 21 days (*see* Dkt. 208), and Settlement Class Representatives did not
15 file an amended complaint to renew their CIPA claims;

16 11. WHEREAS, on September 7, 2021, Plaintiff Carlyle voluntarily dismissed his
17 claims pursuant to Federal Rule of Civil Procedure 41(a), which action was unopposed by Meta
18 (Dkt. 217);

19 12. WHEREAS, the Parties engaged in extensive discovery, including inspection by
20 Settlement Class Representatives’ software expert of the source code relating to uploading of call
21 and text logs through the Messenger for Android app, including full revision history of the code;
22 the production of documents reflecting Settlement Class Representatives’ call and text history
23 uploading and settings, and other internal documents regarding the in-app consent screen and
24 functionality of the feature at issue; informal conferences and discussions; substantial discovery
25 motion practice; and the exchange of written discovery requests and responses;

26 13. WHEREAS, the Parties agreed to mediate their dispute, participated in a mediation
27 with the Honorable Wayne Andersen (Ret. N.D. Ill.) on June 15, 2021, which was unsuccessful,
28

1 and thereafter engaged in continued arm's length negotiations through Judge Andersen,
2 culminating in a mediator's proposal approximately eight months later that both sides accepted;

3 14. WHEREAS, Settlement Class Representatives believe that their claims are
4 meritorious and that they would be successful at trial, but nevertheless agreed to resolve the Action
5 on the terms set forth in this Settlement Agreement solely to eliminate the uncertainties and delay
6 of further protracted litigation;

7 15. WHEREAS, Meta denies the allegations in the Third Amended Complaint, denies
8 that it has engaged in any wrongdoing, denies that Settlement Class Representatives' allegations
9 state valid claims, denies that the Court has subject matter jurisdiction over Plaintiffs' claims,
10 denies that Plaintiffs can maintain a class action for purposes of litigation, and vigorously disputes
11 that Settlement Class Representatives and the Class are entitled to any relief, but Meta nevertheless
12 agreed to resolve the Action on the terms set forth in this Settlement Agreement solely to eliminate
13 the uncertainties, burden, expense, and delay of further protracted litigation;

14 16. WHEREAS, Settlement Class Representatives, Meta, and the Settlement Class
15 intend for this Settlement Agreement fully and finally to compromise, resolve, discharge, and settle
16 the Released Claims, as defined and on the terms set forth below, and to the full extent reflected
17 herein, subject to the approval of the Court; and

18 17. NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND
19 AGREED, by the Settlement Class Representatives, for themselves and on behalf of the Settlement
20 Class, and by Meta that, subject to the approval of the Court, the Action shall be settled,
21 compromised, and dismissed, on the merits and with prejudice, and the Released Claims shall be
22 finally and fully compromised, settled, and dismissed as to the Released Parties, in the manner and
23 upon the terms and conditions hereafter set forth in this Agreement.

24 **II. DEFINITIONS**

25 18. In addition to the terms defined elsewhere in this Agreement, the following terms,
26 used in this Settlement Agreement, shall have the meanings specified below:

27
28

1 19. “Attorneys’ Fees and Costs Award” means such funds as may be awarded by the
2 Court to Class Counsel to compensate Class Counsel for its fees, costs, and expenses in connection
3 with the Action and the Settlement, as described in Paragraphs 61-63.

4 20. “Business Days” means Monday, Tuesday, Wednesday, Thursday, and Friday,
5 excluding holidays observed by the federal government.

6 21. “Call and Text History Data” means (a) the following information for all calls on
7 an Android device: telephone number; contact name (if available); whether the call was incoming,
8 outgoing or missed; call time and duration; and aggregate counts of calls; and (b) the following
9 information for all texts (SMS or MMS messages) on an Android device: telephone number;
10 contact name (if available); whether the text was sent or received; the text time; and aggregate
11 counts of texts. Call and Text History Data does not include any content of the call or text.

12 22. “Class Counsel” means the law firm of Bursor & Fisher, P.A. and Plaintiffs’
13 attorneys of record in this Action who are members of the firm.

14 23. “Court” means the United States District Court for the Northern District of
15 California and the Judge assigned to the Action, United States District Judge Richard Seeborg.

16 24. “Defense Counsel” means the law firm of Latham & Watkins LLP and all of
17 Meta’s attorneys of record in the Action.

18 25. “Effective Date” means seven (7) days after which both of the following events
19 have occurred: (i) the Final Approval Order and Final Judgment have been entered and (ii) the
20 Final Approval Order and Final Judgment have become Final.

21 26. “Meta” means (i) Meta Platforms, Inc. and its past, present, and future parents,
22 subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities,
23 whether foreign or domestic, that are owned or controlled by Meta, and (ii) the past, present, and
24 future shareholders, officers, directors, members, agents, employees, independent contractors,
25 consultants, representatives, fiduciaries, insurers, attorneys, legal representatives, predecessors,
26 successors, and assigns of the entities in Part (i) of this definition.

27
28

1 27. “Final Approval Hearing” means the hearing that is to take place after the entry of
2 the Preliminary Approval Order for purposes of: (i) entering the Final Approval Order and Final
3 Judgment and dismissing the Action with prejudice; (ii) determining whether the Settlement
4 should be approved as fair, reasonable, and adequate pursuant to Federal Rule of Civil
5 Procedure 23; (iii) ruling upon an application for Service Awards by the Settlement Class
6 Representatives; (iv) ruling upon an application by Class Counsel for an Attorneys’ Fees and Costs
7 Award; and (v) entering any final order awarding Attorneys’ Fees and Costs and Service Awards.
8 The Parties shall request that the Court schedule the Final Approval Hearing for a date that is in
9 compliance with the provisions of 28 U.S.C. § 1715(d).

10 28. “Final” means, with respect to any judicial ruling or order, that: (1) if no appeal,
11 motion for reconsideration, reargument and/or rehearing, or petition for writ of certiorari has been
12 filed, the time has expired to file such an appeal, motion, and/or petition; or (2) if an appeal, motion
13 for reconsideration, reargument and/or rehearing, or petition for a writ of certiorari has been filed,
14 the judicial ruling or order has been affirmed with no further right of review, or such appeal,
15 motion, and/or petition has been denied or dismissed with no further right of review. Any
16 proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to any
17 application for attorneys’ fees or expenses will not in any way delay or preclude the Judgment
18 from becoming Final.

19 29. “Final Approval Order and Final Judgment” means the order finally approving the
20 terms of this Settlement Agreement and a separate judgment to be entered by the Court after the
21 Final Approval Hearing, pursuant to Federal Rule of Civil Procedure 58(a), dismissing the Action
22 against Meta with prejudice, without material variation from the Parties’ agreed-upon final
23 approval order and judgment attached hereto as Exhibit A.

24 30. “Legally Authorized Representative” means an administrator/administratrix,
25 personal representative, or executor/executrix of a deceased Settlement Class Member’s estate;
26 guardian, conservator, or next friend of an incapacitated Settlement Class Member; or any other
27

28

1 legally appointed Person responsible for handling the business affairs of a Settlement Class
2 Member.

3 31. “Person” means any individual, corporation, partnership, association, affiliate, joint
4 stock company, estate, trust, unincorporated association, entity, government and any political
5 subdivision thereof, or any other type of business or legal entity.

6 32. “Preliminary Approval Order” means the order that preliminarily approves the
7 Settlement and sets a date for the Final Approval Hearing, without material variation from the
8 Parties’ agreed-upon proposed preliminary approval order attached hereto as Exhibit B. Entry of
9 the Preliminary Approval Order shall constitute preliminary approval of the Settlement
10 Agreement.

11 33. “Releases” mean the releases and waivers set forth in this Settlement Agreement
12 and in the Final Approval Order and Final Judgment. The Releases are a material part of the
13 Settlement for Meta. The Releases shall be construed as broadly as possible to effect complete
14 finality over this Action involving claims that result from, arise out of, are based on, or relate in
15 any way to the practices and claims that were alleged in the Action.

16 34. “Released Claims” include Settlement Class Representatives’ Released Claims and
17 Settlement Class Members’ Released Claims.

18 35. “Released Parties” means (i) Meta and its past, present, and future parents,
19 subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities,
20 whether foreign or domestic, that are owned or controlled by Meta; and (ii) the past, present, and
21 future shareholders, officers, directors, members, agents, employees, independent contractors,
22 consultants, administrators, representatives, fiduciaries, insurers, attorneys, legal representatives,
23 advisors, creditors, predecessors, successors, and assigns of the entities in Part (i) of this Paragraph.

24 36. “Releasing Parties” means Settlement Class Members, and each of their heirs,
25 estates, trustees, principals, beneficiaries, guardians, executors, administrators, representatives,
26 agents, attorneys, partners, successors, predecessors-in-interest, and assigns and/or anyone
27 claiming through them or acting or purporting to act for them or on their behalf.

28

1 37. “Service Award” means the amount approved by the Court to be paid to the
2 Settlement Class Representatives as described further in Paragraph 64.

