

5. "Class Counsel" means Sophia Gold of KalieGold PLLC; Edwin E. Elliott and Andrew J. Shamis of Shamis & Gentile, P.A.; Scott Edelsberg of Edelsberg Law, P.A.; and Rachel Dapeer of Dapeer Law, P.A.

6. "Class Representatives" means the Plaintiffs in the Action.

7. "Court" means the United States District Court for the District of New Jersey and the Judge assigned to the Action.

8. "Defendant" or "MAH" means Intervet Inc. d/b/a Merck Animal Health.

9. "Defense Counsel" or "Defendant's Counsel" means the law firm of McCarter & English LLP.

10. "Effective Date" means the date on which the Final Order and Judgment (defined below) in the Action becomes "Final." As used in this Agreement, "Final" means ten (10) business days after all of the following conditions have been satisfied:

- a. the Final Order and Judgment has been entered; and

- b. (i) if reconsideration, post-judgment motion and/or appellate review is not sought from the Final Order and Judgment, the expiration of the time for the filing or noticing of any motion for reconsideration, appeal, petition, and/or writ; or

- (ii) if reconsideration, post-judgment motion and/or appellate review is sought from the Final Order and Judgment, then: (A) the date that is ten (10) business days after the date on which the Final Order and Judgment is affirmed and is no longer subject to review, or (B) the date on which the motion for reconsideration, post-judgment motion, appeal, petition, or writ is dismissed or denied and the Final Order and Judgment is no longer subject to judicial review, provided that such motion, appeal, petition or writ shall have been finally determined in a manner permitting the consummation of the Settlement in accordance with the terms of this Agreement.

executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns) that:

(i) were brought or that could have been brought against the Released Parties (as hereinafter defined), or any of them, and that arise out of or are related in any way to any or all of the acts, omissions, facts, matters, transactions, or occurrences that were or could have been directly or indirectly alleged or referred to in the Action (including but not limited to alleged violations of state consumer protection, unfair competition, and/or false or deceptive advertising statutes; breach of contract; breach of express or implied warranty; fraud; unjust enrichment, restitution; declaratory or injunctive relief, and other equitable claims or claims sounding in contract and tort); and

(ii) relate in any way to Defendant's statements or omissions about the HomeAgain premium or membership service or the HomeAgain basic service or recovery database.

b. The Parties intend for the term "Released Claims" to be construed as broadly as possible and permitted by law.

21. "Released Parties" means:

a. Defendant and each of its employees, assigns, attorneys, agents, and all of its past, present, and future officers and directors;

b. All of Defendant's parents, subsidiaries, divisions, affiliates, predecessors, and successors, including without limitation Merck & Co., Inc., and each of their respective employees, assigns, attorneys, agents, resellers and past, present and future officers and directors; and

c. Any and all persons, entities, or corporations involved in any way in the operation, marketing or advertisement of Defendant's HomeAgain program.

22. "Releasing Parties" means Plaintiffs and all Settlement Class Members, and each of their predecessors, successors, assigns, heirs, or executors.

23. "Settlement" means the settlement embodied in this Agreement.

24. "Settlement Administration Expenses" means the expenses incurred by the Settlement Administrator in distributing the Notice, processing claims, responding to inquiries from members of the Settlement Class, distributing payments for approved claims, administering the Settlement and related services.

25. "Settlement Administrator" means the qualified third party selected by the Parties and approved by the Court in the Preliminary Approval Order to administer the Settlement, including distributing the Notice and receiving Claim Forms. The parties agree to recommend that the Court appoint Angeion Group, LLC ("Angeion") as Settlement Administrator.

26. "Settlement Class" means all persons or entities who are members of any of the "Statewide Settlement Classes." Excluded from the Settlement Class are all persons who are employees, directors, officers, and agents of Defendant or its parents, subsidiaries or affiliated companies, as well as the Court and its immediate family and staff.

27. "Statewide Settlement Classes" means:

a. All residents of Alabama who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and entry of the Preliminary Approval Order;

b. All residents of Alaska who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and entry of the Preliminary Approval Order;

c. All residents of Arizona who paid Defendant for a HomeAgain premium service membership between May 19, 2021, and entry of the Preliminary Approval Order;

d. “Upon initial registration your pet’s microchip ID is permanently registered in the HomeAgain National Pet Recovery Database. Free unlimited updates can be made online or by phone to your pet’s profile and your contact information;” or

e. In a footnote to a reference to “basic* pet recovery” service that provides: “*Basic service: Your pet’s microchip number and your contact information will remain in the HomeAgain Recovery Database forever. You can update your contact information at www.HomeAgain.com at any time.”

