

## **SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

This Settlement Agreement and Release of Claims (“**Agreement**”) is made by and entered into between S.A. and A.M., for and on behalf of themselves and others similarly situated, on the one hand; and the Minnesota Department of Public Safety (“**DPS**”), for and on behalf of itself, its Driver and Vehicle Services division (“**DVS**”), DPS Commissioner Bob Jacobson, and DVS Director Pong Xiong (collectively, “**Defendants**”), on the other hand, each of whom is hereinafter referred to individually as a “**Settling Party**” and all of whom were hereinafter referred to collectively as the “**Settling Parties**” where appropriate.

### **RECITALS**

**WHEREAS**, on April 26, 2023, S.A. commenced a civil action against Defendants on behalf of himself and others similarly situated in Ramsey County District Court, styled *S.A. et al. v. Minnesota Department of Public Safety, et al.*, Court File No. 62-CV-23-2275 (the “**Action**”).

**WHEREAS**, S.A. seeks relief in the Action for Defendants’ alleged violation of Minnesota Statutes chapter 609A.

**WHEREAS**, the Settling Parties thereafter agreed to stay the Action to engage in an information-exchange process geared toward investigating and resolving the potential claims of S.A. and the individuals whom he purports to represent.

**WHEREAS**, beginning in May 2023 and continuing through 2024, the Settling Parties engaged in an information-exchange process.

**WHEREAS**, on October 23, 2024, S.A. filed an Amended Complaint including A.M. as an additional named plaintiff.

**WHEREAS**, at the parties’ request, S.A. and A.M. were permitted to proceed in the Action using their initials in lieu of their full names.

**WHEREAS**, the Settling Parties have agreed to resolve the claims of S.A., A.M., and the individuals whom they purport to represent on the terms and conditions set forth in this Agreement, all of which are the product of arm’s-length negotiations conducted between the Settling Parties before mediator Justice David L. Lillehaug, retired Justice of the Minnesota Supreme Court.

**WHEREAS**, the Settling Parties, through their respective counsel, are familiar with the facts and legal issues involved in the Action. S.A. and A.M. have entered into this Agreement on their own behalf and on behalf of the individuals whom they purport to represent because the settlement memorialized herein reflects a reasonable compromise of disputed issues. S.A., A.M., and their counsel have conducted an evaluation of the facts and law relating to the claims in the Action and, considering the costs, risks, and delay of litigation balanced against the benefits of resolution, believe the settlement provided for in this Agreement is fair, reasonable, adequate, and in the best interests of S.A., A.M., and the individuals whom they purport to represent.

**WHEREAS**, without admitting or conceding any liability or damages whatsoever, Defendants have entered into this Agreement to avoid the burden, expense, and uncertainty of litigation.

**NOW, THEREFORE**, the Settling Parties, intending to be legally bound and in consideration of the mutual promises, covenants, and agreements set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. **ADDITIONAL DEFINITIONS.** In addition to the terms defined in other parts of this Agreement, these terms have the following meanings as used herein:

- A. **“Named Plaintiffs”** means named plaintiffs and class representatives S.A. and AM. Their full names are disclosed in Exhibit A to this Agreement, which is confidential and not public.
- B. **“Class Counsel”** means David Asp, Derek Waller, and Lockridge Grindal Nauen P.L.L.P.
- C. **“Class Member(s)”** means each individual who has records held by DVS that were ordered to be sealed under Minnesota Statutes chapter 609A between January 1, 2015, and the present, but whose record DVS has not sealed or did not timely seal. A list containing the name of each Class Member is annexed as Exhibit B to this Agreement, which is confidential and not public.
- D. **“Opt-Out(s)”** means a Class Member who elects to be excluded from the settlement memorialized in this Agreement.
- E. **“Defense Counsel”** means Jeff Timmerman, Brian Murn, and the Office of the Minnesota Attorney General.
- F. **“Notice Packet”** means the agreed-to Notice of Class Action Lawsuit Settlement and Claims Administration Form annexed as Exhibits C and D to this Agreement, to be used to advise Class Members of the material terms and provisions of, and their rights with respect to, this settlement, and the procedure and deadlines for submitting a Claims Administration Form, objecting to, and opting-out of this settlement.
- G. **“Notice Date”** means the date on which the Notice Packet is mailed to Class Members.
- H. **“Claim Bar Date”** means the deadline for Class Members to submit a Claims Administration Form. The Claim Bar Date is 60 calendar days after the Notice Date. Claims Administration Forms shall be deemed timely if postmarked on or before the Claim Bar Date.
- I. **“Opt-Out Deadline”** means the deadline for Class Members to elect to be excluded from the settlement memorialized in this Agreement. The Opt-Out Deadline is 60