3 38. “Settlement” means the settlement of the Action between and among the Settlement
4 Class Representatives, the Settlement Class Members, and Meta, as set forth in this Settlement
5 Agreement, including all attached Exhibits (which are an integral part of this Settlement
6 Agreement and are incorporated in their entirety by reference).

7 39. “Settlement Class” has the meaning set forth in Paragraph 45.

8 40. “Settlement Class Member(s)” means any and all persons who fall within the
9 definition of the Settlement Class.

10 41. “Settlement Class Representatives” means Plaintiffs Lawrence Olin, Harold
11 Nyanjom, Sheron Smith-Jackson, Janice Vega-Latker, Marc Boehn and Raven Winham.

12 42. “Settlement Class Representatives’ Releasing Parties” means each Settlement
13 Class Representative, and each of his heirs, estates, trustees, principals, beneficiaries, guardians,
14 executors, administrators, representatives, agents, attorneys, insurers, subrogees, partners,
15 successors, predecessors-in-interest, and assigns and/or anyone other than Class Members
16 claiming through them or acting or purporting to act for them or on their behalf.

17 **III. SETTLEMENT CLASS CERTIFICATION**

18 43. For purposes of settlement only, the Parties agree to seek provisional certification
19 of the Settlement Class, pursuant to Federal Rule of Civil Procedure 23(b)(2).

20 44. The Parties further agree that the Court should make preliminary findings and enter
21 the Preliminary Approval Order granting provisional certification of the Settlement Class subject
22 to the final findings and approval in the Final Approval Order and Final Judgment, and appointing
23 Settlement Class Representatives as the representatives of the Settlement Class and Class Counsel
24 as counsel for the Settlement Class.

25 45. For purposes of the provisional certification, the Settlement Class shall be defined
26 as follows:

27 All persons in the United States who installed the Facebook Messenger and
28 Facebook Lite apps for Android, and granted Meta permission to access their

contacts.

1
2 46. Excluded from the Settlement Class are (i) all Persons who are directors, officers,
3 and agents of Meta or its subsidiaries and affiliated companies or are designated by Meta as
4 employees of Meta or its subsidiaries and affiliated companies; and (ii) the Court, the Court's
5 immediate family, and Court staff, as well as any appellate court to which this matter is ever
6 assigned, and its immediate family and staff.

7 47. Meta does not consent to certification of the Settlement Class (or to the propriety
8 of class treatment) for any purpose other than to effectuate the settlement of this Action. Meta's
9 agreement to provisional certification does not constitute an admission of wrongdoing, fault,
10 liability, or damage of any kind to Settlement Class Representatives or any of the provisional
11 Settlement Class Members.

12 48. If this Settlement Agreement is terminated pursuant to its terms, disapproved by
13 any court (including any appellate court), and/or not consummated for any reason, or the Effective
14 Date for any reason does not occur, the order certifying the Settlement Class for purposes of
15 effectuating the Settlement, and all preliminary and/or final findings regarding that class
16 certification order, shall be automatically vacated upon notice of the same to the Court, the Action
17 shall proceed as though the Settlement Class had never been certified pursuant to this Settlement
18 Agreement and such findings had never been made, and the Action shall return to the procedural
19 posture on March 3, 2022, in accordance with this Paragraph. No Party nor counsel shall refer to
20 or invoke the vacated findings and/or order relating to class settlement or Rule 23 of the Federal
21 Rules of Civil Procedure if this Settlement Agreement is not consummated and the Action is later
22 litigated and contested by Meta under Rule 23 of the Federal Rules of Civil Procedure.

23 **IV. SETTLEMENT CONSIDERATION AND INJUNCTIVE RELIEF**

24 49. In consideration for the dismissal of the Action with prejudice and the releases
25 provided in this Settlement Agreement, Meta agrees to the following:

26 a) After the filing of this lawsuit, Meta ceased uploading Call and Text History
27 Data from persons in the United States through the Facebook Messenger or Facebook Lite apps
28

1 for Android. Meta confirms that it has not uploaded Call and Text History Data from persons in
2 the United States through the Facebook Messenger or Facebook Lite apps for Android since March
3 2019.

4 b) Meta shall delete all Call and Text History Data uploaded from persons in
5 the United States through the Facebook Messenger or Facebook Lite apps for Android devices that
6 Meta is not otherwise legally obligated to preserve by jurisdictions outside of the United
7 States within 45 days of the effective date (which shall be seven (7) days after the final settlement
8 approval order and final judgment have been entered and become Final). Any data retained
9 because of continuing legal obligations will be quarantined in access-controlled data warehouse
10 tables that are segregated from any systems used or accessed in the ordinary course of Meta's
11 business, and access to this data is limited to Meta's Legal team. Any such data will be preserved
12 and used solely in connection with any legal obligations and not for any business use, and Meta
13 will delete all such data within 45 days of the expiration of any legal obligation to preserve it.

14 **V. SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT FOR**
15 **REVIEW AND APPROVAL**

16 50. Solely for purposes of implementing this Agreement and effectuating the proposed
17 Settlement, the Parties agree and stipulate that Class Counsel shall submit to the Court a motion
18 for preliminary approval of the settlement together with the [Proposed] Preliminary Approval
19 Order (Exhibit B) and [Proposed] Final Approval Order and Final Judgment (Exhibit A).

20 51. Among other things, the Preliminary Approval Order shall:

21 a) find that the requirements for provisional certification of the Settlement
22 Class have been satisfied, appointing Settlement Class Representatives as the representatives of
23 the provisional Settlement Class and Class Counsel as counsel for the provisional Settlement Class;

24 b) find that the CAFA Notice sent by Meta complied with 28 U.S.C. § 1715
25 and all other provisions of the Class Action Fairness Act of 2005;

1 c) preliminarily enjoin all Settlement Class Members and their Legally
2 Authorized Representatives from filing or otherwise participating in any other suit based on the
3 Released Claims;

4 d) establish dates by which the Parties shall file and serve all papers in support
5 of the application for final approval of the Settlement;

6 e) schedule the Final Approval Hearing on a date ordered by the Court,
7 provided in the Preliminary Approval Order, and in compliance with applicable law, to determine
8 whether the Settlement should be approved as fair, reasonable, adequate, and to determine whether
9 a Final Approval Order and Final Judgment should be entered dismissing the Action with
10 prejudice;

11 f) provide that all Settlement Class Members will be bound by the Final
12 Approval Order and Final Judgment dismissing the Action with prejudice; and

13 g) pending the Final Approval Hearing, stay all proceedings in the Action,
14 other than the proceedings necessary to carry out or enforce the terms and conditions of this
15 Settlement Agreement and Preliminary Approval Order.

16 52. In advance of the Final Approval Hearing, Class Counsel shall request entry of a
17 Final Approval Order and Final Judgment, without material variation from Exhibit A, the entry of
18 which is a material condition of this Settlement Agreement, and that shall, among other things:

19 a) find that the Court has personal jurisdiction over all Settlement Class
20 Members, that the Court has subject matter jurisdiction over the claims asserted in the Action, and
21 that the venue is proper;

22 b) finally approve this Settlement Agreement and the Settlement pursuant to
23 Rule 23 of the Federal Rules of Civil Procedure;

24 c) certify the Settlement Class under Federal Rule of Civil Procedure 23(b)(2)
25 for purposes of settlement only;

26 d) find that direct notice to the Rule 23(b)(2) class is not necessary, and that
27 notice on Class Counsel's public website, as provided in this Settlement Agreement, is sufficiently
28

1 within the range of reasonableness;

2 e) incorporate the Releases set forth in this Settlement Agreement and make
3 the Releases effective as of the Effective Date;

4 f) issue the injunctive relief described in this Settlement Agreement;

5 g) authorize the Parties to implement the terms of the Settlement;

6 h) dismiss the Action with prejudice and enter a separate judgment pursuant to
7 Rule 58 of the Federal Rules of Civil Procedure; and

8 i) determine that the Agreement and the Settlement provided for herein, and
9 any proceedings taken pursuant thereto, are not, and should not in any event be offered, received,
10 or construed as evidence of, a presumption, concession, or an admission by any Party of liability
11 or non-liability or of the certifiability or non-certifiability of a litigation class, or of any
12 misrepresentation or omission in any statement or written document approved or made by any
13 Party; provided, however, that reference may be made to this Agreement and the Settlement
14 provided for herein in such proceedings as may be necessary to effectuate the provisions of this
15 Agreement, as further set forth in this Agreement.

16 **VI. RELEASES AND DISMISSAL OF ACTION**

17 53. Upon the Effective Date, Settlement Class Representatives' Releasing Parties will
18 be deemed to have, and by operation of the Final Approval Order and Final Judgment will have
19 fully, finally, and forever released, relinquished, and discharged any and all past, present, and
20 future claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or
21 liabilities, of any nature and description whatsoever, known or unknown, recognized now or
22 hereafter, existing or preexisting, expected or unexpected, pursuant to any theory of recovery
23 (including, but not limited to, those based in contract or tort, common law or equity, federal, state,
24 or local law, statute, ordinance, or regulation), against the Released Parties, from the Settlement
25 Class Representatives' first interaction with Meta up until and including the Effective Date, that
26 result from, arise out of, are based on, or relate in any way to the practices and claims that were
27 alleged in the Action, for any type of relief that can be released as a matter of law, including,

28

1 without limitation, claims for monetary relief, damages (whether compensatory, consequential,
2 punitive, exemplary, liquidated, and/or statutory), costs, penalties, interest, attorneys' fees,
3 litigation costs, restitution, or equitable relief ("Settlement Class Representatives' Released
4 Claims"). Settlement Class Representatives' Releasing Parties are forever enjoined from taking
5 any action seeking any relief against the Released Parties based on any of Settlement Class
6 Representatives' Released Claims.

