

# **Exhibit 1**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN (SANTA ANA) DIVISION

ANTONIO HURTADO, CHRISTOPHER )  
ORTEGA, JOSE QUINTERO, )  
MARITZA QUINTERO, JORGE )  
URQUIZA, and MARIA VALADEZ, )  
individually and on behalf of a class of all )  
others similarly situated, )

Plaintiffs, )

v. )

RAINBOW DISPOSAL CO., INC. )  
EMPLOYEE STOCK OWNERSHIP )  
PLAN COMMITTEE, GERALD )  
MOFFATT, JEFF SNOW, GREGORY )  
RANGE, JON BLACK, CATHARINE )  
ELLINGSEN, BILL EGGLESTON, )  
MICHAEL HUYCKE, MYNDI KORT, )  
GREATBANC TRUST COMPANY, )  
RAINBOW DISPOSAL CO., INC., and )  
REPUBLIC SERVICES, INC., )

Defendants, )

and )

RAINBOW DISPOSAL CO., INC. )  
EMPLOYEE STOCK OWNERSHIP )  
PLAN, )

Nominal Defendant. )

Case No.: 8:17-cv-01605-JLS-DFM

*Assigned to Hon. Josephine L. Staton*

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**CLASS ACTION SETTLEMENT AGREEMENT**

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## **INTRODUCTION**

Subject to approval by the United States District Court for the Central District of California, this Class Action Settlement Agreement is made and entered into by and among Plaintiffs, individually and on behalf of the Class, and the Rainbow Disposal Co., Inc. Employee Stock Ownership Plan Committee, Jon Black, Catharine Ellingsen, Bill Eggleston, Michael Huycke, Myndi Kort, Mark R. Clatt, Brian M. DelGhiaccio, Steven H. Eddleblute, Brian A. Goebel, Republic Services, Inc., and Rainbow Disposal Co., Inc. (collectively, the “Republic Defendants”), Defendant GreatBanc Trust Company (“GreatBanc”), Defendant Gerald Moffatt (“Moffatt”), Defendant Jeff Snow (“Snow”) and Defendant Gregory Range (“Range”) to settle claims against Defendants, subject to the terms and conditions below. All capitalized terms will have the meaning ascribed thereto in Section I of this Agreement.

## **RECITALS**

A. Plaintiffs Antonio Hurtado, Christopher Ortega, Jose Quintero, Maritza Quintero, Jorge Urquiza, and Maria Valadez filed the original Complaint on September 15, 2017, docketed as Case No. 8:17-cv-01605-JLS in the United States District Court for the Central District of California, asserting claims on behalf of themselves and a class of employee-participants of the ESOP and their beneficiaries for alleged violations of ERISA.

B. Plaintiffs filed an Amended Complaint on February 8, 2018, which among other things, added Mark R. Clatt, Brian M. DelGhiaccio, Steven H. Eddleblute, and Brian A. Goebel as Defendants. These Defendants were voluntarily dismissed from the action by Plaintiffs on May 16, 2018, subject to their entry into a tolling agreement.

C. Defendants responded to the First Amended Complaint by filing motions to dismiss on March 21, 2018, which the Court denied on July 9, 2018. Defendants thereafter answered the Amended Complaint on August 13, 2018.

D. Plaintiff filed a Motion for Class Certification on December 14, 2018, which was granted by the Court on April 22, 2019.

E. Plaintiff filed a Second Amended Complaint on February 6, 2019, which, among other things, added Michael Huycke and Myndi Kort as Defendants. Defendants answered the Second Amended Complaint on February 20, 2019.

F. The Parties conducted extensive discovery during this litigation. Plaintiffs served more than 50 requests for production of documents on Defendants, served interrogatories against each Defendant, served 20 document subpoenas on third parties, conducted 15 depositions, and collected and reviewed more than 200,000 pages of documents.

