

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

In Re: Delta Air Lines, Inc., Lead Case No. LA CV20-00786 JAK (SKx)

Subject to approval by the United States District Court for the Central District of California (the “Court”), this Settlement Agreement and Release (“Agreement”) sets forth the full and final terms by which Plaintiffs Frankie Lomas, Roxanda Yancor, Jose Alvarado, and Maria Alvarado (collectively, “Named Plaintiffs”), on the one hand, and Delta Air Lines, Inc. (“Delta” or “Defendant”), on the other hand, have settled and resolved all claims, including for the class, in *In Re: Delta Air Lines, Inc.*, LA CV20-00786 JAK (SKx), as more fully set forth below.

I. RECITALS

The following recitals are material terms of this Agreement, and all terms are used as defined in Section II, below, except as otherwise defined herein. This Agreement is made by the Parties, acknowledging that Delta has vigorously denied and continues to deny all claims asserted against it in the Action, all allegations of wrongdoing and liability, and all material allegations in the Action and any related cases. Delta contends that, if this matter were to be further litigated, Delta would have strong procedural and merits defenses. The Parties desire to settle the Action on the terms set forth herein solely for the purpose of avoiding the respective burden, expense, risk, and uncertainty of continuing these proceedings. Nothing in this Agreement should be, is intended to be, or will be construed as an admission by Delta of any wrongdoing, or that Named Plaintiffs’ and Class Members’ claims have merit, or that Delta has any liability whatsoever to Named Plaintiffs or the Class Members.

A. On January 24, 2020, Plaintiffs Frankie Lomas and Roxanda Yancor, on behalf of themselves and others similarly situated, filed a putative class action against Delta. Dkt. 1.

B. On July 27, 2020, *Lomas v. Delta Air Lines, Inc.* was designated Lead Case after being consolidated with *Barajas v. Delta Airlines, Inc.*; *Cotton v. Delta Air Lines, Inc.*; *Garcia v. Delta Airlines, Inc.*; *Pait v. Delta Air Lines, Inc.*; *Castillo v. Delta Air Lines, Inc.*;

and *Amah v. Delta Airlines, Inc.* Dkt. 30. The consolidated action was renamed *In Re: Delta Air Lines, Inc.*, LA CV20-00786 JAK (SKx) (the “Action”).

C. On January 25, 2022, Named Plaintiffs filed the operative Second Amended Complaint, alleging trespass, private nuisance, and trespass to chattels. Dkt. 272.

D. Named Plaintiffs, who own and/or live in property in Cudahy, California, allege property damage from a fuel jettison from Delta flight DL89 on January 14, 2020, following an in-flight emergency that occurred shortly after DL89 took off from LAX for Shanghai, China.

E. On March 14, 2022, Named Plaintiffs moved to certify the class as to the claims for trespass and private nuisance. Dkt. 297. The proposed class was defined, in part, according to a map created by Named Plaintiffs’ expert Nathan Cobb to identify the area allegedly affected by the jettison. Mr. Cobb devised this map utilizing a program called “Fuel Jettison Simulation Software.” Named Plaintiffs’ expert John A. Kilpatrick used the map to identify by Assessor’s Parcel Number (“APN”) the list of allegedly affected properties.

F. On February 8, 2023, the Court granted the motion for class certification in part, certifying only the following class:

All persons who, on January 14, 2020, owned, resided in, or rented one of the properties included on the list of affected residences prepared by John A. Kilpatrick. The class excludes counsel representing the class and all persons employed by said counsel, governmental entities, Delta Air Lines, Inc., its officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns, any judicial officer presiding over this matter, the members of their immediate families and judicial staff, and any other individual whose interests are antagonistic to other class members, including class members who sold their properties after the incident without disclosing it to the purchaser in advance of the sale. The class also excludes any person who has filed a claim in court against Delta

Air Lines, Inc. arising out of the January 14, 2020 fuel jettison, other than the named plaintiffs in this action: Frankie Lomas, Roxanda Yancor, Jose Alvarado, and Maria Alvarado.

Dkt. 401.

G. On July 31, 2023, Delta moved to exclude the testimony of Named Plaintiffs' expert, John A. Kilpatrick, Dkt. 539; to exclude the testimony of Named Plaintiffs' expert, Richard S. John, Dkt. 540; to exclude the testimony of Named Plaintiffs' expert, Dr. James Wells, Dkt. 541; and for partial summary judgment, Dkt. 542. On that same day, Named Plaintiffs moved to exclude Delta's expert, Christina M. Brunk, Dkt. 543. The Court has not ruled on those motions.

H. On November 3, 2023, Named Plaintiffs moved for approval of class notice. Dkt. 607. The Court has not ruled on that motion.

I. The Court heard oral arguments on the pending motion for summary judgment, *Daubert* motions, and motion for approval of class notice on November 13, Dkt. 649, and December 4, 2023, Dkt. 621, and took them under submission, Dkt. 614, 624. Beginning on July 19, 2024, and as recently as February 7, 2025, the Court entered orders indicating that it would continue to defer ruling on these motions while the Parties engaged in settlement discussions. Dkt. 667, 674.

J. Beginning on April 13, 2021, the Parties engaged in private mediation with the Honorable Louis M. Meisinger (Ret.) of Signature Resolution, a mediator with substantial experience in mediating complex cases. Between December 8, 2023, and September 19, 2024, the Parties engaged in multiple full-day mediation sessions before Judge Meisinger (Ret.), conducting extensive, good faith, arm's-length negotiations concerning the possible settlement of this action. These multiple negotiations and discussions that followed resulted in an independent mediator's proposal that Judge Meisinger (Ret.), with knowledge of the circumstances underlying the pending action, recommended that the Parties accept. After separate deliberation, each of the Parties accepted the independent mediator's proposal, the

terms of which are consistent with the terms of this Agreement, including the SiREM testing and Joint Declaration of Testing Results referenced hereinbelow.

