

AGREEMENT
OF
SETTLEMENT

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

**SDF FUNDING LLC AND JOHN Y. WANG
derivatively on behalf of FLASHPOINT
TECHNOLOGY, INC.,**

Plaintiffs,

- against -

**STANLEY B. FRY, EDWARD D. HERRICK,
ROSS BOTT, CYRUS W. GREGG, AND
MAGDALENA RAMOS,**

Defendants,

and

FLASHPOINT TECHNOLOGY, INC.,

Nominal Defendant.

Civil Action No. 2017-
0732-KSJM

AGREEMENT OF SETTLEMENT

This Agreement of Settlement (together with the attached Exhibits) (“Settlement Documents”), which are incorporated by reference, (the “Agreement” or “Settlement”) is made and entered into as of this 18th day of January, 2024, by and among (i) Plaintiff John Y. Wang (“Wang” or “Plaintiff”), and derivatively on behalf of Flashpoint Technology Inc. (“Flashpoint”); (ii) Defendants Stanley B. Fry (“Fry”), Edward D. Herrick (“Herrick”), Ross Bott (“Bott”), Cyrus W. Gregg

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(“Gregg” and, together with Fry, Herrick, Bott and Gregg, the “Director Defendants”), and Magdalena Ramos (“Ramos” and, together with the Director Defendants, “Individual Defendants”) and (iii) nominal defendant Flashpoint (together with the Individual Defendants, “Defendants”). Each party to this Agreement is a “Party” and, collectively, are the “Parties.” This Agreement is submitted pursuant to Delaware Court of Chancery Rule 23.1.

Subject to the terms and conditions set forth herein and the approval of the Court, the terms of the Settlement embodied in this Agreement, including the Tender Offer (defined below), is intended: (i) to result in a full and final disposition and dismissal with prejudice of the above-captioned action (the “Action”) in its entirety; (ii) to state all of the terms of the Settlement and the resolution of this Action; and (iii) to fully and finally release, compromise, resolve, dismiss, discharge and settle each and every one of the Released Claims (defined below).

WHEREAS, periodically during the litigation of the Action, the Parties engaged in discussions concerning a potential resolution of the case;

WHEREAS, on September 7, 2023, the Parties reached agreement to settle their claims for consideration in various forms, valued by Plaintiff and his legal counsel in this Action (“Plaintiff’s Counsel”) at \$12,058,329, to be distributed as set forth herein, and memorialized in that certain Term Sheet, as amended September 8, 2023 (the “Term Sheet”);

WHEREAS, Plaintiff and his Counsel have conducted an investigation and pursued extensive discovery relating to the claims and the underlying events and transactions alleged in the Action. Plaintiff's Counsel has analyzed the evidence obtained during their investigation, documents obtained in connection with two books and records demands, and extensive discovery in the Action, including over 10,000 documents produced by Defendants and non-parties, and numerous depositions, and have also researched the applicable law with respect to the claims and defenses asserted in the Action. Additionally, the Court's May 13, 2022 Memorandum Opinion and Letter Decision and the Parties' subsequent settlement negotiations have provided Plaintiff and Plaintiff's Counsel with a detailed basis upon which to assess the relative strengths and weaknesses of their position and Defendants' position in this litigation.

WHEREAS, based on their investigation and prosecution of the Action, Plaintiff and his Counsel have concluded that the terms and conditions of the Settlement are fair, reasonable, and adequate to, and in the best interests of, Flashpoint and its stockholders, including the Independent Shareholders (as defined below);

WHEREAS, the Parties recognize that the litigation has been filed and prosecuted by Plaintiff in good faith and defended by Defendants in good faith and

that the Settlement reflects an arms-length, negotiated agreement that was reached voluntarily after consultation with experienced legal counsel; and

WHEREAS, the Parties wish to finally and irrevocably resolve their differences and thereby avoid the time, expense and acrimony associated with the Action; and

NOW THEREFORE, without any admission or concession by Plaintiff of any lack of merit of the Action whatsoever, and without any admission or concession by Defendants of the merits of the Action, or any liability or wrongdoing or any lack of merit in their defenses whatsoever,

IT IS HEREBY STIPULATED AND AGREED, by the Parties, subject to the approval of the Court and pursuant to Delaware Court of Chancery Rule 23.1 and the other conditions set forth herein, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Action shall be finally and fully settled, compromised, released and dismissed, on the merits and with prejudice, on the terms set forth below.

I. SUMMARY OF PROCEEDINGS

1. In 2015, SDF Funding, LLC (“SDF”) requested audited financials from Flashpoint. In May 2015, Defendant Ramos sent Flashpoint’s 2013 audited financial statements to SDF. The audited financial statements contained footnotes that referenced, among other things, Flashpoint’s related party transactions with

Collision Communications, Inc. (“Collision”) and Concert Technology Inc. (“Concert”).