G. Plaintiffs and Defendants conducted arms-length negotiations at two mediation sessions with Robert Meyer, an experienced mediator with JAMS, on December 12, 2019 and on January 15, 2020. At the end of the January 15, 2020 session, Mr. Meyer made a mediator's proposal whereby Defendants would resolve this case by paying \$7.9 million to the Class, subject to Defendants being able to agree on funding with their insurers. All Plaintiffs and Class Counsel informed Mr. Meyer that the proposal on behalf of the Class was accepted on January 15, 2020. Defendants accepted the mediators' proposal on January 18, 2020, subject to the funding contingency. Defense Counsel informed Class Counsel on February 28, 2020, that the settlement funding contingency had been satisfied.

H. As a result of the factual investigation, expert consultation, and legal research conducted by Class Counsel concerning the claims asserted in the Action and the discovery conducted in the Action, Class Counsel have concluded that terms of this Settlement are fair, reasonable, adequate and in the best interests of both the Class certified by the Court and the Plan, and have agreed to settle the Action on the terms set forth herein.

I. Defendants deny the material allegations asserted in the Action, deny any wrongdoing or liability whatsoever and state that they are entering into the Settlement to avoid the cost, disruption, and uncertainty of litigation.

J. The Parties desire to promptly and fully resolve and settle with finality all of the claims on the terms set forth herein and subject to the approval of the Court.

## **I. DEFINITIONS**

As used in this Agreement, the following terms have the following meanings, unless a section or subsection of this Agreement specifically provides otherwise. Capitalized terms used in this Agreement, but not defined in this Section I, will have the meaning ascribed to them elsewhere in this Agreement.

A. “2014 ESOP Transaction” means the transaction in which the Rainbow ESOP sold its shares of Rainbow Disposal, Inc. to Republic Services, Inc. including payments made to Moffatt and Snow or any other Defendants in connection with that transaction.

B. “Action” means the class action lawsuit styled *Antonio Hurtado, Christopher Ortega, Jose Quintero, Maritza Quintero, Jorge Urquiza, and Maria Valadez, on behalf of themselves individually and on behalf of all other similarly situated, Plaintiffs, v. Rainbow Disposal Co, Inc. Employee Stock Ownership Plan Committee, Gerald Moffatt, Jeff Snow, Gregory Range, Jon Black, Catharine Ellingsen, Bill Eggleston, Michael Huycke, Myndi Kort, GreatBanc Trust Company, Rainbow Disposal Co. Inc., Republic Services, Inc., Defendants and the Rainbow Disposal Co., Inc. Employee Stock Ownership Plan, Nominal Defendant*, docketed as Case No. 8:17-cv-01605 in the United States District Court for the Central District of California.

C. “Agreement in Principle” means the agreement fully executed on March 6, 2020, signed by Class Counsel on behalf of the Class and by Defense Counsel for and on behalf of Defendants.

D. “CAFA” will have the meaning set forth in Section IX.1(j) of this Agreement.

E. “Cash Settlement Amount” means seven million nine hundred thousand dollars (\$7,900,000.00) paid by or on behalf of Defendants, other than the Plan, with \$7,500,000.00 to be paid by or on behalf of Rainbow and the other Republic Defendants and \$400,000.00 to be paid by or on behalf of GreatBanc, described in Section III.1 below.

F. “Class” means the Class as certified by the Court in its Order dated April 22, 2019.

G. “Class Counsel” means Co-Lead Class Counsel R. Joseph Barton of Block & Leviton LLP and Joseph A. Creitz of Creitz & Serebin LLP.

H. “Class Member” means an individual who is a member of the Class.

I. “Class Notice” means the form of notice provided to the Class Members that complies with the requirements of Section II.2 in this Agreement, Fed. R. Civ. P. Rule 23, and as approved by the Court.

J. “Class Notice Packet” means the Class Notice and any other forms approved or directed by the Court.

K. “Class Representatives” mean the Plaintiffs who were appointed by and continue to be the representatives of the Class appointed by the Court.

L. “Complaint” means the Second Amended Complaint (Dkt. 153) and any subsequent operative complaints filed in this Action.