K. This Agreement represents a compromise of highly disputed claims.

L. This Action has been actively litigated since *Lomas v. Delta Air Lines, Inc.* was filed on January 24, 2020.

M. The Parties to this Agreement have conducted a thorough and independent examination and investigation of the facts and law relating to the claims set forth in the operative Second Amended Complaint.

N. As part of their continued settlement negotiations, on November 25, 2024, the Parties, in consultation with their respective experts, agreed to a protocol for a laboratory bench study to evaluate the persistence of total petroleum hydrocarbon concentrations in the soil. SiREM, a reputable laboratory services provider agreed to by the Parties, was engaged to test 1 square meter sample plots, composed of soil similar to what was allegedly misted with jet fuel by the emergency fuel jettison, to determine whether the amounts that Mr. Cobb opines were jettisoned during the emergency would (a) be detectable and (b) persist beyond the jettison event. SiREM's testing has been completed and is the subject of a report issued and agreed to by the Parties and their respective experts in a Joint Declaration of Testing Results.

O. This litigation, along with the Parties' additional factual investigations, were taken into account by the Parties and their counsel regarding the strengths and weaknesses of their respective positions and provided the Parties a full opportunity to assess the litigation risks presented in the Action.

P. Based on the litigation and mediation described above, Class Counsel have concluded, taking into account the sharply contested issues involved, the risks, uncertainty, and cost of further prosecution of the Action, and the substantial benefits to the Class to be received pursuant to this Agreement, that a settlement with Delta on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Class.

Q. Based on the litigation and mediation described above, Named Plaintiffs have also concluded, taking into account the sharply contested issues involved, the risks, uncertainty, and cost of further prosecution of the Action, and the substantial benefits to the Class to be received pursuant to this Agreement, that a settlement with Delta on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Class.

R. The Parties understand, acknowledge, and agree that the execution of this Agreement constitutes the settlement and compromise of highly disputed and contested claims. This Agreement is not an admission of wrongdoing or liability on the part of any party to this Agreement. It is the Parties' desire and intention to effectuate a complete and final settlement and resolution of all existing disputes and claims as set forth herein.

S. The settlement contemplated by this Agreement is subject to preliminary approval and entry of a Final Approval Order/Judgment by the Court, as set forth herein.

II. DEFINITIONS

A. "Action" means the consolidated Second Amended Complaint filed on January 25, 2022 and the claims and allegations asserted therein.

B. "CAFA Notice" refers to the notice requirements imposed by 28 U.S.C. § 1715(b).

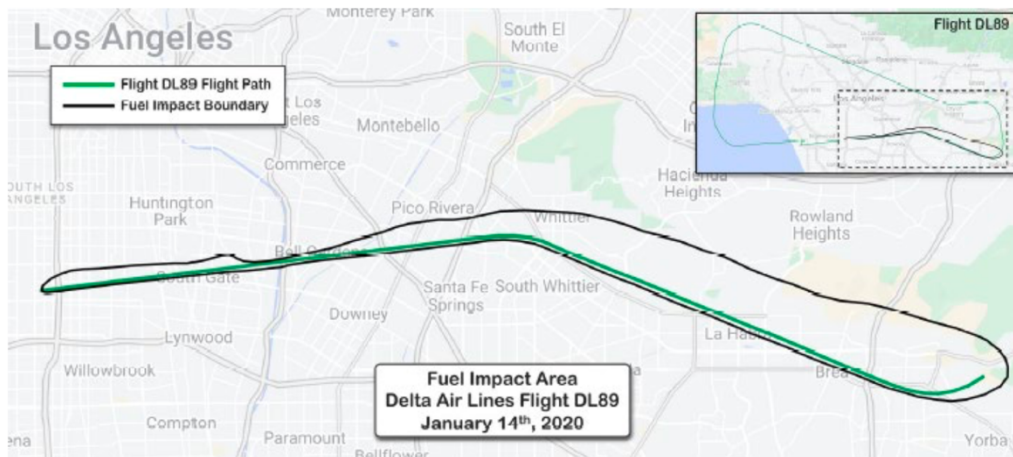
C. "Monetary Award(s)" means a monetary payment to a Class Member, pursuant to Section III.L below.

D. "Claim" or "Claims" means any and all filed and/or unfiled claims, actions, causes of action, demands, cross-claims, counterclaims, attorneys' liens, obligations, contracts, indemnity, contribution, suits, debts, sums, accounts, controversies, rights, damages, costs, attorneys' fees, losses, expenses, and damages and liabilities whatsoever (contingent, accrued or unaccrued, mature, direct, derivative, subrogated, personal, assigned, discovered, undiscovered, inchoate, or otherwise) which the Class Members and Named Plaintiffs ever had, now have or hereafter can, shall or may have in the future arising out of, relating to, resulting from, or in any way connected with the Incident, including but not

limited to claims that were, could have been, or could be asserted against Delta in the consolidated lawsuits captioned *In Re Delta Air Lines, Inc.*, Case No. 2:20-cv-00786-JAK-SK, pending in the United States District Court for the Central District of California, and any such other claims and damages of which the Class Members and Named Plaintiffs are not aware and/or that the Class Members and Named Plaintiffs have not yet anticipated in relation to the Incident and/or the facts alleged in the Action.