7 54. Upon the Effective Date, the Releasing Parties will be deemed to have, and by
8 operation of the Final Approval Order and Final Judgment will have fully, finally, and forever
9 released, relinquished, and discharged any and all past, present, and future claims, actions,
10 demands, causes of action, suits, debts, obligations, and rights or liabilities for injunctive and/or
11 declaratory relief, of any nature and description whatsoever, known or unknown, existing or
12 preexisting, recognized now or hereafter, expected or unexpected, pursuant to any theory of
13 recovery (including, but not limited to, those based in contract or tort, common law or equity,
14 federal, state, or local law, statute, ordinance, or regulation) against the Released Parties, from the
15 Releasing Parties' first interaction with Meta up until and including the Effective Date, that result
16 from, arise out of, are based on, or relate in any way to the practices and claims that were alleged
17 in the Action ("Settlement Class Members' Released Claims"), except that, notwithstanding the
18 foregoing, the Releasing Parties do not release claims for monetary relief or damages. The
19 Releasing Parties are forever enjoined from taking any action seeking injunctive and/or declaratory
20 relief against the Released Parties based on any Settlement Class Members' Released Claims.

21 55. Upon the Effective Date, Meta will be deemed to have, and by operation of the
22 Final Approval Order and Final Judgment will have fully, finally, and forever released,
23 relinquished, and discharged any and all past, present, and future claims, actions, demands, causes
24 of action, suits, debts, obligations, and rights or liabilities for injunctive and/or declaratory relief,
25 of any nature and description whatsoever, known or unknown, existing or preexisting, recognized
26 now or hereafter, expected or unexpected, pursuant to any theory of recovery (including, but not
27 limited to, those based in contract or tort, common law or equity, federal, state, or local law, statute,
28

1 ordinance, or regulation) against the Settlement Class Representatives' Releasing Parties, from the
2 Settlement Class Representatives' first interaction with Meta up until and including the Effective
3 Date, that result from, arise out of, are based on, or relate in any way to the practices and claims
4 that were alleged in the Action ("Meta's Released Claims"). Meta is forever enjoined from taking
5 any action seeking any relief against the Settlement Class Representatives' Releasing Parties based
6 on any of Meta's Released Claims.

7 56. After entering into this Settlement Agreement, the Parties may discover facts other
8 than, different from, or in addition to, those that they know or believe to be true with respect to the
9 claims released by this Settlement Agreement, but they intend to release fully, finally and forever
10 the Released Claims, and in furtherance of such intention, the Releases will remain in effect
11 notwithstanding the discovery or existence of any such additional or different facts. With respect
12 to the Released Claims, Settlement Class Representatives (on behalf of themselves and the
13 Settlement Class Members), through their counsel, expressly, knowingly, and voluntarily waive
14 any and all provisions, rights, and benefits conferred by California Civil Code Section 1542 and
15 any statute, rule, and legal doctrine similar, comparable, or equivalent to California Civil Code
16 Section 1542, which reads as follows:

17 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
18 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
19 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
20 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
 DEBTOR OR RELEASED PARTY.

21 57. The Parties acknowledge, and by operation of law shall be deemed to have
22 acknowledged, that the waiver of the provisions of Section 1542 of the California Civil Code (and
23 any similar State laws) with respect to the claims released by this Settlement Agreement was
24 separately bargained for and was a key element of the Settlement.

25 58. By operation of the Final Approval Order and Final Judgment, the Action will be
26 dismissed with prejudice.

1 59. Upon the Effective Date: (a) this Settlement Agreement shall be the exclusive
2 remedy for any and all Released Claims of Class Representatives and Settlement Class Members;
3 and (b) Class Representatives and Settlement Class Members stipulate to be and shall be
4 permanently barred and enjoined by Court order from initiating, asserting, or prosecuting against
5 Released Parties in any federal or state court or tribunal any and all Released Claims.

6 **VII. NOTICE PURSUANT TO 28 U.S.C. § 1715**

7 60. Meta shall serve notice of the Settlement Agreement that meets the requirements of
8 28 U.S.C. § 1715, on the appropriate federal and state officials no later than ten (10) days following
9 the filing of this Settlement Agreement with the Court. The Parties agree that direct notice to the
10 class is not necessary in this action. *See, e.g., Stathakos v. Columbia Sportswear Co., et al.*, No
11 .4:15-cv-04543-YGR, 2018 WL 582564, at *3-4 (N.D. Cal. Jan. 25, 2018); *Lilly v. Jamba Juice*
12 *Co.*, No. 13-cv-02998-JST, 2015 WL 1248027, at *9 (N.D. Cal. Mar. 18, 2015); *Kim v. Space*
13 *Pencil, Inc.*, No. 11-cv-03796-LB, 2012 WL 5948951, at *4 (N.D. Cal. Nov. 28, 2012). Class
14 Counsel shall post information about the settlement—including the Settlement Agreement,
15 Plaintiffs’ motion for preliminary approval, Plaintiffs’ motion for attorneys’ fees and incentive
16 awards, any opposition or reply papers related to these motions—on Class Counsel’s public
17 website (<http://www.https://www.bursor.com/>).

18 **VIII. ATTORNEYS’ FEES AND COSTS**

19 61. Class Counsel may apply to the Court for an award of reasonable attorneys’ fees
20 and costs not to exceed \$1,080,000. Class Counsel approximates that it will seek \$76,937.84 in
21 costs and \$1,003,062.16 in fees, but may apply in different amounts not to exceed \$1,080,000.
22 Meta has been provided a copy of summaries of Class Counsel’s time records, and as a result of
23 that review, Meta will take no position on Class Counsel’s application and agrees to pay the
24 amount of fees and costs determined by the Court. These terms regarding fees and costs were
25 negotiated and agreed to by the Parties only after full agreement was reached as to all other material
26 terms.

27
28

1 62. Any Attorneys' Fees and Costs Award, as awarded by the Court, shall be payable
2 by Meta, as ordered, within the later of (a) thirty (30) calendar days after the Effective Date, or
3 (b) ten (10) Business Days after Class Counsel, following the Effective Date, has transmitted to
4 Meta instructions for payment.

5 63. Class Counsel shall have the sole and absolute discretion to allocate the Attorneys'
6 Fees and Costs Award amongst Class Counsel and any other attorneys. Meta shall have no liability
7 or other responsibility for allocation of any such Attorneys' Fees and Costs awarded. The amount
8 ordered by the Court shall be the sole monetary obligation paid by Meta pursuant to this Settlement
9 Agreement, and in no event shall Meta be obligated to pay any amount in excess of \$1,089,000.

10 64. The Parties agree that the Class Representatives may apply to the Court for a
11 Service Award to each of the Class Representatives, each of which shall not exceed \$1,500, for
12 their services as class representatives. The Parties agree that the decision whether or not to award
13 any such payment, and the amount of that payment, rests in the exclusive discretion of the Court.
14 Meta agrees to pay the amount determined by the Court. Class Representatives understand and
15 acknowledge that they may receive no monetary payment, and their agreement to the Settlement
16 is not conditioned on the possibility of receiving monetary payment. Any Service Awards, as
17 awarded by the Court, shall be payable by Meta as ordered, within the later of (a) thirty (30)
18 calendar days after the Effective Date, or (b) ten (10) Business Days after Class Counsel, following
19 the Effective Date, has transmitted to Meta instructions for payment.

20 **IX. MODIFICATION OR TERMINATION OF SETTLEMENT AGREEMENT AND**
21 **META'S RESERVATION OF RIGHTS**

22 65. This Settlement Agreement may be amended or modified only by a written
23 instrument signed by or on behalf of all Parties or their respective successors-in-interest and
24 approval of the Court; provided, however that, after entry of the Final Approval Order and Final
25 Judgment, the Parties may by written agreement effect such amendments, modifications, or
26 expansions of this Settlement Agreement and its implementing documents (including all
27 Exhibits hereto) without further approval by the Court if such changes are consistent with the
28

1 Court's Final Approval Order and Final Judgment and do not materially alter, reduce, or limit the
2 rights of Settlement Class Members under this Settlement Agreement.

3 66. This Settlement Agreement and any Exhibits attached hereto constitute the entire
4 agreement among the Parties, and no representations, warranties, or inducements have been made
5 to any Party concerning this Settlement Agreement or its Exhibits other than the representations,
6 warranties, and covenants covered and memorialized in such documents.