M. “Court” means the United States District Court for the Central District of California.

N. “Defendants” mean Rainbow Disposal Co, Inc. Employee Stock Ownership Plan Committee, Gerald Moffatt, Jeff Snow, Gregory Range, Jon Black, Catharine Ellingsen, Bill Eggleston, Michael Huycke, Myndi Kort, Mark R. Clatt, Brian M. DelGhiaccio, Steven H. Eddleblute, Brian A. Goebel, GreatBanc Trust Company, Rainbow Disposal Co. Inc., and Republic Services, Inc.

O. “Defense Counsel” means the undersigned counsel for Defendants.

P. “Election Distribution Packet” means any necessary forms and information for a Class Member to elect to receive a distribution (including a rollover) from the Republic 401(k) Plan.

Q. “Excluded Persons” means the following persons who are excluded from the Class: (a) Defendants; (b) persons who are named fiduciaries of the Rainbow ESOP who are alleged to have engaged in prohibited transactions or breaches of corporate fiduciary duties or who had decision-making or administrative authority relating to the administration, modification, funding or interpretation of the Rainbow ESOP; and (c) legal representatives, successors, heirs, and assigns of any such excluded persons.

R. “ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

S. “Escrow Account” means an account established by Class Counsel in the name of Rainbow ESOP Litigation Settlement Fund into which the Cash Settlement Amount is to be paid.

T. “Expense Award” will have the meaning set forth in Section VII.1 of this Agreement.



U. “Fee Award” will have the meaning set forth in Section VII.1 of this Agreement.

V. “Final Approval Motion” means the motion to be filed by Class Counsel requesting that the Court grant final approval of the Settlement pursuant to Fed. R. Civ. P. 23(e).

W. “Final Order” means the Order and Final Judgment, substantially in the form of an Order described in Section IX.2 below.

X. “Independent Fiduciary” means the person(s) or entity hired by Defendants pursuant to Section XI.

Y. “Nominal Defendant” means the Rainbow Disposal Co., Inc. Employee Stock Ownership Plan.

Z. “Non-Appealable” means an order entered by the Court is no longer subject to appeal, which will occur when: (i) if no appeal is taken therefrom, on the date on which the time to appeal therefrom (including any extension of time) has expired; or (ii) if any appeal is taken therefrom, on the date on which all appeals therefrom, including any petitions for rehearing or re-argument, petitions for rehearing *en banc*, and petitions for writ of *certiorari* or any other writ, or any other form or review, have been finally disposed of, such that the time to appeal therefrom (including any extension of time) has expired, in a manner resulting in an affirmance of the Final Order.

AA. “Parties” means collectively all Plaintiffs, individually and on behalf of the Class, and all Defendants collectively; “Party” refers to any one of them.

BB. “Plan of Allocation” means the plan for distribution of the proceeds of the Settlement Fund as proposed by Class Counsel to be approved by the Court.

CC. “Preliminary Approval Order” means the “Order Preliminarily Approving Settlement, Approving Form of Notice, and Setting Final Approval Hearing” in this Action, substantially in the form described in Section IX.1.

DD. “Plaintiffs” mean Antonio Hurtado, Christopher Ortega, Jose Quintero, Maritza Quintero, Jorge Urquiza, and Maria Valadez.

EE. “Plaintiffs’ Counsel” means Class Counsel and any other counsel who previously represented Plaintiffs.

FF. “Rainbow” means Rainbow Disposal Co., Inc.

GG. “Rainbow ESOP,” “ESOP,” or the “Plan” means the Rainbow Disposal Co., Inc. Employee Stock Ownership Plan.

HH. “Republic Defendants” means Republic Services, Inc., Rainbow Disposal Co., Inc, the Rainbow Disposal Co., Inc. Employee Stock Ownership Plan Committee, Jon Black, Catharine Ellingsen, Bill Eggleston, Michael Huycke, Myndi Kort, Mark R. Clatt, Brian M. DelGhiaccio, Steven H. Eddleblute, and Brian A. Goebel.

II. “Republic Services 401(k) Plan” or “Republic 401(k) Plan” means the Republic Services, Inc. 401(k) Plan.

JJ. “Service Awards” will have the meaning set forth in Section VII.1 of this Agreement.