E. “Class” means all persons who, on January 14, 2020, owned, resided in, or rented one of the properties included on the list of affected residences prepared by John A. Kilpatrick. The class excludes counsel representing the class and all persons employed by said counsel, governmental entities, Delta Air Lines, Inc., its officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns, any judicial officer presiding over this matter, the members of their immediate families and judicial staff, and any other individual whose interests are antagonistic to other class members, including class members who sold their properties after the incident without disclosing it to the purchaser in advance of the sale. The class also excludes any person who has filed a claim in court against Delta Air Lines, Inc. arising out of the January 14, 2020 fuel jettison, other than the named plaintiffs in this action: Frankie Lomas, Roxanda Yancor, Jose Alvarado, and Maria Alvarado.

F. “Class Area” means the area delineated in the map below:



(Detailed Map Currently Available at

[<https://www.google.com/maps/d/u/0/viewer?mid=1GdzgI2jmEGB5c93FgX33o61E5L96PN8&ll=33.94310689118541%2C-118.050946&z=12>]).

G. “Class Counsel” means The X-Law Group, P.C, and any partner thereof.

H. “Class Member(s)” refers to any individual who falls within the Class pursuant to Sections I.F and II.E, above.

I. “Class Member Claim Form” means the form that a Class Member must return to the Settlement Administrator in order to obtain a Monetary Award, as more fully set forth in Section III.L below.

J. “Court” refers to the United States District Court for the Central District of California.

K. “Cy Pres Distribution” means monies that may be distributed on a cy pres basis in connection with the settlement, pursuant to Section III.L(v) below.

L. “Defense Counsel” means Clyde & Co US LLP and King & Spalding LLP.

M. “Effective Date” means the date on which there is a Final Judgment subject to no further appeal because either the applicable appeals period has expired and no appeal was filed, or any appeal (and all potential future appeals) have been fully and finally resolved.

N. “Qualified Settlement Account” means the interest-bearing account pursuant to Sections III.I and III.P(i), below, held at a bank or banks consistent with proper security for purposes of the settlement, which shall be subject to supervision by the Court.

O. “Final Approval Hearing” means the hearing at or after which the Court will make a final decision whether to approve the Settlement set forth in this Agreement as fair, reasonable, and adequate.

P. “Final Approval Order/Judgment” means the order/judgment issued by the Court in connection with the Final Approval Hearing.

Q. “Incident” means the fuel jettison from Delta flight DL89 on January 14, 2020, following an in-flight emergency that occurred shortly after DL89 took off from LAX for Shanghai, China.

R. “Joint Declaration of Testing Results” means the joint declaration by the Parties’ respective experts pursuant to Section III.D(iii), below, regarding the findings of the Laboratory Bench Study to Evaluate the Persistence of Total Petroleum Hydrocarbon Concentrations from Jet A in Soil prepared by SiREM at the joint request of the Parties pursuant to the testing protocol jointly agreed to by the Parties and their respective experts.

S. “Monetary Settlement Class Members” mean Settlement Class Members who, on January 14, 2020, owned, resided, or owned and resided in one of the 1-4 unit residences within the Class Map, as identified on the list of residences prepared by John A. Kilpatrick, and on whose behalf a valid and timely Class Member Claim Form has been submitted and verified by the Settlement Administrator.

T. “Named Plaintiffs” means, collectively, Plaintiffs Frankie Lomas, Roxanda Yancor, Jose Alvarado, and Maria Alvarado.

U. “Net Settlement Fund” means the amount remaining after deducting the following from the \$78,750,000 Settlement Fund: no more than \$2,100,000 in Settlement Administration and Distribution Costs; no more than a total of \$60,000 in service awards to the four Named Plaintiffs to be shared equally; no more than \$2,000,000 in litigation costs to Class Counsel; and no more than \$24,000,000 in attorneys’ fees to Class Counsel.

V. “Owners’ Settlement Fund” means 67% of the Net Settlement Fund.

W. “Owners” means Settlement Class Members who, on January 14, 2020, owned one of the 1-4 unit residences within the Class Map, as identified on the list of residences prepared by John A. Kilpatrick and on whose behalf a valid and timely Class Member Claim Form has been submitted and verified by the Settlement Administrator.

X. “Parties” means Named Plaintiffs and Delta.

Y. “Preliminary Approval Order” means the order by the Court in granting preliminary approval of the Parties’ settlement.

Z. “Released Claims” means the Claims released by the releases identified in Section III.Q below, which encompass all Claims that arise or could reasonably arise out of the facts alleged in the Action, as specified in more detail Section III.Q below.

AA. “Released Parties” means Defendant Delta Air Lines, Inc., The Boeing Company, Rolls-Royce plc, Rolls-Royce North America, Inc., and their respective past or present parent companies, subsidiaries, divisions, related or affiliated companies, and each of their respective shareholders, officers, partners, joint ventures, consultants, advisors, directors, employees, agents, operators, attorneys, insurers, co-insurers, reinsurers, and the heirs, successors, and assigns of any such person or entity, and any individual or entity which could be jointly liable with Delta Air Lines, Inc., The Boeing Company, Rolls-Royce plc, and/or Rolls-Royce North America, Inc.

BB. “Residents’ Settlement Fund” means 33% of the Net Settlement Fund.

CC. “Residents” means Settlement Class Members who, on January 14, 2020, resided in one of the 1-4 unit residences within the Class Map, as identified on the list of residences prepared by John A. Kilpatrick, and on whose behalf a valid and timely Class Member Claim Form has been submitted and verified by the Settlement Administrator.