2. SDF made books and records requests of Flashpoint in late 2015 and 2016. In response, Flashpoint made three productions of documents in 2016, including documents related to transactions between Flashpoint, on the one hand, and Collision or Concert, on the other hand, and Flashpoint’s lease agreements with respect to certain premises affiliated by ownership with Fry (the “Leases”).

3. In October 2017, SDF and, its owner, former plaintiff Stuart Feldman (“Feldman”), initiated the Action by filing a complaint (the “Original Complaint”) asserting four counts challenging certain of Flashpoint’s transactions with Collision, Concert, and the Leases.

4. In the Original Complaint, SDF and Feldman alleged that the Director Defendants and Fry and Ramos as officers of Flashpoint breached their fiduciary duties to Flashpoint by: (i) causing Flashpoint to enter into transactions with Collision—an entity in which Defendants were or would become investors and/or directors and/or officers—specifically in the amount of \$4.4 million—and later restructuring of Flashpoint’s interests in Collision (the “Collision Transactions”); and (ii) causing Flashpoint to make loans to Concert—an entity in which Defendants were or would become investors and/or directors and/or officers—specifically in the amount of approximately \$600,000. The Original Complaint further alleged that

(iii) Fry breached his fiduciary duties by causing Flashpoint to enter into the Leases and make payments for certain offices and storage space, including space located on Fry's property where his home also is located, while other entities affiliated with Fry used the same space; and (iv) Herrick, Gregg, Bott and Ramos aided and abetted Fry's alleged breach with respect to the Leases.

5. On January 12, 2018, Defendants filed an answer denying the vast majority of the allegations and asserting affirmative defenses, including: (i) statute of limitations and laches, (ii) failure to state a claim, (iii) unclean hands, (iv) waiver/estoppel, (v) failure to make a pre-suit demand, (vi) the presumption of valid business judgment, (vii) that their actions were in good faith and did not breach any fiduciary duties, (viii) entire fairness to Flashpoint, (ix) exculpation pursuant to Flashpoint's corporate charter and Delaware law, and (x) shareholder ratification/consent.

6. In 2018 and 2019, the then Parties engaged in extensive documentary discovery, including interrogatories, and conducted four depositions. In November and December of 2019, SDF and Feldman determined to seek to assert additional derivative claims on behalf Flashpoint.

7. By that time, the Parties had begun discussing mediation and potential settlement. On March 13, 2020, the Parties held a formal mediation with former

Vice Chancellor Donald F. Parsons, Jr. based on a draft of the proposed amended complaint asserting additional claims. This mediation did not result in a settlement.

8. On May 12, 2020, SDF and Feldman filed a motion for leave to file an Amended Shareholder Derivative Complaint (the “Amended Complaint”). Defendants opposed this motion on the basis of futility and also moved to disqualify SDF and Feldman as derivative plaintiffs.

9. On October 20, 2020, the Court denied Defendants’ motion to disqualify and granted SDF and Feldman’s motion for leave to file the Amended Complaint.

10. On December 2, 2020, SDF and Feldman filed the Amended Complaint adding Fry’s sons, Jared Fry (“Jared”) and Ryan Fry (“Ryan”), as defendants, reasserting the original claims, and adding claims that: (A) the Director Defendants: (i) improperly approved excessive cash bonuses to Fry, Jared and Ryan in excess of \$20 million from 2010 through 2013 and (ii) improperly awarded stock options to themselves in 2008 and 2010, and improperly repriced and/or awarded stock options to themselves, Ryan and Jared in 2010 at an undervalue exercise price of \$0.02, allegedly diluting Flashpoint’s shareholders and resulting in subsequent dividends upon exercise of the stock options to Defendants of more than \$6 million; (B) Fry, Ryan, Jared, Ramos, Gregg, and Herrick usurped Flashpoint’s corporate opportunities by forming and investing in two patent enforcement companies—

Retro Reflective Optics, LLC (“RRO”) and Optical Devices, LLC (“OD”) and (C) Fry, Gregg, Herrick and Bott were unjustly enriched.

11. On February 16, 2021, Defendants moved for partial summary judgment on claims that accrued prior to March of 2015 on the grounds that: (i) SDF lacked standing as a Flashpoint shareholder prior to that time and Feldman lacked standing as a Flashpoint shareholder and (ii) the claims were barred by laches. Defendants also moved to dismiss the newly added claims in the Amended Complaint against them, and Ryan and Jared moved to dismiss all claims against them.

12. On May 13, 2022, after extensive briefing—including supplemental briefing on Feldman’s standing requested by the Court—and oral argument, the Court granted Defendants’ motion for partial summary judgment on standing grounds—finding Feldman lacked standing as a derivative plaintiff and SDF lacked standing as a derivative plaintiff for claims arising prior to March 10, 2015. The Court also granted Ryan and Jared’s motion to dismiss all claims against them based on lack of personal jurisdiction over them in Delaware.