KK. “Settled Claims” means the Settled Class Claims as well as other claims released pursuant to this Settlement provided in Section XIII.

LL. “Settled Class Claims” means the claims that the Class will release pursuant to this Settlement as provided in Section XIII.1.

MM. “Settlement” means the settlement and compromise of this Action as provided for in this Settlement Agreement.

NN. “Settlement Administrator” means the person whom Class Counsel may hire, subject to Court approval, who is to be responsible for, among other things, providing the Class Notice Packet to Class Members and/or assisting with the administration of the Settlement.

OO. “Settlement Agreement” means this Class Action Settlement Agreement and any accompanying Exhibits, including any subsequent amendments thereto and any Exhibits to such amendments.

PP. “Settlement Fund” means the Cash Settlement Amount plus any earnings and interest thereon, minus any Court-approved deductions and expenses.

QQ. “Settling Parties” or “Parties” means Plaintiffs, on behalf of themselves and the Class, and the Defendants.

RR. “Tax” or “Taxes” means any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority, including income tax and other taxes and charges on or regarding franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers’ compensation, unemployment compensation, or net worth; taxes or other charges in the nature of excise, withholding, *ad valorem*, stamp, transfer, value added or gains taxes; license, registration, and documentation fees; and customs’ duties, tariffs, and similar charges.

SS. “Termination Notice” will have the meaning set forth in Section XIV.1 of this Settlement Agreement.

## II. CLASS NOTICE

1. **Provision of Class Notice.** Upon the date specified in the Court's Preliminary Approval Order, the Settlement Administrator will be responsible for providing Class Notice to the Class Members.

2. **Contents.** The Class Notice, in a form approved by the Court will contain: a brief description of the claims advanced by the Class; a summary of the terms of the Settlement Agreement; information on the attorneys' fees and costs sought by Class Counsel; a description of the proposed Plan of Allocation of the Settlement Fund to the Class; the estimated settlement allocation for the Class Member; and will provide information about the Final Approval Hearing,

3. **Method of Providing Class Notice.** Class Notice will be provided to each individual Class Member: (a) by mailing via first class U.S. Mail to all Class Members, and (b) by posting the Class Notice (and other documents filed in the litigation) on a website maintained by the Settlement Administrator. Defendants will cooperate with Class Counsel to facilitate providing Class Notice and other settlement-related communications by providing mailing addresses for all Class Members, to the extent such information is reasonably available in the records of Republic Defendants.

4. **Additional Information Provided with the Class Notice.** Along with the Class Notice, every Class Member will be provided with any necessary information about how to request a distribution or rollover of his or her Settlement Fund from his/her Republic 401(k) Plan account or provide instructions to the Plan Administrator as to how to invest the Settlement proceeds. Any Class Member will be entitled to request and receive the necessary forms to elect a distribution of his or her share of the Settlement Fund. Any distributions from the Settlement Fund will be subject to the same rules as a distribution from the Republic 401(k) Plan except that

any employee entitled to request a distribution from the Republic 401(k) Plan will not be charged a fee to receive the proceeds of this Settlement.

5. **Settlement Administrator.** A Settlement Administrator shall be appointed by the Court pursuant to Section VI, paragraph 1, of this Agreement. The Parties and their counsel will reasonably cooperate with the Settlement Administrator to facilitate providing Notice and other settlement-related communications and administration.

6. **Undeliverable Notices.** In the event that a Class Notice sent by U.S. Mail is returned as undeliverable, the Settlement Administrator will make reasonable efforts to obtain a valid mailing address and promptly resend the Class Notice to the Class Member by U.S. Mail.

7. **Class Data.** Within 21 days after this Settlement Agreement is executed, Republic Defendants will, to the extent not already disclosed, provide Class Counsel and the Settlement Administrator with the following contact information in electronic form for each Class Member, to the extent such information is reasonably available in Republic Defendants' files: (1) name; (2) a street mailing address; (3) telephone number(s); (4) e-mail address(es); (5) Social Security number; (6) sufficient information identifying the beneficiary Class Member (including any persons who have a QDRO) for each participant Class Member; (7) the number of shares held on October 1, 2014; and (8) the amount of distributions and timing of all payments to such Class Member as a result of the 2014 ESOP Transaction. Republic Defendants will also provide other information reasonably requested by Class Counsel or the Settlement Administrator.