DD. “Settlement Administrator” means Verita Global, LLC f/k/a KCC Class Action Services, LLC (“Verita”), whom the Parties have agreed to appoint, subject to approval by the Court, to perform the customary duties of the Settlement Administrator. All disputes related to the Settlement Administrator’s performance or its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement until all payments and obligations contemplated by this Agreement have been fully carried out.

EE. “Settlement Class” means any and all Settlement Class Members.

FF. “Settlement Class Member(s)” means any and all person(s) meeting the definition of a Class Member(s) pursuant to Sections I.F and II.E, above, but excluding those who timely and properly opt out after Settlement Class Notice is issued.

GG. “Settlement Class Notice” means the notices that will be provided to the Settlement Class Members, substantially in the form attached hereto as **Exhibits A1, A2 and A3**.

HH. “Settlement Administration Costs” means: (1) all costs of providing notice to Class Members; (2) all costs of administering the Settlement; and (3) the fees, expenses, and all other costs charged by the Settlement Administrator.

II. “Settlement Fund” means the total monetary amount that Delta is obligated to pay in connection with this Agreement: Seventy-Eight Million Seven Hundred and Fifty Thousand U.S. dollars (\$78,750,000). The Settlement Fund will be used to pay Monetary Awards to Class Members, Settlement Administration Costs, service awards to Named Plaintiffs, Class Counsel attorneys’ litigation costs, and Class Counsel attorneys’ fees. In no event shall Delta be obligated to pay more than the Settlement Fund amount in connection with this Agreement.

JJ. “Settlement Value” means the aggregate of the Settlement Fund and the value, to the class, of the SiRem testing report and Joint Declaration of Testing Results.

KK. “Settlement Value per Class Property” means the aggregate of the Settlement Fund and the value, to each property owner, of the SiRem testing report and Joint Declaration of Testing Results.

LL. “Settlement Website” means a website created by the Settlement Administrator, dedicated to the settlement, and on which the Settlement Class Notice will be posted. The Settlement Website shall provide for online submission of updated Class Member contact information and the Class Member Claim Form.

III. TERMS OF SETTLEMENT

A. **Conditions Precedent:** The Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon, and will become final and fully effective only upon the occurrence of, all of the following events:

- i. The Court enters a Preliminary Approval Order;
- ii. Settlement Class Notice is provided to Class Members in accordance with the Court's Preliminary Approval Order;
- iii. The Court sets and conducts a Final Approval Hearing;
- iv. The Court enters a Final Approval Order/Judgment consistent with the terms described in this Agreement; and
- v. The Effective Date occurs.

Notwithstanding the foregoing provisions in this paragraph, however, prior to the Agreement becoming final and fully effective, the Parties are bound by this Agreement to perform certain tasks as part of the settlement process—including the provision of notice, for example—as specified in this Agreement.

B. **Consequences of Settlement Not Becoming Effective:** This Agreement is contingent upon each of the conditions precedent in Section III.A occurring and is entered into voluntarily by the Parties for settlement purposes only. To the extent this Agreement is not approved by the Court, is deemed void, the Effective Date does not occur, or for whatever reason the Agreement does not result in final resolution of the Action, Delta does not waive, and, instead, expressly reserves its rights to challenge all claims and allegations in the Action upon all procedural, factual, and legal grounds, as well as asserting any and all other potential defenses or privileges. If the settlement is not approved by the Court, nothing in this Agreement or any draft thereof, shall have any effect, nor shall any such matter be admissible in evidence for any purpose in the Action or in any other proceeding or forum. Should the Court deny the Parties' request for entry of a Final Approval Order or should a Final Approval Order be entered and then vacated on appeal, the Settlement Administrator shall return to Delta, within ten (10) days of

receipt of a written demand, all funds remaining in the Qualified Settlement Account including all interest and earnings thereon.

C. **Preliminary Approval:** The Parties agree to cooperate and collaborate on a jointly filed motion for preliminary approval of this Agreement. The Parties shall jointly prepare the following:

- (i) an initial draft of the notice and memorandum in support of the Motion for Preliminary Approval that includes an analysis of the settlement¹;
- (ii) a draft proposed Order Granting Preliminary Approval and Vacating the Court's October 27, 2023 Order Re Defendant's Motion for Summary Judgment on the Federal Standard of Care (Dkt. 602 (redacted) and 603 (sealed)) under Federal Rule of Civil Procedure 60(b)(6);
- (iii) a draft proposed Settlement Class Notice;
- (iv) a signed declaration from the Settlement Administrator attaching its estimate for administering the settlement and attesting to its willingness to serve; competency; and operative procedures for protecting the security of Class Members' data;
- (v) a signed declaration from Class Counsel attesting to their competency to represent the Class Members and all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Settlement Administrator.

The Parties have a duty to cooperate if there are any disagreements that occur during this process or if the Court denies the initial motion for preliminary approval.

D. **Settlement Class Notice:**

- i. Information for Settlement Class Notice: Class Counsel shall provide to the Settlement Administrator, within seven (7) calendar days after the Preliminary Approval Order, the list of APNs for the residences prepared

¹ The Named Plaintiffs may, but are not required to, unilaterally advance, in the motion, an analysis of the Settlement Value and/or Settlement Value per Class Property.

by the Class real estate expert, John A. Kilpatrick, attached hereto as **Exhibit D**.