2. Where the space or other restrictions for a particular advertisement or communication about the HomeAgain membership or premium service do not provide sufficient room for one of the disclosures identified above, Defendant is not required to use one of those disclosures; provided, however, that Defendant must, either by express statement in that advertisement or communication or by link to another communication, disclose that it is not necessary for HomeAgain customers to pay for the premium or membership service in order to maintain and update for free his/her and his/her pet’s information in the HomeAgain Recovery Database.

3. For any social media account owned by Defendant referring to the HomeAgain membership or premium service, Defendant shall not be required to post one of the above disclosures every day. Instead, Defendant will comply with its obligations under this Agreement by posting one of the above disclosures on a monthly basis.

4. Each disclosure used by Defendant shall be at least as large in font or print size as the text surrounding it.

5. Plaintiffs and Class Counsel agree that each of the above disclosures is truthful, accurate and a fair and reasonable statement to potential or actual HomeAgain customers.

6. If Defendant ceases to offer its premium or membership service, it shall not be required to include any of the disclosures in its marketing or advertising materials after the point at which it ceases to offer the premium or membership service.

7. Plaintiffs and Class Counsel agree, on behalf of the Settlement Class, that this Agreement does not preclude Defendant from making any accurate representations, including more detailed representations, in any form whatsoever, whether or not about any part of the HomeAgain program. Further, Defendant is not responsible for any representations about any part of the HomeAgain program made by any third-parties.

B. Settlement Payment

1. Subject to the conditions, representations and warranties set forth herein, Defendant shall pay or cause to be paid into the Escrow Account a total of \$3,500,000 (three million five hundred thousand dollars and no cents) pursuant to the terms and schedule set forth herein in total and complete resolution of any liability owing under this Agreement, whether individually or collectively to Plaintiffs, the Settlement Class, Settlement Class Members, Class Counsel or any other person or entity in respect to this Agreement and any matters released by this Agreement (“Settlement Payment” or “Settlement Fund”). No later than thirty (30) days after entry of the Preliminary Approval Order, Defendant shall pay or cause to be paid into the Escrow Account \$250,000 (two hundred fifty thousand dollars and no cents) (the “Initial Administration Payment”). Defendant shall pay or cause to be paid into the Escrow Account the remainder of the Settlement Payment, \$3,250,000 (three million two hundred fifty thousand dollars and no cents) (“Remaining Fund Payment”), within thirty (30) days after the Effective Date. In the event the Effective Date does not occur for any reason, Defendant shall be under no obligation to make the Remaining Fund Payment.

2. The Settlement Payment shall be made by wire transfer to the Escrow Account based on instructions from the Settlement Administrator.

3. Under no circumstances, whether for compensation to Settlement Class Members, attorneys' fees, expenses, costs of administration or notice of the Settlement, or otherwise, will Defendant or any of the Released Parties owe any obligation to any of the Releasing Parties or any of their counsel, including Class Counsel, or any other person or entity beyond the Settlement Payment of \$3,500,000 in respect to this Agreement, the Action or any matter released by this Agreement. No Settlement Class Member shall receive any payment from the Settlement Payment prior to the Effective Date.

4. Plaintiffs and Class Counsel are responsible for submitting to the Court and obtaining approval for an allocation of the Settlement Payment among compensation to Settlement Class Members, compensation to Plaintiffs, payment to Class Counsel for attorneys' fees, costs and expenses and the cost of notice and administration of the Settlement. Class Counsel assumes all responsibility of any kind regarding any such allocation, including without limitation all responsibility in connection with any disputes of any kind arising out of such allocation. Defendant and the Released Parties will not be involved in, or responsible for, or face liability in connection with, any such allocation.

5. The Court's determination regarding how much of the Settlement Payment shall be allocated to each of (i) compensation to Settlement Class Members; (ii) compensation to Plaintiffs; (iii) payment to Class Counsel for attorneys' fees, costs and expenses; and (iv) the cost of notice and administration of the Settlement shall be separate from its determination of whether to approve the Settlement. In the event the Court approves the Settlement but denies, in whole or in part, Class Counsel's requested allocation, the Settlement Agreement shall nevertheless be binding on

3. If the aggregate value of the Individual Payments to be awarded to Settlement Class Members pursuant to valid Claim Forms does not reach the amount allocated to Settlement Class Member financial compensation from the Settlement Payment approved by the Court, after the deduction of Settlement Administration Expenses, any fee award, and any incentive awards, then the value of the Individual Payment to be provided to each Settlement Class Member shall be increased to an amount equal to the total amount of the Settlement Payment allocated to Settlement Class Member financial compensation by the Court divided by the number of valid and timely submitted Claim Forms submitted by Settlement Class Members.