8. **Class Notice Costs and Expenses.** The costs of Class Notice will be paid from the Settlement Fund subject to the Court's approval of the amount at Final Approval.

9. **Declaration Regarding Class Notice.** Within 30 days after the date on which Notice is required to be sent, the Settlement Administrator will file a declaration with the Court confirming that the Notice and related information was sent in accordance with the Preliminary Approval Order.

### **III. SETTLEMENT FUND**

1. **Payment of Cash Settlement Amount into Escrow Account.** As settlement of the Class' claims, Defendants, other than the ESOP, will pay, or cause to be paid, the Cash Settlement Amount of seven million nine hundred thousand dollars (\$7,900,000.00) into the Escrow Account, of which \$7,500,000.00 will be paid by or on behalf of Rainbow and the other Republic Defendants and \$400,000.00 will be paid by or on behalf of GreatBanc, with \$3,950,000.00 paid no later than thirty (30) days from the date on which this Agreement is fully executed and the remaining amount by no later than 30 days after the Preliminary Approval Order is entered by the Court.

2. **Custody of Settlement Fund.** The Settlement Fund held in the Escrow Account will be deemed to be in the custody of the Court and will remain subject to the jurisdiction of the Court and will be administered in accordance with the terms of this Settlement Agreement and the Orders of the Court. Except as provided herein, the Settlement Fund will not be paid to the Class Members pursuant to the Plan of Allocation until the Final Order becomes Non-Appealable.

3. **Management of the Settlement Fund.** Until the Final Order becomes Non-Appealable or until the Settlement is terminated in accordance with this Agreement, the Settlement Fund will be held in the Escrow Account established by Class Counsel, for which an Escrow Agent will act pursuant to the terms of the Escrow Agreement or as ordered by the Court. After the Final Order becomes Non-Appealable, Class Counsel will have the sole right

and duty to manage the Settlement Fund in compliance with the terms of the Final Order. At no time will Defendants have any duty or authority to hold, manage, or invest any portion of the Settlement Fund prior to the receipt by the Republic 401(k) Plan of any such portion from the Settlement Fund. After receipt of the proceeds of the Settlement Fund by the Republic 401(k) Plan, the Settlement Fund will be held, managed, and invested consistent with this Agreement and consistent with the fiduciary duties of the fiduciary of the Republic 401(k) Plan (and any amendment of the Republic 401(k) Plan to make the terms of the Republic 401(k) Plan consistent with this Settlement Agreement). Any earnings or interest earned by the Settlement Fund will become part of the Settlement Fund.

4. **Qualified Settlement Fund.** The Settlement Fund is intended by the Settling Parties to be a “qualified settlement fund” for federal income tax purposes under Treas. Reg. § 1.468B-1 at the earliest date possible.

#### **IV. DISTRIBUTIONS FROM THE SETTLEMENT FUND**

1. **Expenses Before the Effective Date.** Until the Final Order becomes Non-Appealable or the Settlement is terminated in accordance with this Agreement, Class Counsel will be authorized to pay from the Settlement Fund upon notice to Counsel for the Republic Defendants and Counsel for Defendant GreatBanc (a) any actual or estimated taxes on any income earned on the Settlement Fund, (b) all costs and expenses related to the preparation of such tax filings or payments, and (c) all costs and expenses related to providing the Class Notice. Any dispute regarding the reasonableness of any expense incurred, paid, or owing will be adjudicated by the Court, but in no event will such a dispute require Class Counsel to cause or allow the Settlement Fund to fail to make a tax payment in a timely manner.

2. **Attorneys’ Fees, Expenses/Costs, and Service Awards.** Pursuant to any deadline set by the Court, Class Counsel may file any motion with the Court requesting the

payment of attorneys' fees, reimbursement of litigation expenses and costs, and/or Service Awards to the Class Representatives out of the Settlement Fund. Any amounts so awarded by the Court will be paid from the Settlement Fund as directed by Class Counsel before Distribution to the Class, subject to Section VII.4. of this Agreement.