- ii. Timing of Settlement Class Notice: Within fourteen (14) calendar days following entry of the Preliminary Approval Order, the Settlement Administrator shall provide Settlement Class Notice to all Class Members in the form agreed upon by the Parties (or such other form as approved by the Court) and in the manner agreed upon by the Parties (or such other manner as approved by the Court). The Parties intend to provide actual notice to each Class Member, to the extent practicable.
- iii. Additional Contents to Accompany Settlement Class Notice: The Settlement Administrator shall include along with the Settlement Class Notice the following:
 - (1) a Joint Declaration of Testing Results, substantially in the form attached hereto as **Exhibit B**; and
 - (2) a Class Member Claim Form, substantially in the form attached hereto as **Exhibit C**, to be completed by each Settlement Class Member over the age of 14² to verify under penalty of perjury and substantiate that on January 14, 2020, they owned, resided, or owned and resided in one of the 1-4 unit residents within the Class Map and are not excluded from the Class under the Class definition pursuant to Sections I.F. and II.E, above.

² Applications for Minors under the age of 14 shall be made by their parents or legal guardians.

iv. Manner of Settlement Class Notice:

1. Mail Notice: The Settlement Administrator shall send the Settlement Class Notice via direct mail to each address corresponding to an APN identified in the list provided as set forth in Section III.D.i. Upon its receipt of the list, the Settlement Administrator shall access the National Change of Address (NCOA) Database and update the lists of addresses as needed to include any Class Members who moved outside of the Class Area after January 31, 2020. Skip tracing to the extent practicable shall be performed by the Settlement Administrator for all returned mail; all costs of skip tracing will be considered Settlement Administration Costs and deducted from the Settlement Fund.
2. Internet Notice: The Settlement Administrator will maintain a Settlement Website dedicated to the settlement, on which the Settlement Class Notice will be posted. The Settlement Website shall provide for online submission of updated Class Member contact information and Class Member Claim Form. The Settlement Website shall become active within 5 days after the Court's entry of the original Preliminary Approval Order and shall be deactivated when the Settlement Fund is completely distributed.
3. CAFA Notice: Delta shall be responsible for timely compliance with all Class Action Fairness Act ("CAFA") notice requirements. CAFA requires that notice of a class action settlement be given to the appropriate government officials identified in the statute. 28 U.S.C. § 1715(b).

E. Exclusion (Opt-Out) Right/Termination

- i. Deadline: Class Members may exclude themselves (opt out) from the Settlement Class only by sending a timely written request to exclude themselves (opt out) (as described in subsection ii, immediately below) to a designated address within 60 calendar days after the mailing of the Settlement Class Notice. All Class Members not opting out shall be Settlement Class Members and shall be bound by all determinations, releases, and judgments in the Action.
- ii. Exclusions: Exclusion (opt out) requests must:
 - (a) be signed;
 - (b) include the full name of the person requesting exclusion, mailing address, email address, and phone number;
 - (c) if the exclusion is that of an Owner, the exclusion request must include a document attesting to the ownership of the individual and
 - (d) include at least the following statement (or words to this effect): “I request to be excluded from this class action settlement.”

No request for exclusion will be valid unless all of the information described above is included. Copies of any exclusion requests received shall be forwarded by the Settlement Administrator to Defense Counsel and Class Counsel within five (5) days after receipt by the Settlement Administrator. The Settlement Administrator shall maintain a list of all exclusions and, not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing the names

and other identifying information of all Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”).

- i. Delta’s Right to Withdraw: If the number of valid Requests for Exclusion on the Exclusion List exceeds 2% of the total of all Class Members, Delta may, but is not obligated to, elect to withdraw from the settlement. The Parties agree that, if Delta withdraws, the settlement shall be void *ab initio*, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Delta will remain responsible for paying all Settlement Administration Costs incurred to that point. Delta must notify Class Counsel and the Court of its election to withdraw not later than twenty (20) business days after the Administrator sends the final Exclusion List to Defense Counsel.
- ii. Delivery to Court: The Settlement Administrator will retain a copy of all requests for exclusion. At or before the Final Approval Hearing, the Settlement Administrator shall file with the Court a declaration that lists all of the exclusion requests (opt-outs) received.

F. Objections to the Settlement

- i. Right to Object: Any Class Member may object to the settlement in a timely written submission to the Court. If timely filed, an objecting Class Member may appear at the Final Approval Hearing to argue that the proposed settlement should not be approved and/or to oppose the application of Class Counsel for an award of attorneys’ fees and/or the service awards to the Named Plaintiffs.
- ii. Deadline: The written objection deadline for all Class Members shall be 60 calendar days after the mailing of Settlement Class Notice. The

Settlement Class Notice will advise Class Members of this written objection deadline. Class Members may also seek information on the Settlement Website. Prior to the objection deadline, the Settlement Website will also contain briefing and supporting materials submitted in support of approval of the settlement and in support of Class Counsel's application for attorneys' fees and for service awards to the Named Plaintiffs.

G. **Final Approval:** Within 90 calendar days of the provision of Settlement Class Notice, Named Plaintiffs shall move that the Court enter the Final Approval Order/Judgment, which shall specifically include provisions that: (1) finally approve the Settlement as fair, reasonable, and adequate and in the best interests of Settlement Class Members; (2) find that the Settlement Class Notice as given was the best notice practicable under the circumstances, is due and sufficient notice to Class Members and fully satisfies the requirements of due process and Federal Rule of Civil Procedure 23; (3) approve the plan of distribution of the Net Settlement Fund; (4) confirm that the Named Plaintiffs, the Settlement Class Members, and Delta have released all Released Claims and are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims; (5) vacate the Court's October 27, 2023 Order Re Defendant's Motion for Summary Judgment on the Federal Standard of Care (Dkt. 602 (redacted) and 603 (sealed)) under Federal Rule of Civil Procedure 60(b)(6); and (6) dismiss the Action with prejudice, subject to the Court's retaining jurisdiction over the enforcement of the terms of this Agreement.