4. Under no circumstances, whether for compensation to Settlement Class Members, attorneys' fees, expenses, costs of administration or notice of the Settlement, or otherwise, will Defendant or any of the Released Parties owe any obligation to any of the Releasing Parties or any of their counsel, including Class Counsel, or any other person or entity beyond the Settlement Payment of \$3,500,000 in respect to this Agreement, the Action or any matter released by this Agreement.

5. The Court's determination regarding how much of the Settlement Payment shall be allocated to compensation for Settlement Class Members shall be separate from its determination of whether to approve the Settlement. In the event the Court approves the Settlement but denies, in whole or in part, Class Counsel's requested allocation for compensation to Settlement Class Members, the Settlement Agreement shall nevertheless be binding on the Parties and Settlement Class Members. Any separate appeal from the Court's order approving or rejecting, in whole or in part, Class Counsel's requested allocation of the Settlement Payment for compensation to Settlement Class Members shall not operate to terminate or cancel this Agreement or otherwise affect or delay the finality of the Final Order and Judgment or the Settlement.

3. The Court's incentive or stipend award to Plaintiffs shall be separate from its determination of whether to approve the Settlement. In the event the Court approves the Settlement but denies, in whole or in part, Plaintiffs' incentive or stipend requests, the Settlement Agreement shall nevertheless be binding on the Parties and Settlement Class Members. Any separate appeal from the Court's order approving or rejecting, in whole or in part, Plaintiffs' incentive or stipend request shall not operate to terminate or cancel this Agreement or otherwise affect or delay the finality of the Final Order and Judgment or the Settlement.

4. The Settlement Administrator shall pay any Court-approved stipend amounts to Plaintiffs from the Settlement Payment no later than thirty (30) business days after the Effective Date.

VI. CLASS COUNSEL ATTORNEYS' FEE AND EXPENSE AWARD

1. Class Counsel may submit an application to the Court for an award of attorneys' fees totaling up to one-third of the Settlement Payment (\$1,166,667.00 USD), in addition to their reasonably incurred expenses to be paid separately from the Settlement Payment. Defendant does not oppose Class Counsel's request for attorneys' fees, from the Settlement Payment up to \$1,166,667.00, in addition to their reasonably incurred expenses to be paid separately from the Settlement Payment.

2. Any Court approved payment to Class Counsel for attorneys' fees, costs and expenses will be taken from the Settlement Payment no later than thirty (30) business days after the Effective Date. Under no circumstances, whether for compensation to Settlement Class Members, attorneys' fees, expenses, costs of administration or notice of the Settlement, or otherwise, will Defendant or any of the Released Parties owe any obligation to any of the Releasing Parties or any of their counsel, including Class Counsel, or any other person or entity beyond the

Settlement Payment of \$3,500,000 in respect to this Agreement, the Action or any matter released by this Agreement.

3. Class Counsel's receipt of any Court-approved payment for attorneys' fees, costs and expenses from the Settlement Payment will be in lieu of statutory fees Plaintiffs and/or their attorneys, including Class Counsel, might otherwise have been entitled to recover.

4. Class Counsel shall have discretion to allocate any Court-approved payment of attorneys' fees, costs and expenses from the Settlement Payment amongst Class Counsel as they may see fit subject to the applicable rules of professional responsibility. Defendant shall have no liability or other responsibility for allocation of any such attorneys' fees, costs and expenses awarded and, in the event that any dispute arises relating to the allocation of fees, expenses or costs, Class Counsel agree to hold Defendant and all Released Parties harmless from any and all such liabilities, costs (including attorneys' fees), and expenses of such dispute.

5. The Court's fee, expense and cost award to Class Counsel shall be separate from its determination of whether to approve the Settlement. In the event the Court approves the Settlement but denies, in whole or in part, the fee, expense and cost request by Class Counsel, the Settlement Agreement shall nevertheless be binding on the Parties and Settlement Class Members. Any separate appeal from the Court's order approving or rejecting, in whole or in part, Class Counsel's fee, expense and cost request shall not operate to terminate or cancel this Agreement or otherwise affect or delay the finality of the Final Order and Judgment or the Settlement.

VII. RELEASES AND DISMISSAL OF ACTION

1. Upon the Effective Date, the Releasing Parties shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally and forever released, relinquished, and discharged all Released Claims against the Released Parties.