3. **Tax Reserve After the Effective Date:** Upon the Final Order becoming Non-Appealable, Class Counsel will be authorized to establish a reserve from the Settlement Fund to pay any taxes that are or will be owed (but not yet due) and for expenses related to payment of taxes or filing of tax returns or to the extent that there are other costs of administration of the Settlement not paid by Republic Defendants.

4. **Distribution to Class Members.** After the Final Order becomes Non-Appealable, the Settlement Fund will be distributed to Class Members pursuant to the Court-approved Plan of Allocation. The following payments will be made from the Settlement Fund prior to any distributions to Class Members: (a) any Taxes on the income or earnings by the Settlement Fund, any tax-related expenses, and the creation of any reserve for future expenses (as described above); (b) any expenses incurred in connection with the administration of the Settlement Fund (to the extent that there are any under this Settlement); and (c) any award of attorneys' fees, reimbursement of any litigation expenses and costs to Class Counsel, and/or payment of any Service Award to the Class Representatives. After deduction of the foregoing, the Settlement Fund will be distributed to the Class Members in accordance with the Plan of Allocation, and in amounts to each individual Class Member as directed by the Class Counsel or the Settlement Administrator.



5. **Distributions of the Settlement to the Class.** Distributions to Class

Members who are entitled to receive an allocation from the Settlement Fund through the Republic 401(k) Plan will be made as follows:

(a) For those Class Members who at the time that the Final Approval becomes Non-Appealable are ineligible to receive an immediate distribution from the Republic 401(k) Plan, proceeds from the Settlement will be transferred to each Class Member's existing account in the Republic Services 401(k) Plan, or if the Class Member does not have an existing Republic Services 401(k) Plan account, such an account will be established within the later of (i) 30 days of the Final Order becoming Non-Appealable or (ii) thirty (30) days after the Plan Administrator has received amounts from the Settlement Fund and a direction from the Settlement Administrator for the allocation of any portion of the net proceeds of the Settlement Fund.

(b) As soon as practicable after, but not later than 14 days after the date on which the applicable Net Settlement proceeds are transferred to the Republic 401(k) Plan (which deadline can be extended, if necessary, with the agreement of Class Counsel, which consent will not be unreasonably withheld), the Plan Administrator of the Republic 401(k) Plan will send each Class Member an Election Distribution Packet. For all requests for distributions received within 90 days after this initial Election Distribution Packet is sent to Class Members, the Plan Administrator will make a distribution or rollover to that Class Member as directed by the election form within the later of: (i) 30 days of receiving the distribution or rollover instructions from the Class Member, or (ii) 30 days after the Republic 401(k) Plan has received amounts from the Settlement Fund and the Plan Administrator has received a direction from Class Counsel or the Settlement

Administrator regarding the allocation of any portion of the net proceeds of the Settlement Fund to each Class Member.

(c) Until a Class Member makes an election to receive a distribution of their Settlement, that Class Member's proceeds from this Settlement will be invested as follows:

(1) For Class Members with previously existing accounts in the Republic 401(k) Plan, the allocation from this Settlement will be invested according to that Class Member's pre-existing investment instructions for contributions in that Class Member's Republic 401(k) Plan account or, if the Class Member has not provided any previous investment instructions, to the default investment option in the Republic Services 401k Plan (until the Class Member has provided different investment instructions to the Republic 401(k) Plan Administrator).

(2) For Class Members for which the Republic 401(k) Plan will establish new accounts for distribution of the settlement proceeds, the allocation from this Settlement will be invested in the Republic 401(k) Plan's qualified default investment option until the Class Member has provided different investment instructions to the Republic 401(k) Plan Administrator.

(3) After the initial allocations are made, Class Members will be permitted to direct investment of their proceeds from this Settlement into any of the available investment options in the

Republic Services 401k Plan according to the terms of the Republic Services 401k Plan and will be able to request and receive distributions from the Republic Services 401(k) Plan according to the terms of the Republic Services 401k Plan, and as provided in this Settlement Agreement.