7 67. In the event the terms or conditions of this Settlement Agreement are materially
8 modified by any court, any Party in its sole discretion to be exercised within thirty (30) days after
9 such modification may declare this Settlement Agreement null and void. For purposes of this
10 Paragraph, modifications include any modifications to the definitions of the Settlement Class,
11 Settlement Class Members, Released Parties, or Released Claims, any modifications to the terms
12 of the Settlement consideration described in Paragraph 49 and/or any requirement of notice to the
13 Settlement Class. In the event of any material modification by any court, and in the event the
14 Parties do not exercise their unilateral option to withdraw from this Settlement Agreement pursuant
15 to this Paragraph, the Parties shall meet and confer within seven (7) days of such ruling to attempt
16 to reach an agreement as to how best to effectuate the court-ordered modification.

17 68. In the event that a Party exercises his/her/its option to withdraw from and terminate
18 this Settlement Agreement pursuant to Paragraph 67, then the Settlement proposed herein shall
19 become null and void and shall have no force or effect, the Parties shall not be bound by this
20 Settlement Agreement, and the Parties will be returned to their respective positions existing on
21 March 3, 2022.

22 69. If this Settlement Agreement is not approved by the Court or the Settlement
23 Agreement is terminated or fails to become effective in accordance with the terms of this
24 Settlement Agreement, the Parties will be restored to their respective positions in the Action on
25 March 3, 2022. In such event, the terms and provisions of this Settlement Agreement and the
26 memorandum of understanding will have no further force and effect with respect to the Parties and
27 will not be used in this Action or in any other proceeding for any purpose, and any Judgment or
28

1 order entered by the Court in accordance with the terms of this Settlement Agreement will be
2 treated as vacated.

3 70. The procedure for and the allowance or disallowance by the Court of any
4 application for attorneys' fees, costs, expenses, and/or reimbursement to be paid to Class Counsel,
5 and the procedure for any payment to Class Representatives, are not part of the settlement of the
6 Released Claims as set forth in this Settlement Agreement, and are to be considered by the Court
7 separately from the Court's consideration of the fairness, reasonableness, and adequacy of the
8 settlement of the Released Claims as set forth in this Settlement Agreement. Any such separate
9 order, finding, ruling, holding, or proceeding relating to any such applications for Attorneys' Fees
10 and Costs and/or payment to Class Representatives, or any separate appeal from any separate
11 order, finding, ruling, holding, or proceeding relating to them or reversal or modification of them,
12 shall not operate to terminate or cancel this Settlement Agreement or otherwise affect or delay the
13 finality of the Final Approval Order and Final Judgment approving the Settlement. The terms of
14 this Agreement relating to the Attorneys' Fees and Costs Award and Service Awards were
15 negotiated and agreed to by the Parties only after full agreement was reached as to all other material
16 terms of the proposed Settlement, including, but not limited to, any terms relating to the relief to
17 the Settlement Class.

18 71. Meta denies the material factual allegations and legal claims asserted in the Action,
19 including any and all charges of wrongdoing or liability arising out of any of the conduct,
20 statements, acts or omissions alleged in the Action. Similarly, this Settlement Agreement provides
21 for no admission of wrongdoing or liability by any of the Released Parties. This Settlement is
22 entered into solely to eliminate the uncertainties, burdens, and expenses of protracted litigation.
23 For the avoidance of doubt, Meta does not acknowledge the propriety of certifying the Settlement
24 Class for any purpose other than to effectuate the Settlement of the Action. If this Settlement
25 Agreement is terminated pursuant to its terms, or the Effective Date for any reason does not occur,
26 Meta does not waive, but rather expressly retains and reserves, all rights it had prior to the
27 execution of this Settlement Agreement to challenge all claims and allegations in the Action upon
28

1 all procedural and factual grounds, including, without limitation, the right to challenge the
2 certifiability of any class claims certified in the Action, and to assert any and all other potential
3 defenses or privileges that were available to it at that time, including but not limited to challenging
4 the Court's subject matter jurisdiction over any claims asserted in the Action. Meta's agreement
5 to this Settlement does not constitute an admission that certification is appropriate outside of the
6 context of this Settlement. The Settlement Class Representatives and Class Counsel agree that
7 Meta retains and reserves these rights, and agree not to take a position to the contrary. Class
8 Counsel shall not refer to or invoke Meta's decision to accept the certified class for purposes of
9 settlement if the Effective Date does not occur and the Action is later litigated and certification is
10 contested by Meta under Rule 23 of the Federal Rules of Civil Procedure.

11 **X. MISCELLANEOUS PROVISIONS**

12 72. The Parties intend the Settlement Agreement to be a final and complete resolution
13 of all disputes between them with respect to the Action. The Settlement Agreement compromises
14 claims that are contested and will not be deemed an admission by Meta or Class Representatives
15 as to the merits of any claim or defense.

16 73. Unless otherwise specifically provided herein, all notices, demands, or other
17 communications given hereunder shall be sent by email and First Class mail to the following:

18 To Class Representatives and the Settlement Class:

19 L. Timothy Fisher
20 ltfisher@bursor.com
21 Neal J. Deckant
22 ndeckant@bursor.com
23 Bursor & Fisher, P.A.
24 1990 N. California Blvd.
25 Walnut Creek, CA 94596

24 To Counsel for Meta:

25 Elizabeth L. Deeley
26 elizabeth.deeley@lw.com
27 Nicole C. Valco
28 nicole.valco@lw.com
Latham & Watkins LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111

1 74. All of the Exhibits to this Agreement are an integral part of the Settlement and are
2 incorporated by reference as though fully set forth herein.

3 75. The Parties agree that the recitals are contractual in nature and form a material part
4 of this Settlement Agreement.

5 76. No extrinsic evidence or parol evidence shall be used to interpret, explain, construe,
6 contradict, or clarify this Agreement, its terms, the intent of the Parties or their counsel, or the
7 circumstances under which this Settlement Agreement was made or executed. This Settlement
8 Agreement supersedes all prior negotiations and agreements. The Parties expressly agree that the
9 terms and conditions of this Settlement Agreement will control over any other written or oral
10 agreements.

11 77. Unless otherwise noted, all references to “days” in this Agreement shall be to
12 calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or
13 federal legal holiday, such date or deadline shall be on the first Business Day thereafter.

14 78. The Settlement Agreement, the Settlement, all documents, orders, and other
15 evidence relating to the Settlement, the fact of their existence, any of their terms, any press release
16 or other statement or report by the Parties or by others concerning the Settlement Agreement, the
17 Settlement, their existence, or their terms, any negotiations, proceedings, acts performed, or
18 documents drafted or executed pursuant to or in furtherance of the Settlement Agreement or the
19 Settlement shall not be offered, received, deemed to be, used as, construed as, and do not constitute
20 a presumption, concession, admission, or evidence of (i) the validity of any Released Claims or of
21 any liability, culpability, negligence, or wrongdoing on the part of the Released Parties; (ii) the
22 Court’s subject matter jurisdiction over any Released Claims; (iii) any fact alleged, defense
23 asserted, or any fault, misrepresentation, or omission by the Released Parties; (iv) the propriety of
24 certifying a litigation class or any decision by any court regarding the certification of a class, and/or
25 (v) whether the consideration to be given in this Settlement Agreement represents the relief that
26 could or would have been obtained through trial in the Action, in any trial, civil, criminal,
27

28

1 administrative, or other proceeding of the Action or any other action or proceeding in any court,
2 administrative agency, or other tribunal.

3 79. The Parties to this Action or any other Released Parties shall have the right to file
4 the Settlement Agreement and/or the Final Approval Order and Final Judgment in any action that
5 may be brought against them in order to support a defense or counterclaim based on principles of
6 res judicata, collateral estoppel, release, good-faith settlement, judgment bar, reduction, or any
7 other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

8 80. The Parties agree that the consideration provided to the Settlement Class and the
9 other terms of the Settlement Agreement were negotiated at arm's length, in good faith by the
10 Parties, and reflect a settlement that was reached voluntarily, after consultation with competent
11 legal counsel, and with the assistance of an independent, neutral mediator.

12 81. The Class Representatives and Class Counsel have concluded that the Settlement
13 set forth herein constitutes a fair, reasonable, and adequate resolution of the claims that the Class
14 Representatives asserted against Meta, including the claims on behalf of the Settlement Class, and
15 that it promotes the best interests of the Settlement Class.

16 82. To the extent permitted by law, all agreements made and orders entered during the
17 course of the Action relating to the confidentiality of information shall survive this Settlement
18 Agreement.

19 83. The waiver by one Party of any breach of this Settlement Agreement by any other
20 Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement
21 Agreement.

22 84. This Settlement Agreement may be executed in counterparts, each of which shall
23 be deemed an original and all of which, when taken together, shall constitute one and the same
24 instrument. Signatures submitted by email or facsimile shall also be considered originals. The
25 date of execution shall be the latest date on which any Party signs this Settlement Agreement.

26
27
28

1 85. The Parties hereto and their respective counsel agree that they will use their best
2 efforts to obtain all necessary approvals of the Court required by this Settlement Agreement,
3 including to obtain a Final Approval Order and Final Judgment approving the Settlement.