H. **Settlement Fund:** Delta shall pay the Settlement Fund by wire transfer to the Qualified Settlement Account within sixty (60) calendar days of the Effective Date. The payments described in this section are made in order to satisfy all Claims of Named Plaintiffs and the Class Members, as well as for other purposes identified in this Agreement. The monies so transferred, together with interest subsequently earned thereon, shall constitute the entire Settlement Fund. The settlement monies transferred into the Settlement Fund by Delta shall

include: (a) all amounts paid to Class Members, including Named Plaintiffs, which are to be distributed as Monetary Awards pursuant to Section III.L; (b) all Class Counsel attorneys' fees awarded by the Court, up to \$24,000,000; (c) any service awards to Named Plaintiffs up to \$60,000, collectively, (d) litigation costs awarded by the Court, up to \$2,000,000; and (d) Settlement Administration Costs, up to \$2,100,000. In no event shall Defendant be obligated to pay more than the Settlement Fund amount in connection with this Agreement.

I. **Qualified Settlement Fund:** Subject to Court approval, the Qualified Settlement Fund shall be an interest-bearing account at a bank or banks designated by the Settlement Administrator. All interest earned on any amounts in the Qualified Settlement Account shall become part of the Settlement Fund for all purposes. The Settlement Administrator shall have the ability, authority, and obligation to withdraw from the Qualified Settlement Account all funds necessary for costs and expenses of administering the settlement up to the amount approved by the Court for Settlement Administration Costs. Delta shall have no liability or responsibility for the Settlement Administrator's actions with regard to the Qualified Settlement Account.

J. **Administration by Trustee:** The Settlement Administrator shall serve as Trustee of the Qualified Settlement Fund and shall act as a fiduciary with respect to the handling, management, and distribution of the Qualified Settlement Fund. The Settlement Administrator shall act in a manner necessary to qualify the Qualified Settlement Fund as a "qualified settlement fund" under Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, et seq., and to maintain that qualification. Delta, Named Plaintiffs, Class Counsel, and Defense Counsel shall have no liability whatsoever for the Settlement Administrator's actions with regard to the Settlement Fund.

K. **Settlement Administrator:** Subject to Court approval, the settlement distribution process will be administered by the Settlement Administrator.

L. **Distribution Protocol:** Settlement payments to Monetary Settlement Class Members shall be distributed by the Settlement Administrator. The settlement payments shall be paid from the Net Settlement Fund according to the following parameters:

- i. The Settlement Administrator shall determine (a) the total number of Monetary Settlement Class Members who returned a timely and valid Class Member Claim Form, as verified by the Settlement Administrator, demonstrating that they were an owner of a 1-4 unit residential real property within the Class Map on January 14, 2020, and are not excluded from the Class under the Class definition (“Settlement Owners”); and (b) the total number of Monetary Settlement Class Members who returned a timely and valid Class Member Claim Form, as verified by the Settlement Administrator, demonstrating that they were a resident of a 1-4 unit residential real property within the Class Map on January 14, 2020, and are not excluded from the Class under the Class definition (“Settlement Residents”). Within seven (7) calendar days of the deadline to submit to the Settlement Administrator completed Class Member Claim Forms, the Settlement Administrator shall provide to Class Counsel and Defense Counsel a report of the total number of Settlement Owners and the total number of Settlement Residents.
- ii. Settlement payments to Settlement Owners shall be paid from the Owners’ Settlement Fund and shall be divided equally on a per-property basis for each property for which a Settlement Owner submits an approved Class Member Claim Form. If there is more than one owner of record on title for the property, the payment for the property will be divided equally among each of those owners.

- iii. Settlement payments to Settlement Residents shall be paid from the Residents' Settlement Fund, which shall be divided equally among each Settlement Resident who either directly submitted an approved Class Member Claim Form or, in the event they are under the age of 14, had an approved Class Member Claim Form submitted on their behalf by their parent or legal guardian.
- iv. The Settlement Administrator shall send, within twenty (20) calendar days of the payment of the Settlement Fund, the appropriate settlement payment to each Settlement Owner and to each Settlement Resident. At the election of the Settlement Administrator, settlement payments to approved Class Members may be either digital (i.e., virtual pre-paid debit card, Venmo, Zelle, etc.) or physical (i.e., check or debit card). In the event a person qualifies as both a Settlement Owner and Settlement Resident, the Settlement Administrator may, but is not required to, combine the amounts to issue a single settlement payment. Settlement payments shall have a validity of ninety (90) calendar days from the date of issuance of the payment. Fourteen (14) calendar days before the expiration of the validity period of the settlement payments, the Settlement Administrator will send a notice to Monetary Settlement Class Members who have been sent settlement payments but who have not cashed them reminding them of the expiration of the 90-day period. Settlement payments that have expired will not be reissued except for good cause, as determined by the Settlement Administrator in consultation with the Parties. Upon completion of the applicable expiration period, the Settlement Administrator shall provide Class Counsel and Defense Counsel a report listing the amount of all settlement payments that successfully were made

to each Monetary Settlement Class Member. If any settlement payments are reissued under the good cause exception in this paragraph, the Settlement Administrator shall submit a report to Class Counsel and Defense Counsel explaining and listing all such reissued settlement payments.