calendar days after the Notice Date. Requests to be excluded will be deemed timely if postmarked on or before the Opt-Out Deadline.

- J. **“Objection Deadline”** means the deadline for Class Members to object to this Agreement. The Objection Deadline is 60 calendar days after the Notice Date. Objections shall be deemed timely if postmarked on or before the Objection Deadline.
  - K. **“Fairness Hearing”** means a court hearing on the terms of this Agreement to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the court pursuant to Minnesota Rule of Civil Procedure 23.05.
  - L. **“Effective Date”** means the date on which this Agreement has been signed by or on behalf of all Settling Parties.
  - M. **“Released Parties”** means Defendants, the State of Minnesota and all of its agencies and entities, and all of their respective present and former principals, officers, agents, representatives, employees, attorneys, insurers, predecessors, successors in interest, and assigns, in both their official and individual capacities.
  - N. **“Third Party Administrator”** means the organization selected by Class Counsel to administer the settlement described in this Agreement.
  - O. **“Settlement Class”** means: “All individuals who have records held by DVS that were ordered to be sealed under Minnesota Statutes chapter 609A between January 1, 2015, and the present, but whose records DVS has not sealed or did not timely seal.”
  - P. **“Stipulation”** means the Stipulation for Preliminary Class Certification for Settlement Purposes Only annexed as Exhibit E to this Agreement.
  - Q. **“Preliminary Approval Order”** means a court order approving the Stipulation.
  - R. **“Joint Motion”** means the Joint Motion for Final Approval of Class Action Settlement annexed as Exhibit F to this Agreement.
  - S. **“Final Approval Order”** means a court order granting the Joint Motion.
- 2. **CONSENT TO CLASS CERTIFICATION.** For settlement purposes only, the Settling Parties consent to certification of the Settlement Class comprised of the Class Members.
  - 3. **CONSENT TO NOTICE.** For settlement purposes only, the Settling Parties agree that the Third Party Administrator may issue the Notice Packet to each Class Member via First-Class Mail, postage prepaid.

#### 4. **SETTLEMENT APPROVAL PROCESS.**

- A. **Preliminary Approval.** This Agreement is subject to preliminary and final court approval, which the Settling Parties agree to cooperate to obtain. As soon as practicable after the Effective Date, Class Counsel will file the Stipulation and a proposed Preliminary Approval Order and schedule a Fairness Hearing, to occur at least 21 days after the Objection Deadline and Opt-Out Deadline.
- B. **Opt-Outs.** Any Class Member may elect to be excluded from the settlement memorialized in this Agreement by submitting a written request (“**Request for Exclusion**”) to Class Counsel on or before the Opt-Out Deadline. The Request for Exclusion must be signed by the Class Member and state: “I hereby request that I be excluded from the proposed Settlement Class in *S.A. et al. v. Minnesota Department of Public Safety, et al.*, Court File No. 62-CV-23-2275.” If the Request for Exclusion is submitted by an authorized representative of the Class Member, the request must also contain proof of authorization to submit the Request for Exclusion. A Request for Exclusion that does not include all of the foregoing information, that does not contain a valid electronic or handwritten signature, that is sent to an address other than the one designated in the notice to Settlement Class Members, or that is not sent within the time specified in the notice, shall be invalid, and the Person serving such an invalid request shall remain a Settlement Class Member and shall be bound by this Settlement Agreement, if approved. Class Counsel will provide Defense Counsel a copy of each request as soon as practicable after receipt, and file all requests with the court prior to the Fairness Hearing.
- C. **Objections.** Any Class Member who has not filed a valid Request for Exclusion may object to this Agreement by submitting a written objection (“**Objection**”) to Class Counsel on or before the Objection Deadline. Any Objection must be signed by the Class Member and state the specific grounds for the Objection. Such a written objection must be mailed to Class Counsel at the addresses provided in the notice to the Settlement Class and postmarked on or before the Objection Deadline. Class Counsel will provide Defense Counsel a copy of each objection as soon as practicable after receipt, and file all objections with the court prior to the Fairness Hearing. Any Class Member who has filed a valid and timely Objection may appear, in person or through counsel, at that Person’s own expense, at the Fairness Hearing to present any evidence or argument that the Court deems proper and relevant.
- D. **Final Approval.** Class Counsel will file the Joint Motion at least 28 days prior to the Fairness Hearing.
- E. **Effect of Non-Approval.** If the court does not enter a Final Approval Order, or if the Final Approval Order is overturned on appeal, the Settling Parties will exert their best efforts to preserve the material terms of this settlement, address any concerns identified by the court, and submit any additional pleadings or other documents as directed by the court. If the Settling Parties cannot agree on revised settlement terms, or if the court fails to approve a renegotiated settlement, then this