4 86. This Settlement Agreement shall be binding upon and shall inure to the benefit of
5 the successors and assigns of the Parties hereto, including any and all Released Parties and any
6 corporation, partnership, or other entity into or with which any Party hereto may merge,
7 consolidate, or reorganize, each of which is entitled to enforce this Settlement Agreement.

8 87. This Settlement Agreement was jointly drafted by the Parties. Class
9 Representatives, Settlement Class Members, and/or Meta shall not be deemed to be the drafters of
10 this Settlement Agreement or of any particular provision, nor shall they argue that any particular
11 provision should be construed against its drafter or otherwise resort to the *contra proferentem*
12 canon of construction. Accordingly, this Settlement Agreement should not be construed in favor
13 of or against one Party as to the drafter, and the Parties agree that the provisions of California Civil
14 Code § 1654 and common law principles of construing ambiguities against the drafter shall have
15 no application.

16 88. Any and all Exhibits to this Settlement Agreement, which are identified in the
17 Settlement Agreement and attached hereto, are material and integral parts hereof and are fully
18 incorporated herein by this reference.

19 89. This Settlement Agreement shall be governed by and construed in accordance with
20 the laws of the State of California, without regard to choice of law principles.

21 90. The headings used in this Settlement Agreement are inserted merely for the
22 convenience of the reader, and shall not affect the meaning or interpretation of this Settlement
23 Agreement.

24 91. In construing this Settlement Agreement, the use of the singular includes the plural
25 (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

26 92. Class Representatives and Class Counsel will not issue any press release or
27 communicate with the media regarding the Settlement or the Action without prior approval of
28

1 Meta. However, if Class Representatives or Class Counsel receive an inquiry from any third party
2 (excluding Settlement Class Members who identify themselves as such), they may only make
3 affirmative statements relating to the Settlement as follows: “The parties have reached a mutually
4 agreeable resolution to a disputed set of class claims that is fair, adequate, and reasonable.” Class
5 Counsel reserves all rights to communicate with individual members of the Settlement Class to
6 assist them in understanding the Settlement and nothing herein shall be construed as restricting
7 those rights and responsibilities. Similarly, nothing in this Agreement will affect Meta’s right to
8 communicate with individual members of the Settlement Class relating to matters other than the
9 Action or the proposed Settlement.

10 93. The provision of the confidentiality agreement entered into with respect to the
11 mediation process concerning this matter is waived for the limited purpose of permitting the Parties
12 to confirm the details of the mediation process that are included in this Agreement.

13 94. The Class Representatives further acknowledge, agree, and understand that: (i) each
14 has read and understands the terms of this Agreement; (ii) each has been advised in writing to
15 consult with an attorney before executing this Agreement; and (iii) each has obtained and
16 considered such legal counsel as he deems necessary.

17 95. All of the Parties warrant and represent that they are agreeing to the terms of this
18 Settlement Agreement based upon the legal advice of their respective attorneys, that they have
19 been afforded the opportunity to discuss the contents of this Settlement Agreement with their
20 attorneys, and that the terms and conditions of this document are fully understood and voluntarily
21 accepted.

22 96. Each Party to this Settlement Agreement warrants that he or it is acting upon his or
23 its independent judgment and upon the advice of his or its counsel, and not in reliance upon any
24 warranty or representation, express or implied, of any nature or any kind by any other Party, other
25 than the warranties and representations expressly made in this Settlement Agreement.

26 97. Each Counsel or other person executing this Settlement Agreement or any of its
27 Exhibits on behalf of any Party hereby warrants that such person has the full authority to do so.

28

1 Class Counsel, on behalf of the Settlement Class, is expressly authorized by the Class
2 Representatives to take all appropriate action required or permitted to be taken by the Settlement
3 Class pursuant to this Settlement Agreement to effectuate its terms, and is expressly authorized to
4 enter into any modifications or amendments to this Settlement Agreement on behalf of the
5 Settlement Class that Class Counsel and Class Representatives deem appropriate.

6 [Signature page follows]
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have
2 duly executed this Settlement Agreement as of the date set forth below.
3

4
5 PLAINTIFFS

6 Dated: May 11, 2022

7 By: *Lawrence D. Olin*
Lawrence D. Olin (May 11, 2022 11:34 EDT)
Lawrence Olin

8 Dated: _____, 2022

9 By: _____
Harold Nyanjom

10 Dated: _____, 2022

11 By: _____
Sheron Smith-Jackson

12 Dated: _____, 2022

13 By: _____
Janice Vega-Latker

14 Dated: _____, 2022

15 By: _____
Marc Boehm

16 Dated: _____, 2022

17 By: _____
Raven Winham

18 Dated: _____, 2022

19 META PLATFORMS, INC.
20 By: _____

21 Dated: _____, 2022

22 COUNSEL TO META PLATFORMS, INC.
23 By: _____

24 Dated: _____, 2022

25 COUNSEL TO PLAINTIFFS
26 By: _____
27 Neal J. Deckant, Bursor & Fisher, P.A.
28

1 IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have
2 duly executed this Settlement Agreement as of the date set forth below.
3

4
5 PLAINTIFFS

6 Dated: _____, 2022

7 By: _____
Lawrence Olin

8 Dated: May 9, 2022

9 By: 
Harold M. Nyanjom (May 9, 2022 11:39 CDT)
Harold Nyanjom

10 Dated: _____, 2022

11 By: _____
Sheron Smith-Jackson

12 Dated: _____, 2022

13 By: _____
Janice Vega-Latker

14 Dated: _____, 2022

15 By: _____
Marc Boehm

16 Dated: _____, 2022

17 By: _____
Raven Winham

18 Dated: _____, 2022

19 META PLATFORMS, INC.

20 By: _____

21 Dated: _____, 2022

22 COUNSEL TO META PLATFORMS, INC.

23 By: _____

24 COUNSEL TO PLAINTIFFS

25 Dated: _____, 2022

26 By: _____
Neal J. Deckant, Bursor & Fisher, P.A.

1 IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have
2 duly executed this Settlement Agreement as of the date set forth below.
3

4
5 PLAINTIFFS

6 Dated: _____, 2022

7 By: _____
Lawrence Olin

8 Dated: _____, 2022

9 By: _____
Harold Nyanjom

10 Dated: May 9, 2022

11 By: *sheron smith-Jackson*
sheron smith-Jackson (May 9, 2022 18:26 CDT)
Sheron Smith-Jackson

12 Dated: _____, 2022

13 By: _____
Janice Vega-Latker

14 Dated: _____, 2022

15 By: _____
Marc Boehm

16 Dated: _____, 2022

17 By: _____
Raven Winham

18 Dated: _____, 2022

19 META PLATFORMS, INC.

20 By: _____

21 Dated: _____, 2022

22 COUNSEL TO META PLATFORMS, INC.

23 By: _____

24 COUNSEL TO PLAINTIFFS

25 Dated: _____, 2022

26 By: _____
Neal J. Deckant, Bursor & Fisher, P.A.

1 IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have
2 duly executed this Settlement Agreement as of the date set forth below.
3

4
5 PLAINTIFFS

6 Dated: _____, 2022

7 By: _____
Lawrence Olin

8 Dated: _____, 2022

9 By: _____
Harold Nyanjom

10 Dated: _____, 2022

11 By: _____
Sheron Smith-Jackson

12 Dated: May 9, 2022

13 By: Janice Latker
Janice Vega-Latker

14 Dated: _____, 2022

15 By: _____
Marc Boehm

16 Dated: _____, 2022

17 By: _____
Raven Winham

18 Dated: _____, 2022

19 META PLATFORMS, INC.

20 By: _____

21 Dated: _____, 2022

22 COUNSEL TO META PLATFORMS, INC.

23 By: _____

24 COUNSEL TO PLAINTIFFS

25 Dated: _____, 2022

26 By: _____
Neal J. Deckant, Bursor & Fisher, P.A.

1 IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have
2 duly executed this Settlement Agreement as of the date set forth below.
3

4
5 PLAINTIFFS

6 Dated: _____, 2022

7 By: _____
Lawrence Olin

8 Dated: _____, 2022

9 By: _____
Harold Nyanjom

10 Dated: _____, 2022

11 By: _____
Sheron Smith-Jackson

12 Dated: _____, 2022

13 By: _____
Janice Vega-Latker

14 Dated: May 13, 2022

15 By: *Marc Boehm*
Marc Boehm (May 13, 2022 10:12 PDT)
Marc Boehm

16 Dated: _____, 2022

17 By: _____
Raven Winham

18 Dated: _____, 2022

19 META PLATFORMS, INC.

20 By: _____

21 Dated: _____, 2022

22 COUNSEL TO META PLATFORMS, INC.

23 By: _____

24 COUNSEL TO PLAINTIFFS

25 Dated: _____, 2022

26 By: _____
Neal J. Deckant, Bursor & Fisher, P.A.

1 IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have
2 duly executed this Settlement Agreement as of the date set forth below.
3

4
5 PLAINTIFFS

6 Dated: _____, 2022

7 By: _____
Lawrence Olin

8 Dated: _____, 2022

9 By: _____
Harold Nyanjom

10 Dated: _____, 2022

11 By: _____
Sheron Smith-Jackson

12 Dated: _____, 2022

13 By: _____
Janice Vega-Latker

14 Dated: _____, 2022

15 By: _____
Marc Boehm

16 Dated: May 12, 2022

17 By: 
Raven Winham (May 12, 2022 07:24 PDT)
Raven Winham

18 Dated: _____, 2022

19 META PLATFORMS, INC.

20 By: _____

21 Dated: _____, 2022

22 COUNSEL TO META PLATFORMS, INC.

23 By: _____

24 COUNSEL TO PLAINTIFFS

25 Dated: _____, 2022

26 By: _____
Neal J. Deckant, Bursor & Fisher, P.A.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have
duly executed this Settlement Agreement as of the date set forth below.