2. The Released Claims include known and unknown claims relating to the Action, and this Agreement is expressly intended to cover and include all such injuries or damages, including all rights of action thereunder. Settlement Class Members hereby expressly, knowingly, and voluntarily waive the provisions of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER 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.

Settlement Class Members expressly waive and relinquish any and all rights and benefits that they may have under, or that may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory that is similar, comparable, or equivalent to Section 1542, to the fullest extent that they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, the Settlement Class Members hereby acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe exist with respect to Released Claims, but that it is their intention to hereby fully, finally, and forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, that they have against the Released Parties. In furtherance of such intention, the release herein given by the Settlement Class Members to the Released Parties shall be and remain in effect as a full and complete general release notwithstanding the discovery or existence of any such additional different claims or facts. Each of the Parties expressly acknowledges that it has been advised by its attorney of the contents and effect of Section 1542, and with knowledge, each of the Parties hereby expressly waives whatever benefits it may have had pursuant to such section.

the normal course of business. Defendant will instruct its relevant employees and relevant agents to direct inquiries about the Settlement to the Settlement Administrator.

9. The Notice shall advise members of the Settlement Class of their rights, including the right to be excluded from or object to the Settlement Agreement or any of its terms. The Notice shall specify that any objection to the Settlement Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if, on or before the Objection Deadline approved by the Court and specified in the Notice, the Settlement Class Member making the objection files notice of an intention to do so and at the same time (a) files copies of such papers he or she proposes to be submitted at the Final Approval Hearing with the Clerk of the Court and (b) sends copies of such papers by mail, hand, or overnight delivery service to Class Counsel, Defendant's Counsel, and the Settlement Administrator.

10. Any Settlement Class Member who wishes to object to the Settlement must do so in writing in the form and manner described in §XIII(1-6) below.

X. ADMINISTRATION OF THE SETTLEMENT

1. The Settlement Administrator shall administer the Settlement in accordance with the terms of this Agreement and, without limiting the foregoing, shall:

- a. Treat any and all documents, communications and other information and materials received in connection with the administration of the Settlement as confidential and shall not disclose any or all such documents, communications or other information to any person or entity except as provided for in this Agreement or by Court order;
- b. Provide weekly reports to Class Counsel and Defendant's Counsel, including without limitation, reports regarding the number of Claim Forms received, the number

the rejection, the disputed claim shall be presented to the Court or a referee appointed by the Court for summary and non-appealable resolution.

9. No person shall have any claim against Defendant, Defense Counsel, Plaintiffs, Plaintiffs' counsel, the Settlement Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or Individual Payments made in accordance with this Agreement. This provision does not affect or limit in any way the right of review by the Court or referee of any disputed Claim Forms as provided in this Agreement.

10. Any Settlement Class Member who fails to submit a Claim Form by the Claims Deadline shall be forever barred from receiving any benefit pursuant to this Agreement, but shall in all other respects be bound by all of the terms of this Agreement, including the terms of the Final Order and Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against any of the Released Parties concerning any of the Released Claims.

11. Class Counsel and Defense Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

12. The Settlement Administrator shall distribute Individual Payments to eligible Settlement Class Members on a date that occurs only after the Effective Date as provided in §IV(1).

13. If the Settlement is not approved or for any reason the Effective Date does not occur, no payments or distributions of any kind shall be made pursuant to this Agreement.

14. Defendant and the Released Parties are not and will not be obligated to compute, estimate, or pay any taxes on behalf of any Plaintiff, any Settlement Class Member, Plaintiffs' counsel, Class Counsel, and/or the Settlement Administrator.

5. Objections must be served upon the Settlement Administrator at the addresses provided in the Notice;

6. Objecting Settlement Class Members must state in writing all objections and the reasons for each objection, and state whether he/she intends to appear at the Final Approval Hearing either with or without separate counsel. No member of the Settlement Class shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) or to object to the Settlement, and no written objections or briefs submitted by any member of the Settlement Class shall be received or considered by the Court at the Final Approval Hearing, unless written notice of the objecting class member's intention to appear at the Final Approval Hearing and copies of any written objections and/or briefs shall have been filed with the Court and served on Class Counsel, Defense Counsel, and the Settlement Administrator on or before the Objection Deadline specified in the Preliminary Approval Order. Members of the Settlement Class who fail to file and serve timely written objections in the manner specified above shall be deemed to have waived all objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