- v. Cy Pres Distribution. Settlement payments not cashed within the 90-day period shall be distributed as follows: (i) if the total amount of cashed settlement payments does not equal or exceed 90% of the Net Settlement Fund, then the amount of the uncashed settlement payments shall revert to the Net Settlement Fund and shall then be re-distributed to those Settlement Class Members who previously cashed their settlement payments, divided equally on a per capita basis; and (ii) if the total amount of cashed settlement payments exceeds 90%, but is less than 100%, of the Net Settlement Fund, the remainder sum will be put in a cy pres fund. If this occurs, subject to Court approval, the Parties will distribute, in an equal amount, the remaining funds to the following non-profit organizations:

50% **YMCA of Metropolitan Los Angeles**
4301 W. 3rd Street
Los Angeles, CA 90020-3809
213-351-2254
Victor Dominguez, President and CEO
VictorDominguez@ymcala.org
EIN: 95-1644052
www.ymcala.org
The YMCA has been making a positive impact in LA for over 140 years.

20% **Los Angeles Regional Food Bank**
1734 East 41st Street
Los Angeles, CA 90058-1502

323-234-3030
Michael Flood, President and CEO
mflood@lafoodbank.org
EIN: 95-3135649
www.lafoodbank.org
Fighting Hunger. Giving Hope.

20% **TreePeople**
12601 Mulholland Drive
Beverly Hills, CA 90210-1332
818-753-4600
Daniel Berger, Executive Director
dberger@treepeople.org
EIN: 23-7314838
www.treepeople.org
Supports people of Southern California to plant and care for trees

10% **Fly Compton Aeronautical Aviation Foundation**
12501 Imperial Highway, Suite 200
Norwalk, CA 90650
310-554-4616
Demetrius Harris, President
demetrius@flycomptonfoundation.org
EIN: 85-3136532
www.flycomptonfoundation.org
Provide aeronautical education for youth.

M. **Service Awards:** Delta will not object to service awards to the four Named Plaintiffs as approved and awarded by the Court, not to exceed a total of \$60,000, to be paid out of the Settlement Fund. Subject to Court approval, such service awards shall be paid at the time the Net Settlement Fund is distributed. Court approval of the service awards, and their amount, is not a condition of the settlement. Any difference between this maximum service award and the amount awarded by the Court shall revert back to the Net Settlement Fund pursuant to Section III.O.

N. **Attorneys' Fees and Costs:** Class Counsel's fees and costs, including those in connection with securing Court approval of this Settlement Agreement, the settlement administration process and any monitoring of this Settlement Agreement, shall be paid to Class

Counsel's firm, The X-Law Group PC, from the Settlement Fund, following the approval of such attorneys' fees and costs (including their amount) by the Court. Plaintiffs shall move for an award of attorneys' fees and costs to be paid from the Settlement Fund. Delta shall not object to such a motion so long as the amount requested is not more than \$2,000,000 in litigation costs and \$24,000,000 in attorneys' fees, which is 33% of the value of the Settlement Fund. Class Counsel's firm, The X-Law Group PC, shall be entitled to payment of the fees awarded by the Court out of the Fund within twenty (20) calendar days of the payment of the Settlement Fund pursuant to Section III.H, above. Court approval of attorneys' fees and costs, or their amount, will not be a condition of the settlement. In addition, no interest will accrue on such amounts at any time.

O. **Return of Unexpended Funds:** To the extent that (a) the collective service awards awarded to Named Plaintiffs is less than \$60,000, (b) the litigation costs approved by the Court are less than \$2,000,000, (c) the attorneys' fees to Class Counsel approved by the Court are less than \$24,000,000, and/or (d) the amount of Settlement Administration Costs total less than \$2,100,000, the unused portions of those allocated funds will be added to the Net Settlement Fund and distributed according to Section III.L.

P. **Tax Treatment:**

- i. Qualified Tax Status and Tax Responsibilities: The Settlement Fund shall be established as a "qualified settlement fund" within the meaning of Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.*, and shall be administered by the Settlement Administrator under the Court's supervision. The Parties shall cooperate to ensure such treatment and shall not take a position in any filing or before any tax authority inconsistent with such treatment.
- ii. Tax Matters: Each Party and all Named Plaintiffs and Monetary Settlement Class Members shall be solely responsible for the United States

federal, state, local and foreign tax consequences to such Party of the receipt of funds from the Settlement Fund pursuant to this Agreement. The Parties agree that the Parties shall treat the Settlement Fund as a qualified settlement fund for all reporting purposes under the federal tax laws.

Q. **Release:** At the Effective Date, the following releases will be effective:

- i. Named Plaintiffs and all Settlement Class Members (and their respective assigns, heirs, trustees, successors and personal representatives) fully release and forever discharge the Released Parties from any and all Claims, rights, duties, obligations, counterclaims, defenses, actions, causes of action, expenses, attorney's fees, costs or liabilities (including penalties of every kind or nature whatsoever), whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, accrued or unaccrued, actual or contingent, liquidated or unliquidated, punitive or compensatory as of the date of the Final Approval Order/Judgment: (a) that were or could have been brought by Plaintiffs in the Action; or (b) that arise out of or are related to the Incident and/or the facts alleged in the Action.
- ii. Named Plaintiffs and all Settlement Class Members expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code as to the Released Claims, or any other law of any state or territory that is similar, comparable or equivalent to Section 1542. Section 1542 provides:

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

R. **Stay/Bar of Other Proceedings:** All proceedings in the Action will be stayed following entry of the Preliminary Approval Order, except as may be necessary to implement the settlement or comply with the terms of the Agreement. Pending determination of whether the settlement should be granted final approval, the Parties in the Action agree not to pursue any claims or defenses otherwise available to them.