13. On July 26, 2022, Wang moved to intervene as a derivative plaintiff and moved to reinstate those claims that had been dismissed on summary judgment based on lack of derivative standing.

14. On September 27, 2022, the Court granted Wang’s motion to intervene and ordered Wang and SDF (together “Plaintiffs”) to file the Second Amended Derivative Complaint (“Second Amended Complaint”). Plaintiffs filed the Second Amended Complaint on October 5, 2022—including all allegations and claims in the Amended Complaint, except those directed against Jared and Ryan who had been dismissed.

15. On October 28, 2022, Defendants filed their Answer to the Second Amended Complaint, again denying the vast majority of the allegations and asserting affirmative defenses, two additional defenses: (i) that the derivative claims were subject to set-offs by amounts due to Defendants from Flashpoint as a debtor; (ii) seeking equitable recoupment for such amounts due to Defendants.

16. In November 2022, the Parties re-opened document discovery and served documents requests and interrogatories.

17. In early 2023, Plaintiffs subpoenaed documents from non-parties Jared and Ryan, and non-party entities, Collision, Concert, Scenera Research, LLC, RRO, and OD. In 2023 the Defendants and non-parties produced extensive documents and the Parties conducted or defended depositions of all Parties (except Fry, as noted below) and of certain non-parties, including Jared and Ryan.

18. In May and July 2023, the Parties disclosed their retained experts. Plaintiffs disclosed experts to render opinions on: (i) executive compensation in

connection with Plaintiffs' claims that excessive cash compensation had been awarded to Fry, Ryan and Jared and that stock options had been improperly awarded to Defendants, Ryan and Jared; and (ii) Flashpoint's line of business in connection with Plaintiffs' claims that Defendants (except Bott) usurped the RRO and OD corporate opportunities.

19. Defendants disclosed experts to render opinions on: (i) the fairness to Flashpoint of the challenged transactions; (ii) the reasonableness of the cash and stock compensation received by the Defendants, Jared, and Ryan; (iii) the potential value of Flashpoint's investments in Collision; and (iv) the bookkeeping and accounting of RRO and OD to support Defendants' claim that RRO and OD were not profitable.

20. In July 2023, the Parties disclosed their retained rebuttal experts on all of the above issues.

21. In May 2023, the Parties restarted settlement negotiations. In August of 2023, the Parties agreed to pause expert discovery deadlines and Fry's deposition—the sole remaining non-expert deposition—in order to facilitate mediation.

22. On September 7, 2023, the Parties participated in a full-day mediation with JAMS mediator, Jed Melnick, Esq. During the mediation, the Parties reached an agreement on the terms of Settlement, including monetary compensation to Flashpoint and direct benefits its stockholders, including to the Independent

Shareholders (defined below) in a variety of forms—set forth below in detail—and entered into a binding Term Sheet (subsequently amended on September 8, 2023) where the Parties agreed to use best efforts to draft and execute a final Agreement of Settlement. In summary, the agreed-to monetary consideration will consist of three forms: (i) a direct monetary payment to Flashpoint of \$3,500,000; (ii) a tender offer to Flashpoint’s Independent Shareholders to purchase their stock for between \$0.20 and \$0.25 per share—a value of up to approximately \$3,020,000, if all Independent Shareholders tender their stock; and (iii) the forbearance of \$3,823,284 in compensation owed to Defendants by Flashpoint until Flashpoint has distributed \$4,400,000 in dividends to all post-tender offer Flashpoint stockholders, which benefits all Flashpoint’s stockholders.

23. Wang and Plaintiff’s Counsel believe that the terms of Settlement are beneficial, reasonable, and fair to Flashpoint and its stockholders, including the Independent Shareholders. The Settlement is beneficial because Flashpoint (a) receives a \$3.5 million cash payment; and (b) will refrain from paying the Director Defendants the \$3,823,284 it owes them until Flashpoint is in a position to, and does, distribute at least \$4.4 million to all of its stockholders (post Tender Offer).

24. The Settlement is further beneficial because Independent Stockholders (a) receive the opportunity to sell and get a return on their illiquid Flashpoint stock at \$0.20 \$0.25 cents per share, where otherwise Wang and Plaintiff’s Counsel

believe Independent Shareholders are unlikely to ever see any return; and (b) if any choose not to tender their shares, Flashpoint will not pay the Director Defendants the \$3,823,284 it owes until Flashpoint is in a position to, and does, distribute at least \$4.4 million to all stockholders, including the Independent Shareholders. Wang and Plaintiffs' Counsel recommend that the Independent Shareholders tender their shares. Based on the document and deposition discovery, Wang and Plaintiff's Counsel determined that Flashpoint had long ceased active operations and held only one asset—an approximately 14% share in Collision's common stock, subordinate to many other Collision stakeholders—which, to date, has never generated any revenue for Flashpoint. It was represented during the mediation that Collision had recently settled two actions, which did not net enough revenue to distribute to Collision's stockholders, including Flashpoint. It was further represented that Collision is intending to initiate additional patent enforcement actions. Nevertheless, Wang and Plaintiff's Counsel's view is that there is no way to know (i) whether those actions will be successful; (ii) even if they are successful, whether they would generate revenue to distribute to Collision's stockholders, including Flashpoint; and (iii) even if funds are distributed to Collision's stockholders, including Flashpoint, whether any of those funds will be distributed to Flashpoint's stockholders, including the Independent Shareholders.