7. *Exclusion or "Opt Out."* Members of the Settlement Class may elect to request exclusion or "opt out" of the Settlement. To do so, they must submit a written statement to the Settlement Administrator by the Exclusion Deadline. Members of the Settlement Class who opt out of the Settlement will not release their claims pursuant to this Agreement. The opt-out right must be exercised individually by a member of the Settlement Class, and not as a member of a group, and except in the case of a deceased minor or incapacitated member of the Settlement Class, not by the act of another person acting or purporting to act in a representative capacity. To be valid, each request for exclusion must: (1) state the person's name, address, email, and phone

number; (2) be personally signed by the member of Settlement Class and not his/her attorney or anyone acting on his/her behalf; and (3) include the statement "I request to be excluded from the class settlement in *Goodman et al v. Intervet, Inc.*, Case No. 2:22-cv-02926-WJM-CLW"

Requests for exclusion or opt-out that do not include all required information and/or that are not submitted on a timely basis, will be deemed null, void, and ineffective.

8. Any request for exclusion or opt out must be postmarked on or before the Exclusion Deadline provided in the Court's Preliminary Approval Order. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Members of the Settlement Class who fail to submit a valid and timely request for exclusion on or before the Exclusion Deadline shall be bound by all terms of this Agreement and the Final Order and Judgment.

9. Any member of the Settlement Class who submits a timely request for exclusion or opt out may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under this Agreement.

10. Not later than three (3) business days after the Exclusion Deadline, the Settlement Administrator shall provide to Class Counsel and Defense Counsel a complete opt out list together with copies of the opt out requests. Notwithstanding any other provision of this Agreement, if more than one-thousand (1,000) members of the Settlement Class opt out of the Settlement, Defendant, in its sole discretion, may rescind and revoke the entire Agreement, thereby rendering the Settlement null and void in its entirety, by sending written notice that Defendant revokes the settlement pursuant to this paragraph to Class Counsel within ten (10) business days following the date the Settlement Administrator informs Defense Counsel of the number of Settlement Class members who have requested to opt out of the Settlement pursuant to the provisions set forth above.

Dated: 08 / 05 / 2024

LYNCIA SIRMANS

By: *Lyncia Sirmans*
Lyncia Sirmans, individually and as representative of the Class

Dated: 08 / 05 / 2024

KRISTI SCHALLER

By: *K. Schaller*
Kristi Schaller, individually and as representative of the Class

Dated: 08 / 05 / 2024

RACHEL LESSER

By: *Rachel Lesser*
Rachel Lesser, individually and as representative of the Class

Dated: 08 / 05 / 2024

KATHRYN LYELL

By: *Kathryn Lyell*
Kathryn Lyell, individually and as representative of the Class

Dated: 08 / 05 / 2024

CJ FERRY

By: *CJ Ferry*
CJ Ferry, individually and as representative of the Class

Dated: 08 / 05 / 2024

LYDIA GOMEZ

By: *Lydia Gomez*

Lydia Gomez, individually and as representative of the Class

Dated: 08 / 05 / 2024

LARHONDA MAJIED

By: *Larhonda Majied*
Larhonda Majied, individually and as representative of the Class

Dated: 08 / 06 / 2024

AMY CRAWFORD

By: *Amy*
Amy Crawford, individually and as representative of the Class

Dated: 08 / 05 / 2024

GAIL HES

By: *Gail E Hes*
Gail Hes, individually and as representative of the Class

Dated: 08 / 05 / 2024

CAROLYN SHEPARDSON

By: *Carolyn Shepardson*
Carolyn Shepardson, individually and as representative of the Class

Dated: 08 / 05 / 2024

ERIN RADCLIFFE

By: *Erin Radcliffe*
Erin Radcliffe, individually and as representative of the Class

Dated: 08 / 05 / 2024

ALISON BARNUM


By: *Alison Barnum*

Alison Barnum, individually and as
representative of the Class

Dated: **KIMBERLY AMACHER**

By: _____
Kimberly Amacher, individually and as
representative of the Class

Dated: **INTERVET INC. D/B/A MERCK ANIMAL HEALTH**

By:  _____
Name: Scott Bormann
Title: SVP North America

IT IS SO STIPULATED BY COUNSEL:

Dated: **KALIELGOLD, PLLC**

By: /s/ _____
Sophia Gold

Dated: **EDELSBERG LAW, P.A.**

By: /s/ _____
Scott Edelsberg

Dated: **SHAMIS & GENTILE, P.A.**

By: /s/ _____
Edwin E. Elliott

Dated: **DAPEER LAW, P.A.**

By: /s/ _____
Rachel Dapeer

Class Counsel

Dated: 8/7/24

MCCARTER & ENGLISH LLP

By: 
Kristofor Henning

Defense Counsel