Agreement and all matters covered by it shall be null and void. Should this occur, nothing in this Agreement shall be used or construed by or against any Settling Party as a determination, admission, or concession of any issue of law or fact in the Action, and the Settling Parties will retain their respective rights with respect to the prosecution and defense of the Action as if this Agreement never existed.

5. **SETTLEMENT ADMINISTRATION.**

- A. Class Counsel is responsible for administering the settlement. All costs and expenses associated with settlement administration, including those incurred through use of the Third Party Administrator and in Class Counsel's efforts to obtain approval of the settlement memorialized in this Agreement, will be paid from the Class Counsel Payment (as that term is defined below).
- B. The Third Party Administrator will issue the Notice Packet to each Class Member within 30 calendar days after entry of the Preliminary Approval Order.
- C. In the event Class Counsel, Defendants, Defense Counsel, or the Third Party Administrator are contacted before the Claim Bar Date by a Class Member who indicates they did not receive the Notice Packet, the Third Party Administrator will issue another Notice Packet to the address provided by the Class Member, provided that the deadline for returning a valid Claims Administration Form will remain the Claim Bar Date, the deadline for objecting to the settlement will remain the Objection Deadline, and the deadline for opting-out of this settlement will remain the Opt-Out Deadline.

6. **SETTLEMENT PAYMENT AND ALLOCATION.** In consideration for the dismissal with prejudice of the Action, the release of claims effectuated by this Agreement, and other good and valuable consideration, DPS will issue payment in the amount of \$900,000 (the "**Gross Settlement Amount**") to Class Counsel within 30 calendar days after entry of the Final Approval Order. The Gross Settlement Amount will be electronically tendered to Class Counsel via the State of Minnesota's Statewide Integrated Financial Tools ("**SWIFT**") system, and Class Counsel must register for the SWIFT system and provide DPS an IRS Form W9 before payment can be made. The Gross Settlement Amount is inclusive of each of the payments described below, and will be allocated as follows:

- A. \$500,000 of the Gross Settlement Amount (the "**Class Payment**") will be allocated to resolve the claims of the Named Plaintiffs and the other Class Members (except Opt-Outs), and distributed as follows:
  - 1. The Class Payment will be used—first—to provide remuneration to Class Members who timely submit a valid Claims Administration Form. The maximum amount of the Class Payment that each Class Member who timely submits a Claims Administration Form is eligible to receive is \$15,000.
  - 2. The remaining balance of the Class Payment will be used to provide remuneration—on a pro rata basis—to each Class Member who does not

timely submit a Claims Administration Form, provided that Opt-Outs will not receive any receive any remuneration under this Agreement.