25. Wang and Plaintiff's Counsel also considered the risks that, in this Action, (i) Defendants might prevail on their defenses and be found not to bear any liability; (ii) even if Defendants are found liable, they might prevail on their damages arguments, reducing the potential return to Flashpoint to below the settlement consideration; (iii) even if Defendants are found liable and the damages are greater than the settlement consideration, any recovery would flow to Flashpoint—not its stockholders, including the Independent Shareholders—which is controlled by certain of the Defendants, and Flashpoint's stockholders, including the Independent Shareholders, may never receive any direct or monetary benefit from that recovery.

26. On September 8, 2023, the Parties amended and executed the Term Sheet.

27. Subsequent to the execution of the binding Term Sheet, SDF refused to sign this Agreement of Settlement resulting in Plaintiff's Counsel withdrawing from representing SDF. Wang and Plaintiff's Counsel continue to believe that the Settlement is fair, beneficial, and in the best interests of Flashpoint and the Independent Shareholders.

II. NO ADMISSION OF LIABILITY

28. The Parties agree that Plaintiffs commenced and pursued this derivative action in good faith.

29. It is agreed and understood that nothing herein is to be construed as an admission of wrongdoing or liability on the part of any of the Defendants, and that each has expressly and vigorously denied and continues to expressly and vigorously deny any wrongdoing or liability with respect to all claims in the Action, including all allegations that they committed any violations of law, acted improperly in any way, and/or have any liability or owe any damages of any kind to Plaintiffs, Flashpoint or its shareholders. Defendants are entering into this Agreement and Settlement solely because they consider it desirable that the Released Claims be settled and dismissed with prejudice in order to, among other things, eliminate the burden, inconvenience, expense, risk and distraction of further litigation, and finally put to rest and terminate all Released Claims that were or could have been asserted against Defendants.

30. Plaintiff and his Counsel have vigorously asserted and continue to vigorously assert that the alleged claims have legal merit. Plaintiff, based on his direct oversight of the prosecution of this matter, has agreed to settle the Released Claims pursuant to the terms and provisions of this Agreement, after considering: (i) the substantial benefits that Flashpoint and its stockholders, including Plaintiff and other Independent Shareholders will receive from the Settlement; (ii) the risks of going to trial, including the risk of failing to prove liability and/or failing to prove causation and damages greater than the Settlement consideration; (iii) the

desirability that the Settlement be consummated as provided by the terms of this Agreement; and (iv) the view that the terms of the Settlement are fair, reasonable, adequate, and in the best interests of Flashpoint and its stockholders, including the Independent Shareholders. The Settlement and this Agreement shall in no event be construed as, or deemed to be, evidence of a concession by Plaintiff of any infirmity in the claims asserted in the Action.

31. Any communications related to the Settlement, their contents or any of the negotiations, statements, or proceedings in connection therewith shall not be offered or admitted in evidence or referred to, interpreted, construed, invoked, or otherwise used by any person for any purpose in the Action or otherwise, except as may be necessary to effectuate the Settlement.

III. THE SETTLEMENT CONSIDERATION

32. The Parties agree that in consideration for the full Settlement and release of the Released Claims (as defined below), and upon Court approval of the Settlement, Defendants will provide the following consideration (the “Settlement Consideration”).

33. Direct Monetary Payment: Defendants will pay **\$3,500,000** in cash directly to Flashpoint (the “Common Fund”). This payment may come, in whole or in part, from the Defendants’ insurance carriers. Flashpoint shall use the Common to pay the Fee Award (as defined below) and then pay—or hold as a reserve

against—any liabilities of Flashpoint other than the Forbearance (as defined below) provided, however, that no portion of the Common Fund shall be used to pay debts owed to any Defendants or any entity affiliated with any Defendants; further, subject to compliance with Delaware law, Flashpoint will distribute any remaining amounts in the Common Fund to all Flashpoint stockholders.