PLAINTIFFS

Dated: _____, 2022

By: _____
Lawrence Olin

Dated: _____, 2022

By: _____
Harold Nyanjom

Dated: _____, 2022

By: _____
Sheron Smith-Jackson

Dated: _____, 2022

By: _____
Janice Vega-Latker

Dated: _____, 2022

By: _____
Marc Boehm

Dated: _____, 2022

By: _____
Raven Winham

Dated: May 10, 2022 , 2022

META PLATFORMS, INC.

By: *Nikki Stitt Sokol*
Nikki Stitt Sokol (May 10, 2022 08:36 PDT)

Dated: _____ , 2022

COUNSEL TO META PLATFORMS, INC.

By: _____

COUNSEL TO PLAINTIFFS

Dated: _____, 2022

By: _____
Neal J. Deckant, Bursor & Fisher,

P.A.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have
duly executed this Settlement Agreement as of the date set forth below.

PLAINTIFFS

Dated: _____, 2022

By: _____
Lawrence Olin

Dated: _____, 2022

By: _____
Harold Nyanjom

Dated: _____, 2022

By: _____
Sheron Smith-Jackson

Dated: _____, 2022

By: _____
Janice Vega-Latker

Dated: _____, 2022

By: _____
Marc Boehm

Dated: _____, 2022

By: _____
Raven Winham

Dated: _____, 2022

META PLATFORMS, INC.

By: _____

Dated: May 12, 2022

COUNSEL TO META PLATFORMS, INC.

By:  _____

Dated: May 12, 2022

COUNSEL TO PLAINTIFFS


By:  _____
Neal J. Deckant, Bursor & Fisher, P.A.

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

LAWRENCE OLIN, HAROLD NYANJOM,
SHERON SMITH-JACKSON, JANICE
VEGA-LATKER, MARC BOEHM, and
RAVEN WINHAM, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No. 3:18-cv-01881-RS (TSH)

**[PROPOSED] FINAL ORDER
AND JUDGMENT**

1 The Court has considered the Class Action Settlement Agreement (“Settlement
2 Agreement”) between Plaintiffs Lawrence Olin, Harold Nyanjom, Sheron Smith-Jackson, Janice
3 Vega-Latker, Marc Boehm, and Raven Winham (“Plaintiffs”) and Defendant Facebook, Inc., now
4 known as Meta Platforms, Inc. (“Defendant” or “Meta”), dated ____, 2022, the motion for an
5 order finally approving the Settlement Agreement, the record in this Action, the arguments and
6 recommendations made by counsel, and the requirements of the law. The Court finds and orders
7 as follows:

8 **I. FINAL APPROVAL OF THE SETTLEMENT AGREEMENT**

9 1. The Settlement Agreement is approved under Rule 23 of the Federal Rules of Civil
10 Procedure. The Court finds that the Settlement Agreement and the Settlement it incorporates
11 appear fair, reasonable, and adequate, and its terms are within the range of reasonableness. The
12 Settlement Agreement was entered into at arm’s-length by experienced counsel after extensive
13 negotiations spanning months, including with the assistance of a third-party mediator. The Court
14 finds that the Settlement Agreement is not the result of collusion.

15 **II. DEFINED TERMS**

16 2. For the purposes of this Final Approval Order and Final Judgment (“Order”), the
17 Court adopts all defined terms as set forth in the Settlement Agreement.

18 **III. NO ADMISSIONS AND NO EVIDENCE**

19 3. This Order, the Settlement Agreement, the Settlement provided for therein, and
20 any proceedings taken pursuant thereto, are not, and should not in any event be offered, received,
21 or construed as evidence of, a presumption, concession, or an admission by any Party or any of
22 the Released Parties of wrongdoing, to establish a violation of any law or duty, an admission that
23 any of the practices at issue violate any laws or require any disclosures, any liability or non-
24 liability, the certifiability or non-certifiability of a litigation class in this case, or any
25 misrepresentation or omission in any statement or written document approved or made by any
26 Party.

1 **IV. JURISDICTION**

2 4. For the purposes of the Settlement of the Action, the Court finds it has subject
3 matter and personal jurisdiction over the Parties, including all Settlement Class Members, and
4 venue is proper.

5 **V. CLASS CERTIFICATION OF RULE 23(B)(2) CLASS FOR SETTLEMENT**
6 **PURPOSES ONLY**

7 5. The Court finds and concludes that, for the purposes of approving this Settlement
8 only, the proposed Rule 23(b)(2) Settlement Class meets the requirements for certification under
9 Rule 23 of the Federal Rules of Civil Procedure: (a) the Settlement Class is so numerous that
10 joinder of all members is impracticable; (b) there are questions of law or fact common to the
11 Settlement Class; (c) the claims or defenses of the Settlement Class Representatives are typical of
12 the claims or defenses of the Settlement Class; (d) Settlement Class Representatives and Class
13 Counsel will fairly and adequately protect the interests of the Settlement Class because Settlement
14 Class Representatives have no interests antagonistic to the Settlement Class, and have retained
15 counsel who are experienced and competent to prosecute this matter on behalf of the Settlement
16 Class; and (e) the Defendant has acted on grounds that apply generally to the Settlement Class, so
17 that final injunctive relief is appropriate respecting the Settlement Class as a whole.

18 6. The Settlement Agreement was reached after extensive investigation and motion
19 practice in the Action, and was the result of protracted negotiations conducted by the Parties, over
20 the course of several months, including with the assistance of a neutral mediator. Settlement
21 Class Representatives and Class Counsel maintain that the Action and the claims asserted therein
22 are meritorious and that Settlement Class Representatives and the Class would have prevailed at
23 trial. Defendant denies the material factual allegations and legal claims asserted by Settlement
24 Class Representatives in this Action, maintains that a class would not be certifiable under any
25 Rule, and that the Settlement Class Representatives and Class Members would not prevail at trial.
26 Notwithstanding the foregoing, the Parties have agreed to settle the Action pursuant to the
27 provisions of the Settlement Agreement, after considering, among other things: (a) the benefits to
28

1 the Settlement Class Representatives and the Settlement Class under the terms of the Settlement
2 Agreement; (b) the uncertainty of being able to prevail at trial; (c) the uncertainty relating to
3 Defendant’s defenses and the expense of additional motion practice in connection therewith;
4 (d) obstacles to establishing entitlement to class-wide relief; (e) the attendant risks of litigation,
5 especially in complex actions such as this, as well as the difficulties and delays inherent in such
6 litigation and appeals; and (f) the desirability of consummating the Settlement promptly in order
7 to provide effective relief to the Settlement Class Representatives and the Settlement Class.

8 7. The Court accordingly certifies, for settlement purposes only, a class under Rule
9 23(b)(2), consisting of all persons in the United States who installed the Facebook Messenger and
10 Facebook Lite apps for Android, and granted Meta permission to access their contacts. Excluded
11 from the Settlement Class are (i) all Persons who are directors, officers, and agents of Meta or its
12 subsidiaries and affiliated companies or are designated by Meta as employees of Meta or its
13 subsidiaries and affiliated companies; and (ii) the Court, the Court’s immediate family, and Court
14 staff, as well as any appellate court to which this matter is ever assigned, and its immediate family
15 and staff.

16 **VI. NOTICE**

17 8. Notice of the settlement is not required here. *See* Fed. R. Civ. P. 23(c)(2)(A)
18 (stating that under Rule 23(b)(2) the court “*may* direct appropriate notice to the class”) (emphasis
19 added). The Court finds that notice also is not required because the Settlement Agreement only
20 releases claims for injunctive and/or declaratory relief and does not release the monetary or
21 damages claims of the Class, and thus the settlement expressly preserves the individual
22 rights of class members to pursue monetary claims against the defendant. *See, e.g., Stathakos v.*
23 *Columbia Sportswear Co., et al.*, 2018 WL 582564, at *3-4 (N.D. Cal. Jan. 25, 2018); *Lilly v.*
24 *Jamba Juice Co.*, 2015 WL 1248027, at *8-9 (N.D. Cal. Mar. 18, 2015); *Kim v. Space Pencil,*
25 *Inc.*, 2012 WL 5948951, at *4, 17 (N.D. Cal. Nov. 28, 2012). Nonetheless, pursuant to the
26 Settlement Agreement, all documents pertaining to the Settlement, preliminary approval, and
27

28

1 final approval (including Plaintiffs’ motion for attorneys’ fees and incentive awards and any
2 opposition or reply papers thereto), were posted on Class Counsel’s public website.