S. **Confidentiality of Settlement:** Except as required by applicable law, the Parties and their Counsel shall keep the terms and conditions of this settlement confidential until the motion for preliminary approval is filed with the Court.

T. **Notice to Counsel:** All notices, requests, demands, or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be provided by e-mail and either delivered personally or mailed, postage prepaid, by first-class United States mail, to the undersigned person at their respective addresses as set forth below:

For Delta:

Jeffrey J. Ellis
405 Lexington Avenue, 16th Floor
New York, New York 10174
Telephone: (212) 710-3900
Facsimile: (212) 710-3950
Email: jeff.ellis@clydeco.us

And

David K. Willingham
Arwen Johnson
633 West Fifth Street, Suite 1600
Los Angeles, California 90071
Telephone: (213) 443-4355
Facsimile: (213) 443-4310
Email: dwillingham@kslaw.com
Email: arwen.johnson@kslaw.com

For the Class:

Filippo Marchino
625 Fair Oaks Ave, Suite 390
South Pasadena, California 91030
Telephone: (213) 599-3380
Facsimile: (213) 599-3370
Email: FM@XLAWX.com

U. **General Matters**

- i. Cooperation. The Parties agree that they will cooperate to effectuate and implement all terms and conditions of this Agreement, and exercise good faith efforts to accomplish the terms and conditions of this Agreement. The Parties agree to accept non-material and procedural changes to this Agreement (including changes by the Court to the amounts of Class Counsel's attorney fees and litigation costs, service awards to Named Plaintiffs, and Settlement Administration Costs) if so required by the Court in connection with Final Approval of the settlement, but are not obligated to accept any changes in the total Settlement Fund. In the event that the Court raises any questions or concerns about this Settlement Agreement, the Parties agree to exercise good faith efforts together to address those questions or concerns, including as needed further arms-length mediation efforts before the Honorable Louis M. Meisinger (Ret.).
- ii. No Admission of Liability. Delta expressly denies any liability in this litigation.
- iii. Parties Authorized to Enter Into Settlement Agreement. The individual(s) executing this Agreement on behalf of a party represent and warrant that he or she is fully authorized to execute this Agreement on such party's behalf and to carry out the obligations provided for therein. Each person executing this Agreement on behalf of a party covenants, warrants, and represents that he or she is and has been fully authorized to do so by such party. Each party represents and warrants that he, she, or it intends to be bound fully by the terms of this Agreement.
- iv. Time Periods. The time periods and dates described in this Agreement with respect to the giving of Settlement Class Notice and hearings will be

subject to Court approval and modification by the Court or by written stipulation of counsel.

- v. No Construction Against Drafter. This Agreement is deemed to have been drafted by all Parties, and any rule that a document shall be interpreted against the drafter will not apply to this Agreement.
- vi. Agreement Binding on Successors in Interest. This Agreement is binding on and shall inure to the benefit of the respective heirs, successors, and assigns of the Parties.
- vii. Signatures. The Parties and their counsel may sign separate copies of this Agreement, which together will constitute one agreement. In addition, signatures sent in pdf format by email or by facsimile constitute sufficient execution of this Agreement.
- viii. Execution in Counterparts. This Agreement is effective upon its execution by all Parties. The Parties may execute this Agreement in counterparts. Each counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.
- ix. Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes all prior understandings, agreements, or writings regarding the subject matter of this Agreement. This Agreement may be modified only by a written instrument signed by all Parties or their successors in interest or their duly authorized representatives.
- x. Governing Law. This Agreement shall be subject to, governed by, construed, enforced and administered in accordance with the laws of the State of California, both in its procedural and substantive aspects, and without regard for the principle of conflict of laws.

V. Miscellaneous Provisions

- i. Each Exhibit to this Agreement is incorporated herein by this reference as though fully set forth herein.
- ii. The waiver by one party of any breach of this Agreement by any other party shall not be deemed a waiver, by that party or by any other party, of any other prior or subsequent breach of this Agreement.
- iii. Each party to this Agreement warrants that he, she, or it is acting upon his, her, or its independent judgment and upon the advice of his, her, or its own counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other party.
- iv. This Agreement has been carefully read by each of the Parties, or their responsible officers, and its contents are known and understood by each of the Parties. This Agreement is signed freely by each party executing it.
- v. No party to this Agreement has heretofore assigned, transferred or granted, or purported to assign, transfer or grant, any of the claims, demands, or cause or causes of action disposed of by this Agreement.
- vi. In the event that one or more of the provisions contained in this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable provision shall be ineffective but shall not in any way invalidate or otherwise affect any other provision.
- vii. All discovery, motions, and other proceedings, other than those necessary to obtain the Court's preliminary and final approval of the settlement, shall be stayed pending final approval.
- viii. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties submit to the

jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

[PARTIES SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed:

IT IS SO AGREED:



Named Plaintiff Frankie Lomas

6/7/2025

Date



Named Plaintiff Roxanda Yancor

6/7/2025

Date



Named Plaintiff Jose Alvarado

06.10.2025

Date


Maria Alvarado

Named Plaintiff Maria Alvarado

06-10-2025

Date

APPROVED AS TO FORM AND CONTENT:




The X-Law Group, P.C.
Counsel for Class Plaintiffs

6-10-25

Date

[DELTA SIGNATURE PAGE TO FOLLOW]


[DELTA SIGNATORY, POSITION]
for Defendant Delta Air Lines, Inc.
Deputy General Counsel

June 11, 2025
Date

APPROVED AS TO FORM AND CONTENT:


King & Spalding LLP
Counsel for Delta Air Lines, Inc.

June 11, 2025
Date