3. All payments to the Named Plaintiffs and the other Class Members under this Agreement will be treated as non-wage income, for which the Third Party Administrator will issue IRS Form 1099s to the Named Plaintiffs and the other Class Members.
4. Class Counsel is responsible for paying the Named Plaintiffs and Class Members their respective share of the Class Payment.
- B. \$400,000 of the Gross Settlement Amount (the “**Class Counsel Payment**”) will be allocated to Class Counsel as compensation for their reasonable attorney’s fees, costs, and expenses incurred to date in the Action, and to be incurred in administering the settlement provided for in this Agreement, for which DPS will issue an IRS Form 1099 to Class Counsel.
7. **ADDITIONAL CONSIDERATION FOR A.M.** As additional consideration for A.M. only, DVS will seal information in her driving record relating to the revocation of her driver’s license, and a civil implied consent action (Court File No. 62-CV-13-7921) commenced against her, in connection with her criminal conviction in Court File No. 62-CR-13-8061. Defendants do not concede or agree that district courts have authority under Minnesota Statutes chapter 609A to order DVS to seal records relating to license revocation, implied consent, or similar civil proceedings, and will not provide this consideration to any Class Member other than A.M.
8. **INJUNCTIVE RELIEF.** In addition to the monetary and other consideration provided for in this Agreement, Defendants consent to entry of an injunction directing DVS to take all steps necessary to ensure that expungement orders entered under Minnesota Statutes chapter 609A are timely implemented upon receipt from the judicial branch.
9. **RELEASE BY THE NAMED PLAINTIFFS AND OTHER CLASS MEMBERS.**
  - A. Conditioned upon entry of the Final Approval Order, and in exchange for the monetary and other consideration provided for in this Agreement, the Named Plaintiffs agree to dismiss the Action with prejudice and on the merits.
  - B. By execution of this Agreement, the Named Plaintiffs and the other Class Members release all claims against the Released Parties that have or could have been asserted in the Action, including all claims under Minnesota Statutes sections 13.08 and 609A.04 and all other claims relating to the Released Parties’ alleged failure to seal criminal convictions expunged pursuant to Minnesota Statutes chapter 609A (collectively, the “**Released Claims**”).
  - C. Except as provided for in this Agreement, the Named Plaintiffs and the other Class Members will not obtain or recover any compensatory damages, exemplary damages, penalties, attorney’s fees, costs, expenses, or declaratory or injunctive relief relating to the Released Claims.

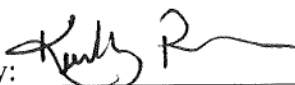
- D. This release does not apply to Opt-Outs, who will retain their right to individually pursue the Released Claims.
10. **CONFIDENTIALITY OF DATA.** Class Counsel acknowledges and agrees that all data and information provided by Defendants to implement this Agreement will be kept confidential and used for no other purpose than the claims administration process. The Settling Parties agree that the identities of the Class Members shall remain under seal, and available only to the Court, Defendants, Class Counsel, and the Third Party Administrator. The Third Party Administrator shall be bound by the confidentiality provisions in this Agreement and shall not disclose the identity of any Class Member, except to notify Class Members that they are in the class.
11. **REPRESENTATION BY CLASS COUNSEL.** The Named Plaintiffs, on their own behalf and on behalf of the other Class Members, acknowledge that they have been represented by Class Counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with their consent and upon advice of Class Counsel.
12. **NO ADMISSION OF LIABILITY.** It is expressly understood and agreed as a condition hereof that this Agreement shall neither constitute nor be construed to be an admission of any wrongdoing or liability on the part of any of the Released Parties.
13. **NO ASSIGNMENT.** This Agreement is not assignable by any Settling Party and any purported assignment is null and void.
14. **TAXABILITY.** It is the intent of the Settling Parties that Defendants will not incur or pay any taxes whatsoever on the Gross Settlement Payment. The Named Plaintiffs acknowledge and agree that no representation or advice as to taxability, tax treatment, or tax consequences has been made to them by any of the Released Parties or Defense Counsel. The Named Plaintiffs further acknowledge and understand that no taxes, deductions, or other withholdings will be withheld from the Class Payment, and that they and the other Class Members must pay and bear sole responsibility for all taxes that may be due or payable on their respective shares of the Class Payment.
15. **MODIFICATION OF AGREEMENT AFTER EXEUTION.** This Agreement constitutes the entire agreement between the Settling Parties and no modification to this Agreement will be binding unless set forth in writing and signed by or on behalf of all Settling Parties. For purposes of this provision, the Commissioner of DPS the only person who may modify this Agreement on behalf of the Released Parties.
16. **RELEASE OF GOVERNMENT DATA.** The Settling Parties understand and agree that the release of information from any State file pertaining to the Action, including this Agreement, is governed by Minn. Stat. §§ 13.01, *et seq.* (Minnesota Government Data Practices Act), Minn. Stat. § 15.17 (Official Records Act), and any other applicable law.
17. **AFFIRMATIVE DEFENSE.** This Agreement may be pleaded as a full and complete defense to any action, suit, or other proceeding which may be instituted, prosecuted, or attempted regarding the Released Claims.