3 **VII. CLAIMS COVERED AND RELEASES**

4 9. This Order constitutes a full, final and binding resolution between the Class
5 Representatives’ Releasing Parties, on behalf of themselves and the Settlement Class Members,
6 and the Released Parties. This Release shall be applied to the maximum extent permitted by law.

7 10. Upon the Effective Date and by operation of this Order, the Settlement Class
8 Representatives’ Releasing Parties will fully, finally, and forever release, relinquish, and
9 discharge any and all Settlement Class Representatives’ Released Claims, including claims for
10 monetary relief and damages, known and unknown, as well as provide a waiver under California
11 Civil Code Section 1542. Settlement Class Representatives’ Releasing Parties are forever
12 enjoined from taking any action seeking any relief against the Released Parties based on any
13 Settlement Class Representatives’ Released Claims.

14 11. Upon the Effective Date and by operation of this Order, the Releasing Parties will
15 fully, finally, and forever release, relinquish, and discharge the Settlement Class Members’
16 Released Claims (as well as provide a waiver under California Civil Code Section 1542),
17 including any and all claims for injunctive and/or declaratory relief of any kind or character, at
18 law or equity, known or unknown, preliminary or final, under Federal Rule of Civil Procedure
19 23(b)(2) or any other federal or state law or rule of procedure, from the Releasing Parties’ first
20 interaction with Meta up until and including the Effective Date, that result from, arise out of, are
21 based on, or relate in any way to the practices and claims that were alleged in the Action, except
22 that, notwithstanding the foregoing, the Releasing Parties do not release claims for monetary
23 relief or damages. The Releasing Parties are forever enjoined from taking any action seeking
24 injunctive and/or declaratory relief against the Released Parties based on any Settlement Class
25 Members’ Released Claims.

26 12. Upon the Effective Date and by operation of this Order, Meta will fully, finally,
27 and forever release, relinquish, and discharge any and all Meta’s Released Claims against the
28

1 Settlement Class Representatives' Releasing Parties, from the Settlement Class Representatives'
2 first interaction with Meta up until and including the Effective Date, that result from, arise out of,
3 are based on, or relate in any way to the practices and claims that were alleged in the Action.
4 Meta is forever enjoined from taking any action seeking any relief against the Settlement Class
5 Representatives' Releasing Parties based on any of Meta's Released Claims.

6 13. The Settlement Agreement and this Order shall be the exclusive remedy for any
7 and all Released Claims of the Settlement Class Representatives, Settlement Class Members, and
8 Meta.

9 **VIII. INJUNCTIVE RELIEF**

10 14. Meta shall delete all Call and Text History Data uploaded from persons in the
11 United States through the Facebook Messenger or Facebook Lite apps for Android devices that
12 Meta is not otherwise legally obligated to preserve by jurisdictions outside of the United States
13 within 45 days of the effective date (which shall be seven (7) days after the final settlement
14 approval order and final judgment have been entered and become Final). Any data retained
15 because of continuing legal obligations will be quarantined in access-controlled data warehouse
16 tables that are segregated from any systems used or accessed in the ordinary course of Meta's
17 business, and access to this data is limited to Meta's Legal team. Any such data will be preserved
18 and used solely in connection with any legal obligations and not for any business use, and Meta
19 will delete all such data within 45 days of the expiration of any legal obligation to preserve it.

20 **IX. ATTORNEYS' FEES AND EXPENSES AND INCENTIVE AWARDS**

21 15. The Court's decision regarding the payment of attorneys' fees and expenses to
22 Class Counsel and incentive awards to the Settlement Class Representatives is addressed in a
23 separate order.

24 **X. AUTHORIZATION TO PARTIES TO IMPLEMENT AGREEMENT AND**
25 **MODIFICATIONS OF AGREEMENT**

26 16. By this Order, the Parties are hereby authorized to implement the terms of the
27 Settlement Agreement. After the date of entry of this Order, the Parties may by written
28

1 agreement effect such amendments, modifications, or expansions of the Settlement Agreement
2 and its implementing documents (including all exhibits thereto) without further approval by the
3 Court if such changes are consistent with terms of this Order and do not materially alter, reduce,
4 or limit the rights of Settlement Class Members under the Settlement Agreement.

5 **XI. TERMINATION**

6 17. In the event that the Settlement Agreement is terminated pursuant to the terms of
7 the Settlement Agreement, (a) the Settlement Agreement and this Order shall become void, shall
8 have no further force or effect, and shall not be used in any action or other proceedings for any
9 purpose other than as may be necessary to enforce the terms of the Settlement Agreement that
10 survive termination; (b) this matter will revert to the status that existed before execution of the
11 Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the
12 Parties' settlement discussions, negotiations, or documentation (including any briefs filed in
13 support of preliminary or final approval of the Settlement) shall (i) be admissible into evidence
14 for any purpose in any action or other proceeding other than as may be necessary to enforce the
15 terms of the Settlement Agreement that survive termination, (ii) be deemed an admission or
16 concession by any Party regarding the validity of any Released Claim or the propriety of
17 certifying any class against Meta, or (iii) be deemed an admission or concession by any Party
18 regarding the truth or falsity of any facts alleged in the Action or the availability or lack of
19 availability of any defense to the Released Claims.

20 **XII. RETENTION OF JURISDICTION**

21 18. The Court shall retain jurisdiction over any claim relating to the Settlement
22 Agreement (including all claims for enforcement of the Settlement Agreement and/or all claims
23 arising out of a breach of the Settlement Agreement) as well as any future claims by any
24 Settlement Class Member relating in any way to the Released Claims.

25 **XIII. FINAL JUDGMENT AND DISMISSAL WITH PREJUDICE**

26 19. By operation of this Order, this Action is hereby dismissed with prejudice.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: _____

Hon. Richard Seeborg
Chief United States Magistrate Judge

EXHIBIT B

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

LAWRENCE OLIN, HAROLD NYANJOM,
SHERON SMITH-JACKSON, JANICE
VEGA-LATKER, MARC BOEHM, and
RAVEN WINHAM, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No. 3:18-cv-01881-RS (TSH)

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT AGREEMENT**

1 Before the Court is the Motion for Preliminary Approval of Class Settlement
2 Agreement (“Motion”), filed by Plaintiffs Lawrence Olin, Harold Nyanjom, Sheron Smith-
3 Jackson, Janice Vega-Latker, Marc Boehm, and Raven Winham (“Plaintiffs”). Plaintiffs and
4 Defendant Facebook, Inc., now known as Meta Platforms, Inc. (“Defendant” or “Meta”), have
5 entered into a Class Settlement Agreement, dated _____, 2022 (“Settlement Agreement”).
6 Having thoroughly reviewed the Settlement Agreement and exhibits thereto, the Motion, and
7 the papers and arguments in connection therewith, and good cause appearing, the Court hereby
8 ORDERS as follows:

9 1. Capitalized terms not otherwise defined herein have the meanings set forth in
10 the Settlement Agreement.

11 2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C.
12 § 1332(d), and has personal jurisdiction over the Parties and the Settlement Class Members.
13 Venue is proper in this District.

14 3. The Motion is GRANTED.

15 4. The Court hereby preliminarily approves the Settlement Agreement and the
16 terms embodied therein pursuant to Fed. R. Civ. P. 23(e)(1). The Court finds that it will likely
17 be able to approve the Settlement Agreement under Fed. R. Civ. P. 23(e)(2) and to certify the
18 Settlement Class for purposes of judgment on the proposed Settlement. The Court
19 preliminarily finds that the Settlement Agreement is fair, reasonable, and adequate as to the
20 Settlement Class Members under the relevant considerations. The Court finds that the
21 Settlement Class Representatives and Interim Class Counsel have adequately represented, and
22 will continue to adequately represent, the Settlement Class. The Court further finds that the
23 Settlement Agreement is the product of arms’ length negotiations by the Parties through the use
24 of an experienced mediator, Judge Wayne R. Andersen (Ret.) of JAMS Chicago, and an
25 additional eight months of extensive settlement discussions. The Court preliminarily finds that
26 the relief provided is adequate taking into account, *inter alia*, the costs, risks, and delay of trial
27 and appeal, and the alleged harm to Settlement Class Members. The Court preliminarily finds
28

1 that the Settlement Agreement treats the Settlement Class Members equitably relative to each
2 other.

3 5. The Court hereby provisionally certifies, for settlement purposes only, a
4 “Settlement Class,” pursuant to Fed. R. Civ. P. 23(a) and 23(b)(2), consisting of:

5 All persons in the United States who installed the Facebook
6 Messenger and Facebook Lite apps for Android, and granted Meta
7 permission to access their contacts.