(d) For all Class Members whose Settlement Proceeds are paid into the Republic Services 401(k) Plan, all reasonable efforts will be taken to ensure that the distribution complies with ERISA and the relevant provisions of the Internal Revenue Code (and any corresponding state tax provisions) in order to preserve the tax-favored treatment of the amounts distributed to those Class members.

**6. Costs and Expenses Related to Settlement Administration and Distribution.** Republic Defendants will bear all costs of administration of the Settlement (other than the costs of the Class Notice Packet) once the amounts are deposited into the Republic Services 401(k) Plan, including any costs relating to distribution of the Settlement Fund. No fees, expenses, costs, or other charges will be imposed on Class members to receive their proceeds from this Settlement or otherwise related to administration of the Settlement, or the costs of the Independent Fiduciary. To the extent that the distribution of amounts from the Settlement Fund to Class members involves any charges, such costs will be borne by Republic Services.

**7. Restrictions on Administration and Distribution Expenses.** No fees, expenses, costs, or other charges will be imposed on Class Members to receive their proceeds from this Settlement at any time, including any charges that would otherwise be imposed by the Republic 401(k) Plan on distributions. For any Class Member who has made a request to the Plan Administrator of the Republic 401(k) Plan for a distribution within 90 days after the initial

Election Distribution Packet is sent to Class Members, no administrative costs will be charged by the Republic 401(k) Plan (or any service provider) to any Class Member (except as to any 12b-1 fee disclosed and imposed by any mutual fund as is charged to other participants in the Republic 401(k) plan) until the proceeds are distributed to that Class Member. For those Class Members who do not elect a distribution within 90 days after the initial Election Distribution Packet is sent to Class Members, any costs related to administration of the Republic 401(k) Plan (but not costs for distributions) or related to the investment of Republic 401(k) Plan assets will be charged as permitted by the Republic 401(k) Plan.

8. **Amendment of Republic 401(k) Plan to Effectuate Provisions Related to the Distribution of the Settlement Funds.** As necessary to effectuate the provisions related to distribution, administration, and investment of the proceeds of the Settlement, Republic Services, as the Plan Sponsor of the Republic 401(k) Plan, will adopt and implement an amendment (the “Amendment”) to the Republic 401(k) Plan consistent with the provisions of this Settlement Agreement within 15 days of the date on which the Final Order becomes Non-Appealable. The Republic Defendants will provide Class Counsel with a proposed draft of the Amendment to be adopted by the Plan at least 30 calendar days prior to the time that the Final Approval Motion is due. In the event of a dispute, the Court will decide whether the language of the proposed Amendment is consistent with the terms of this Settlement Agreement. The Republic Defendants will provide Class Counsel with a copy of the actual Amendment as adopted within 14 calendar days after its adoption. The Amendment may not be rescinded, modified, or eliminated without written notification to Class Counsel at least 10 business days before the adoption of any such modification or elimination and the approval of the Court.

9. **Tax Liability.** The Settling Parties will not have any liability or

responsibility for the payment of any Taxes incurred by or with respect to the Settlement Fund, and any such Taxes will be paid out of the Settlement Fund.

## **V. PLAN OF ALLOCATION**

1. **Proposed Plan of Allocation.** Class Counsel will propose and submit a Plan of Allocation to the Court as to the recommended method of determining and distributing the proceeds of the Settlement Fund (net of attorneys' fees, expenses, and any Service Awards approved by the Court) to members of the Class.

2. **Defendants' Non-Involvement.** Defendants will have no responsibility for preparing or any right to provide input into and will take no position on the Plan of Allocation except to the extent that the Plan of Allocation would result in adverse Tax consequences to the Republic 401(k) Plan.

3. **Modification of Plan of Allocation.** In the event that the proposed Plan of Allocation is rejected or modified by the Court or on appeal, such rejection or modification will not constitute a material modification of this Settlement Agreement, will not void this Settlement Agreement, and will not provide a basis for any Party to withdraw from this Settlement Agreement. However, the Plan of Allocation must prevent the Excluded Persons from receiving any distribution from the Settlement Fund.