34. Tender Offer to Independent Shareholders: Defendants shall make or cause their assignee to make a tender offer to holders of Flashpoint common stock that are not Defendants and are unaffiliated with Defendants (with the exception of Flashpoint Holding Associates, LLC) (collectively the “Independent Shareholders”)—under terms and conditions substantially in the form attached as Exhibit 1, hereto (the “Tender Offer”). The Tender Offer will offer to purchase all Flashpoint common stock held by the Independent Shareholders at the following prices: (i) \$0.25 per share, if up to 30% of the shares held by Independent Shareholders accept the Tender Offer; or (ii) \$0.20 per share, if more than 30% of the shares held by Independent Shareholders accept the Tender Offer. Defendants shall guarantee payment of the Tender Offer consideration, but may assign the rights to make the Tender Offer and buy the tendered shares. The total number of shares held by the Independent Shareholders is approximately 15,100,000. Thus, if all Independent Shareholders accept the Tender Offer, the total consideration paid will be approximately **\$3,020,000**.

35. Forbearance/Future Consideration: Unless and until such time that **\$4,400,000** is received by Flashpoint—and distributed to the holders of Flashpoint common stock after the Tender Offer closes—Defendants will forbear from claiming, receiving, or accepting payment from Flashpoint in any form of the following amounts due and owing as of September 7, 2023, subject to the terms and limitations below (the “Forbearance”): (i) all unpaid salary and director fees to Fry, totaling \$2,104,534.00; (ii) all unpaid director fees to Gregg, totaling \$500,000; (iii) all unpaid director fees to Herrick, totaling \$500,000; and (iv) all unpaid director fees to Bott, totaling \$718,750. For the avoidance of doubt, the Forbearance includes payment of compensation, bonuses or fees to Defendants accrued after September 8, 2023, but prior to distribution of the \$4,400,000.

36. The Parties further agree that the Settlement Consideration includes Concert’s repayment of **\$612,187** owed to Flashpoint on loans—that had previously been written off—and were repaid following Plaintiffs’ investigations, initiation, and litigation of this Action.

37. The Parties further agree that the Settlement Consideration includes the funds Flashpoint saved by stopping Lease payments to Fry following Plaintiffs’ initiation of the investigations—including books and records requests—that led to this Action. Flashpoint saved at least **\$526,142** by not making those Lease payments from mid-2016 through the present.

IV. MUTUAL RELEASES AND WAIVERS

38. The Parties agree that this Agreement and the terms set forth herein are intended to, and shall upon the Final Approval of the Settlement, effectuate a full and complete settlement of all claims and potential claims that Flashpoint and its stockholders, including Plaintiffs and the Independent Shareholders (“Releasing Parties”) ever had, now have, or may have, whether direct, derivative, individual, class, representative, legal, equitable or of any other type, or in any other capacity against Defendant Released Parties, defined as Defendants and their respective parents, subsidiaries, affiliates, divisions, predecessors, successors, assigns, partners, current and former officers, directors, shareholders, owners, employees, investors, insurers, agents, accountants, auditors, financial advisors, investment banks, representatives and attorneys, including unknown claims—to the fullest extent permissible under Delaware law—that are (1) based on his, her or its ownership of Flashpoint stock, whether based on state, local, foreign, federal, statutory, regulatory, common or other law or rule, or (2) based upon, arise from, relate in any way to, or involve, directly or indirectly, any of the actions, transactions, contracts, occurrences, statements, representations, alleged misrepresentations, alleged failures of disclosure, omissions, allegations, facts, practices, events, claims or any other matters, things or causes whatsoever, or any series thereof, that are, were, or could have been, alleged, asserted, set forth, claimed, embraced, involved,

or referred to in, or related to, directly or indirectly, in the Action or the subject matter of the Action in any court, tribunal, forum or proceeding; *provided, however*, that the release shall not include claims for or arising from the performance or non-performance of the terms of this Agreement, including the Settlement Documents (the “Plaintiffs’ Released Claims”).

39. The Parties further agree that this Agreement and the terms set forth herein are intended to, and shall upon the Final Approval of the Settlement, effectuate a full and complete settlement of all claims and potential claims that Defendants have ever had, now have, or may have, whether direct, derivative, individual, class, representative, legal, equitable or of any other type, or in any other capacity, against the Plaintiff Released Parties, defined as Plaintiffs and their respective parents, subsidiaries, affiliates, divisions, predecessors, successors, assigns, partners, current and former officers, directors, shareholders, owners, employees, investors, insurers, agents, accountants, auditors, financial advisors, investment banks, representatives and attorneys—including unknown claims—to the fullest extent permissible under Delaware law—that are (i) based upon or arising out of the investigation and prosecution of the Action, (ii) based upon Plaintiffs’ ownership of Flashpoint stock, or (iii) based upon, arise from, relate in any way to, or involve, directly or indirectly, any of the actions, transactions, contracts, occurrences, statements, representations, alleged misrepresentations, alleged

failures of disclosure, omissions, allegations, facts, practices, events, claims or any other matters, things or causes whatsoever, or any series thereof, that are, were, or could have been, alleged, asserted, set forth, claimed, embraced, involved, or referred to in, or related to, directly or indirectly, in the Action or the subject matter of the Action in any court, tribunal, forum or proceeding; *provided, however*, that the release shall not include claims for or arising from the performance or non-performance of the terms of this Agreement, including the Settlement Documents (“Defendants’ Released Claims” and, together with Plaintiffs’ Released Claims, the “Released Claims”). Plaintiff Released Parties and Defendant Released Parties are collectively referred to as the “Released Parties.”