8 6. The Court finds that for settlement purposes only, the Settlement Class, as
9 defined above, meets the requirements for class certification under Fed. R. Civ. P. 23(a) and
10 23(b)(2)—namely, that (1) the Settlement Class Members are sufficiently numerous such that
11 joinder is impracticable; (2) there are common questions of law and fact; (3) the Settlement
12 Class Representatives’ claims are typical of those of the Settlement Class Members; (4) the
13 Settlement Class Representatives and Interim Class Counsel have adequately represented, and
14 will continue to adequately represent, the interests of the Settlement Class Members; and (5)
15 for purposes of settlement, the Settlement Class meets the predominance and superiority
16 requirements of Fed. R. Civ. P. 23(b).

17 7. Certification of the Settlement Class shall be solely for settlement purposes,
18 without prejudice to the Parties, and with no other effect upon the Action. In the event the
19 Settlement Agreement is not finally approved by this Court or otherwise does not take effect,
20 the Parties preserve all rights and defenses regarding class certification.

21 8. The Court hereby appoints Plaintiffs Lawrence Olin, Harold Nyanjom, Sheron
22 Smith-Jackson, Janice Vega-Latker, Marc Boehm, and Raven Winham as Class
23 Representatives to represent the Settlement Class.

24 9. The Court hereby appoints the law firm of Bursor & Fisher, P.A. as Class
25 Counsel for the Settlement Class.

26 10. Notice of the settlement is not required here. *See* Fed. R. Civ. P. 23(c)(2)(A)
27 (stating that under Rule 23(b)(2) the court “*may* direct appropriate notice to the class”)
28 (emphasis added). The Court finds that notice also is not required because the Settlement

1 Agreement only releases claims for injunctive and/or declaratory relief and does not release the
2 monetary or damages claims of the Class, and thus the settlement expressly preserves the
3 individual rights of class members to pursue monetary claims against the Defendant. *See, e.g.,*
4 *Stathakos v. Columbia Sportswear Co., et al.*, 2018 WL 582564, at *3-4 (N.D. Cal. Jan. 25,
5 2018); *Lilly v. Jamba Juice Co.*, 2015 WL 1248027, at *8-9 (N.D. Cal. Mar. 18, 2015); *Kim v.*
6 *Space Pencil, Inc.*, 2012 WL 5948951, at *4, 17 (N.D. Cal. Nov. 28, 2012). Nonetheless,
7 pursuant to the Settlement Agreement, all documents pertaining to the Settlement, preliminary
8 approval, and final approval (including Plaintiffs' motion for attorneys' fees and incentive
9 awards and any opposition or reply papers thereto), shall be posted on Class Counsel's public
10 website (<http://www.https://www.bursor.com/>).

11 11. The Court finds that the CAFA Notice sent by Meta complied with 28 U.S.C. §
12 1715 and all other provisions of the Class Action Fairness Act of 2005.

13 12. Each Settlement Class Member shall be given a full opportunity to comment on
14 or object to the Settlement Agreement, and to participate at a Final Approval Hearing.
15 Comments or objections must be in writing, and must include (1) the name and case number of
16 the Action (*Olin et al. v. Facebook, Inc.*, Case No. 18-cv-01881-RS); (2) the Settlement Class
17 Member's full legal name and mailing address; (3) the personal signature of the Settlement
18 Class member; (4) the grounds for any objection; (5) the name and contact information of any
19 and all attorneys representing, advising, or assisting with the comment or objection, or who
20 may profit from pursuing any objection; and (6) a statement indicating whether the Settlement
21 Class Member intends to appear at the Final Approval Hearing, either personally or through
22 counsel.

23 13. To be considered, written comments or objections must be submitted to the
24 Court either by mailing them to Class Action Clerk, United States District Court for the
25 Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, or by
26 filing them in person at any location of the United States District Court for the Northern
27 District of California, within 60 days after the entry of this Order. No Class Member shall be
28

1 entitled to be heard at the Final Approval Hearing, whether individually or through counsel,
2 unless written notice of the Class Member's intention to appear at the Final Approval Hearing
3 is timely filed, or postmarked for mail to the Court within 60 days after date of entry of this
4 Order.

5 14. The date of the postmark on the envelope containing the written objection shall
6 be the exclusive means used to determine whether an objection has been timely submitted.
7 Class Members who fail to mail timely written objections in the manner specified above shall
8 be deemed to have waived any objections and shall be forever barred from objecting to the
9 Settlement Agreement and the proposed settlement by appearing at the Final Approval Hearing,
10 appeal, collateral attack, or otherwise.

11 15. The Court will hold a final approval hearing on _____, 2022 at _____
12 a.m./p.m, in the United States District Court for the Northern District of California, San
13 Francisco Courthouse, Courtroom 3 – 17th Floor, 450 Golden Gate Avenue, San Francisco, CA
14 94102. The purposes of the final approval hearing will be to: (i) determine whether the
15 proposed Settlement Agreement should be finally approved by the Court as fair, reasonable,
16 adequate, and in the best interests of the Settlement Class; (ii) determine whether judgment
17 should be entered pursuant to the Settlement Agreement, dismissing the Action with prejudice
18 and releasing the Released Persons of all claims stated in Section 6.1 of the Settlement
19 Agreement; (iii) determine whether the Settlement Class should be finally certified; (iv) rule on
20 Class Counsel's motion for attorneys' fees, costs and service awards; (v) consider any properly
21 filed objections; and (vi) consider any other matters necessary in connection with the final
22 approval of the Settlement Agreement.

23 16. Class Counsel's application for attorneys' fees, costs and expenses shall be filed
24 and served no later than thirty (30) days after the Court's order of preliminary approval. Any
25 opposition, comment, or objection shall be filed no later than sixty (60) days after the Court's
26 order of preliminary approval. Any reply shall be filed no later than seventy-four (74) days
27 after the Court's order of preliminary approval.
28

1 17. The motion in support of final approval of the settlement shall be filed and
2 served no later than thirty (30) days after the Court's order of preliminary approval. Any
3 opposition or objection shall be filed no later than sixty (60) days after the Court's order of
4 preliminary approval. Any reply shall be filed no later than seventy-four (74) days after the
5 Court's order of preliminary approval.

6 18. The Court may, in its discretion, modify the date and/or time of the final
7 approval hearing, and may order that this hearing be held remotely or telephonically. In the
8 event the Court changes the date, time, and/or the format of the final approval hearing, the
9 Parties shall ensure that the updated information is posted on the Class Counsel's public
10 website.

11 19. If the Settlement Agreement, including any amendment made in accordance
12 therewith, is not approved by the Court or shall not become effective for any reason
13 whatsoever, the Settlement Agreement and any actions taken or to be taken in connection
14 therewith (including this Preliminary Approval Order and any judgment entered herein), shall
15 be terminated and shall become null and void and of no further force and effect except for
16 (i) any obligations to pay for any expense incurred in connection with Notice and Other
17 Administration Costs as set forth in the Settlement Agreement, and (ii) any other obligations or
18 provisions that are expressly designated in the Settlement Agreement to survive the termination
19 of the Settlement Agreement.

20 20. Other than such proceedings as may be necessary to carry out the terms and
21 conditions of the Settlement Agreement, all proceedings in the Action are hereby stayed and
22 suspended until further order of this Court.

23 21. Pending final determination of whether the Settlement Agreement should be
24 finally approved, Plaintiffs and all Settlement Class Members are barred and enjoined from
25 filing, commencing, prosecuting, or enforcing any action against the Released Parties insofar as
26 such action asserts claims stated in Section VI of the Settlement Agreement, directly or
27 indirectly, in any judicial, administrative, arbitral, or other forum. This bar and injunction is
28

1 necessary to protect and effectuate the Settlement Agreement and this Preliminary Approval
2 Order, and this Court's authority to effectuate the Settlement, and is ordered in aid of this
3 Court's jurisdiction.

4 22. This Preliminary Approval Order, the Settlement Agreement, the fact that a
5 settlement was reached and filed, and all negotiations, statements, agreements, and proceedings
6 relating to the Settlement, and any matters arising in connection with settlement negotiations,
7 proceedings, or agreements shall not constitute, be described as, construed as, used as, offered
8 or received against Meta as evidence or an admission or concession of: (a) the truth of any fact
9 alleged by Plaintiffs in the Action; (b) any liability, negligence, fault, or wrongdoing of Meta or
10 breach of any duty on the part of Meta; or (c) that this Action or any other action may be
11 properly certified as a class action for litigation, non-settlement purposes. This order is not a
12 finding of the validity or invalidity of any of the claims asserted or defenses raised in the
13 Action.

14 23. The Court retains jurisdiction over this Action to consider all further matters
15 arising out of or connected with the Settlement, including enforcement of the Release provided
16 for in the Settlement Agreement.

17 24. The Parties are directed to take all necessary and appropriate steps to establish
18 the means necessary to implement the Settlement Agreement according to its terms should it be
19 finally approved.

20 25. The Court may, for good cause, extend any of the deadlines set forth in this
21 Preliminary Approval Order without further notice to Settlement Class Members. Without
22 further order of the Court, the Parties may agree to make non-material modifications in
23 implementing the Settlement that are not inconsistent with this Preliminary Approval Order.

24
25 IT IS SO ORDERED.

26 Date: _____

27 _____
28 Hon. Richard Seeborg
Chief United States District Judge