18. **SEVERABILITY.** It is understood and agreed that if a court of competent jurisdiction deems any portion of this Agreement invalid, the remaining portions of this Agreement will remain in full force and effect.
19. **GOVERNING LAW.** This Agreement will be construed, interpreted, and enforced in accordance with the laws of the State of Minnesota. Any action to enforce this Agreement shall be adjudicated in the state courts of Minnesota.
20. **COMPLETE AGREEMENT.** The Settling Parties acknowledge and agree that there are no other covenants, promises, undertakings, or understandings between them beyond those set forth in this Agreement.
21. **CONSTRUCTION AND INTERPRETATION.** This Agreement will be construed as a whole according to its fair meaning and intent, and not strictly for or against any of the Settling Parties, regardless of who drafted or was principally responsible for drafting this Agreement. Class Counsel and Defense Counsel participated in the negotiation and drafting of this Agreement. As such, the Settling Parties cannot claim that any ambiguity in this Agreement should be construed for or against them.
22. **ATTORNEY'S FEES, COSTS, AND EXPENSES.** Except as provided for in this Agreement, each Settling Party shall bear their own costs, expenses, and attorneys' fees. The Named Plaintiffs warrant that there are no costs, attorneys' fees, expenses, or disbursements of any kind whatsoever relating to the Action due to any person or attorney other than Class Counsel.
23. **EXTENSION OF TIME.** The Settling Parties may agree in writing to a reasonable extension of deadlines reflected in this Agreement, without further notice, subject to court approval where appropriate.
24. **COUNTERPARTS.** This Agreement, any amendments or modifications to it, and any other documents required to be executed to consummate or carry out this Agreement, may be executed in one or more counterparts, each of which shall be deemed an original of this Agreement. All such counterparts will together constitute one and the same instrument. A photocopy, facsimile, or digital image of an executed counterpart is enforceable and admissible as an original.
25. **WARRANTY OF COUNSEL.** Class Counsel and Defense Counsel warrant and represent that they are expressly authorized by the Settling Parties to take all appropriate actions required or permitted to be taken pursuant to this Agreement in order to effectuate its terms.
26. **KNOWING AND VOLUNTARY EXECUTION.** The Settling Parties represent and certify that they: (1) have received a copy of this Agreement for review and study; (2) have had adequate time to consider the terms of this Agreement and to consult and review this Agreement with their respective attorneys; (3) have been given a full and fair opportunity to discuss and negotiate the terms of this Agreement; (4) fully understand the provisions of this Agreement; (5) have been advised by an attorney of all the rights and obligations of this Agreement; (6) have determined that it is in their best interest to enter into this Agreement; (7) have not been influenced to sign this Agreement by any statement or



representation made by any Settling Party or interested non-party that is not contained in this Agreement; and (8) enter into this Agreement knowingly and voluntarily.

**IN WITNESS WHEREOF**, the undersigned have executed this Agreement on the dates set forth below.

<p>Date: <u>2/10/25</u></p>	<p><b>MINNESOTA DEPARTMENT OF PUBLIC SAFETY</b></p> <p>By: <u></u> Kim Parker Its: General Counsel</p>
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