40. The Parties acknowledge and understand that there is a risk that, subsequent to the execution of this Agreement, they may discover claims that existed but were unknown or unanticipated at the time of the execution of this Agreement, and which, if known on the date of the execution of this Agreement, might have materially affected his, its or their decision(s) to enter into and execute this Agreement. The Parties further agree that, by reason of the releases contained herein, they are assuming the risk of such unknown claims and agree that this Agreement applies thereto.

41. The Settlement is intended to extinguish all of the Released Claims by the Releasing Parties and Defendants as set forth in Paragraphs 37, 38, 39 above,

and, consistent with such intention, upon Final Approval of the Settlement, the Releasing Parties and Defendants shall waive and relinquish and be deemed to waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits of any state, federal, or foreign law or principle of common law, which may have the effect of limiting the Released Claims. This shall include a waiver of any rights pursuant to California Civil Code § 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States or any state or territory thereof, or of the common law), which provides:

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

42. Plaintiff acknowledges that Releasing Parties shall be deemed by operation of the entry of the Order and Final Judgment upon Final Approval of the Settlement to have acknowledged, that the foregoing waiver in paragraph 40 was expressly bargained for, is an integral term of the Settlement, and was relied upon by each and all of the Defendant Released Parties in entering into the Settlement.

43. Nothing herein shall in any way release, waive, impair, or restrict the rights of any Party to enforce the terms of this Agreement.

V. SCHEDULING ORDER, SETTLEMENT NOTICE AND SETTLEMENT HEARING

44. As soon as practicable after the execution of this Agreement, the Parties shall jointly apply for a scheduling order (the “Scheduling Order”) substantially in the form attached hereto as Exhibit 2, establishing the procedure for the approval of notice to Flashpoint’s stockholders, including the Independent Shareholders substantially in the form attached hereto as Exhibit 3 (the “Notice”) and Exhibit 4 (the “Summary Notice”).

45. Flashpoint shall undertake the primary responsibility for giving notice to Flashpoint’s stockholders, including the Independent Shareholders, in accordance with the terms of the Scheduling Order, and Flashpoint or its insurers, shall be solely responsible for paying the costs and expenses associated with providing the notice described in this paragraph. By no later than sixty (60) calendar days prior to April 4, 2024, the date the Court has set for the hearing on the fairness of the Settlement (the “Settlement Hearing”), Flashpoint shall mail the Notice, including copies of this Agreement, to all holders of Flashpoint stock at their respective addresses currently set forth in Flashpoint’s stock records. In addition, Flashpoint shall use reasonable efforts to give notice to all holders of Flashpoint stock by emailing copies of this Agreement and the Notice to Flashpoint’s last point of contact for each stockholder no later than thirty (30) calendar days prior the Settlement Hearing.

46. Counsel for Defendants shall, at least ten (10) business days before the Settlement Hearing, file with the Court an appropriate affidavit with respect to compliance with the requirements set forth in the foregoing paragraph.

47. In addition to the notice provided by Flashpoint, Plaintiff's Counsel shall post copies of this Agreement and the Notice on its website. Plaintiff's Counsel shall, at least ten (10) business days before the Settlement Hearing, file with the Court an appropriate affidavit with respect to compliance with the requirements set forth in this paragraph.

VI. ORDER AND FINAL JUDGMENT

48. If the Settlement is approved by the Court following the Settlement Hearing, the Parties shall jointly request the Court to enter an order substantially in the form attached hereto as Exhibit 5 (the "Order and Final Judgment") approving the Settlement including: (a) approving the Settlement Consideration and Tender Offer as a component of the Settlement Consideration; (b) approving release of the Released Claims by the Releasing Parties and Defendants, respectively, as against Defendant Released Parties and Plaintiff Released Parties, respectively; and (c) providing for the full and complete dismissal of the Action with prejudice.

49. "Final Approval" of this Settlement means that the Court has entered the Order and Final Judgment in substantially the form attached as Exhibit 5, and that the earliest of the following has occurred: (1) no objections to the Order and

Final Judgment have been raised within the time allotted by the Court or by applicable laws, rules or regulations; (2) with respect to the Order and Final Judgment, the time for a motion to alter or amend, and for rehearing or reconsideration, appellate review, and review by petition for certiorari has expired, and no motion to alter or amend or for rehearing, reconsideration and/or notice of appeal or petition for certiorari has been filed; or (3) if rehearing, reconsideration, appellate review or petition for certiorari with respect to the Order and Final Judgment has been sought, all avenues of rehearing, reconsideration, appellate review or review by petition for certiorari have been exhausted and no further rehearing, reconsideration, appellate review or review by petition for certiorari is permitted, or the time for seeking such has expired, and the Order and Final Judgment entered by the Court has not been modified, amended or reversed in any way.

50. Also at the Settlement Hearing, Plaintiff's Counsel will apply to the Court for an Order approving the distributions from the Common Fund for: (a) an award of attorneys' fees; (b) reimbursement of expenses, including the fees of any experts or consultants incurred in connection with prosecuting the Action; (c) an award to Plaintiff to be paid from any attorneys' fees awarded; and (d) any interest on such attorneys' fees and expenses and until paid at the same rate and for the same

periods as earned by the Common Fund (the “Fee Application”). Such matters may be addressed in a final order that is independent from the Order and Final Judgment.

51. After negotiation of the principal terms of the Settlement, including the Settlement Consideration, the Parties negotiated—with help of Mediator Melnick—the amount of attorneys’ fees and expenses that Plaintiff’s Counsel would request they be paid in connection with the Settlement of this derivative Action. The Parties agreed that Defendants would not oppose or object to any requested award of attorneys’ fees and expenses up to \$2,500,000.

52. The Court shall consider approval of the Fee Application separate and apart from its consideration of whether the proposed Settlement is fair, reasonable and adequate and approval of the Order and Final Judgment. Final Approval of this Settlement does not depend upon entry of the Fee Application. Any order or proceedings relating to the Fee Application, or any appeal thereafter shall not: (a) operate to modify, terminate or cancel this Settlement; (b) affect or delay the validity or finality of the Order and Final Judgment or any other orders entered by the Court giving effect to this Agreement; (c) provide any grounds or otherwise permit Plaintiff, or any other Flashpoint stockholder, including the Independent Shareholders to cancel, terminate or withdraw from the Agreement or the Settlement; and/or (d) affect or delay the validity of the Settlement. Flashpoint shall pay and/or cause to be paid any fee award entered by the Court (the “Fee Award”) from

the Common Fund as provided by the terms of such order within thirty (30) business days of entry of such order, or such other date and time as may be agreed upon in writing by the Company and Plaintiff's Counsel without further order of the Court, and Plaintiff's Counsel providing Flashpoint with the necessary information required for payment by check or wire-transfer, including a signed W-9 and tax ID number, with the Fee Award to be held in the IOLTA account of Sadis & Goldberg, LLP. Any payment of any Fee Award provided herein shall be subject to Plaintiff's Counsel's obligation to make refunds or repayments to Flashpoint of any amounts paid, if the Settlement is terminated pursuant to the terms of this Agreement or fails to become effective for any reason, or if, as a result of any appeal of further proceedings on remand or successful collateral attack, the award of attorney's fees and/or expenses is reduced or reversed by final non-appealable court order.

VII. NO WAIVER

53. Any failure by any Party to insist upon the strict performance by any other Party of any of the provisions of the Settlement or this Agreement shall not be deemed a waiver of any of the provisions of the Settlement, and such Party shall have the right thereafter to insist upon the strict performance of any and all of the provisions of the Settlement. All waivers must be in writing and signed by the Party against whom the waiver is asserted.

54. No waiver, express or implied, by any Party of any breach or default in the performance by any other Party of its obligations pursuant to the Settlement shall be deemed or construed to be a waiver of any other breach, whether prior, subsequent or contemporaneous, under the terms of the Settlement.

55. The Parties agree that in the event of any breach of the Settlement, all of the Parties' rights and remedies at law, equity, or otherwise, are expressly reserved.

VIII. RES JUDICATA, ESTOPPEL OR OTHER PRESUMPTION ARISING FROM THIS AGREEMENT

56. It is the intent of the Parties that this Agreement not be used for any purpose other than: (i) to enforce the provisions of this Agreement or the provisions of any related agreement, release, or exhibit hereto, (ii) or to support a defense of res judicata, collateral estoppel, accord and satisfaction, release, or other theory of claim preclusion and/or issue preclusion or similar defense. Therefore, pursuant to this Agreement, as ordered by this Court, and pursuant to the Delaware Rules of Evidence, the Parties agree that the fact of entering into or carrying out this Agreement, the exhibits hereto, and all negotiations, discussions, actions and proceedings in connection with this Agreement, as well as the Agreement and the Settlement itself, shall not constitute, be construed as, offered into evidence as, or deemed to be evidence of, a presumption, concession or an admission by any Party, of any fault, liability or wrongdoing or lack of any fault, liability or wrongdoing, as

to any facts or Released Claims alleged or asserted in the Action or any other actions or proceedings, and shall not be interpreted, construed, deemed, involved, invoked, offered or received in evidence or otherwise used by any person, in the Action or any other action or proceeding, whether civil, criminal or administrative, except as set forth herein.

IX. EXPRESS CONDITIONS

57. This Agreement shall not be legally binding upon any Party unless and until this Agreement is executed by Plaintiff’s Counsel on behalf of Plaintiff and Flashpoint, and Defendants’ Counsel on behalf of Defendants, and is subject to and expressly conditioned upon: (a) the entry by the Court of the Order and Final Judgment in substantially in the form attached hereto as Exhibit 5; (b) the entry by the Court of the Scheduling Order in substantially in the form attached hereto as Exhibit 2; (c) the dismissal of the Action with prejudice; and (d) the Final Approval, as defined in Paragraph 48, including the Court deeming effective the Released Claims.

X. EFFECT OF FAILURE TO OBTAIN COURT APPROVAL OF AGREEMENT

58. If the Court fails to enter the Order and Final Judgment in substantially the form attached hereto as Exhibit 5, fails to enter the Scheduling Order in substantially the form attached hereto as Exhibit 2, or fails to dismiss the Action with prejudice and deem effective the Released Claims—and unless counsel for each of

the Parties, within 10 (ten) business days from such decision, agrees in writing to present to the Court for approval a modification to this Agreement to which all Parties in their sole judgment and discretion may agree: (i) this Agreement (including Exhibits and the Term Sheet) shall be null and void and of no force and effect; and (ii) the Parties shall be deemed to have excused performance of any obligation owed to or by any Party pursuant to any orders that may have been entered by the Court in connection with the Agreement (including Exhibits).

59. If the Parties do not agree in writing, within 10 (ten) business days of such decision, to present to the Court for approval a modification to this Agreement—the Parties shall be deemed to be in the position they were in prior to the execution of the Term Sheet, and the statements made herein and in connection with the negotiation of the Term Sheet, this Agreement, the Exhibits to this Agreement and the Settlement shall not be deemed to prejudice in any way the positions of the Parties with respect to the claims asserted in the Action, or to constitute an admission of wrongdoing by any Party, and shall not be used nor entitle any Party to recover any fees, costs or expenses incurred in connection with the Action.

XI. MISCELLANEOUS.

60. This Agreement, together with all Exhibits, shall be deemed to have been mutually prepared by the Parties and shall not be construed against any of them by reason of authorship.

61. The Parties represent and agree that the terms of this Agreement were negotiated at arm's length and in good faith by their respective counsel, and reflect a settlement that was reached voluntarily based upon adequate information and after consultation with experienced legal counsel.

62. The Parties acknowledge that it is their intent to consummate this Agreement and agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of the Agreement.

63. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of this Agreement.

64. The Agreement, together with the Exhibits attached hereto, is a fully integrated agreement and constitutes the entire agreement among the Parties with respect to the subject matter hereof, replaces and supersedes the Term Sheet, and may be amended or modified only by a written instrument signed by or on behalf of all signatories hereto or their respective successors-in-interest.

65. This Agreement, the Exhibits attached hereto, the Settlement, and all disputes arising out of or relating thereto, whether in contract, tort or otherwise, shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to principles of conflicts of laws.

66. The Parties agree that any dispute or action arising out of or relating in any way to this Agreement, the Exhibits hereto, and/or the Settlement shall be brought, heard and determined exclusively in the Court of Chancery of the State of Delaware (provided that, in the event that subject matter jurisdiction is unavailable in the Court of Chancery, then all such claims shall be brought, heard and determined exclusively in any other state or federal court sitting in Delaware). Each Party (i) consents to personal jurisdiction in any such action brought in the Court, (ii) consents to service of process by registered mail (with a copy to be delivered at the time of such mailing to counsel for each Party by electronic mail), to the addresses set forth in the signature blocks below, upon such Party and/or such Party's agent for purposes of such action, (iii) waives any objection to venue in the Court and any claim that Delaware or the Court is an inconvenient forum for such action, and (iv) waives any right to demand a jury trial as to any such action.

67. The Parties agree that throughout the course of the litigation, all Parties and their counsel complied with the provisions of Rule 11 of the Rules of the Court

of Chancery of the State of Delaware and that the Order and Final Judgment submitted to the Court will contain a statement to reflect this compliance.

68. This Agreement may be executed in counterparts, including by signature transmitted by email in PDF format or by facsimile. Each counterpart when so executed shall be deemed to be an original, and all such counterparts together shall constitute the same instrument. The terms of this Agreement and the Settlement shall inure to the benefit of and be binding upon the Parties (including all Flashpoint Shareholders) and their respective agents, executors, heirs, successors and assigns.

69. The undersigned attorneys represent and warrant that they have the authority from their client(s) to enter into this Agreement and bind their client(s) thereto.

IN WITNESS WHEREOF, the Parties intending to be legally bound, have caused this Agreement to be executed and delivered by their duly authorized attorneys dated as of January 18, 2024.

**HALLORAN FARKAS +
KITTLA LLP**

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