4. **Class Members' Right to Demonstrate Membership and/or Submit ESOP Account Data.** Before the Final Approval Hearing and by a deadline to be established by the Court, any person who claims to meet the definition of a Class Member but who has not been identified as a Class Member in the data provided by Defendants will be entitled to demonstrate membership in the Class and any person claiming that the data provided by Defendants about a participant's ESOP account is erroneous will be entitled to demonstrate that such an error will impact the amount allocated to that participant under the Plan of Allocation. Such submissions

will only be used to determine whether a person qualifies as a Class Member for purpose of this Settlement, subject to Court approval, and to adjust amounts allocated to Class Members, subject to Court approval, under the Plan of Allocation.

5. **Excluded Persons Prohibited from Receiving Settlement Funds.** None of the Excluded Persons will either directly or indirectly receive any of the proceeds from this Settlement. Defendants Gerald Moffatt and Jeff Snow, and any other Defendant who is or was a participant in the ESOP acknowledge that they will not receive any allocation of any amount from this Settlement and further agree to obtain, if necessary, an authorization from any beneficiary (including a spouse) necessary to forego any such allocation.

6. **No Claim Based on Distribution in Accordance with the Plan of Allocation.** The Class and its members will not have any claim against, and will hold harmless, Plaintiffs, the ESOP, Defendants, counsel to any of the foregoing (including Class Counsel), the Settlement Administrator, or other individuals involved in the distribution under the Plan of Allocation, from any claim based on any distributions of the Settlement Fund made substantially in accordance with this Settlement Agreement, the Plan of Allocation, or as otherwise may be authorized by the Court.

## **VI. SETTLEMENT ADMINISTRATION**

1. **Appointment of Settlement Administrator.** A Settlement Administrator who will be approved by the Court will be appointed to administer the Settlement and will report to Class Counsel and the Court. The Settlement Administrator will have experience providing notice to Class Members and administering settlements in employment or employee benefit class action settlements, and in supervising and administering large and complex settlement funds.

2. **Settlement Administrator's Responsibilities.** The Settlement Administrator will undertake the following tasks to administer this Settlement consistent with the

terms of this Settlement, the Plan of Allocation, and the Orders of the Court and such other procedures required by the Court or as jointly directed by Class Counsel and Defense Counsel:

- (a) Print and mail the Class Notice Packet to the Class Members in accordance with this Settlement Agreement and any order of the Court and undertake to trace and re-mail all undeliverable Class Notice Packets or other reasonable steps to locate missing Class Members;
- (b) Provide any information on any new addresses to the Republic 401(k) Plan in order to facilitate the establishment of any new accounts for Class Members;
- (c) Provide Class Counsel and Defense Counsel with copies of any objections to the Settlement (to the extent such objections are not filed with the Court);
- (d) Provide Class Counsel and Counsel for the Republic Defendants and GreatBanc with any challenges to Republic Defendants' data, including all information submitted in support of each challenge;
- (e) Respond to questions from Class Members or refer Class Members to Class Counsel for responses;
- (f) Maintain and staff a toll-free phone number and a web site until at least six (6) months after distributions of the Settlement Fund have been made to Class Members;
- (g) File with the Court a declaration confirming compliance with the procedures approved by the Court for providing notice to the Class;
- (h) Determine for purposes of allocation of the Settlement Fund, subject to the approval by Class Counsel and the Court, whether any Class Members challenging their account data have sufficiently established the Republic Defendants data is

erroneous and send notice of the determinations to those persons;

(i) To the extent that any Class Members are not eligible to receive their Settlement Proceeds through the Republic 401(k) Plan, issue Payment of the Settlement Proceeds to any Class Members who are ineligible to receive payment outside the Republic Services 401(k) Plan;

(j) Instruct the Plan Administrator, consistent with the court-approved Plan of Allocation, as to how the Cash Settlement Amount is allocated among the Class and to the accounts of individual Class Members;

(k) Monitor the Qualified Settlement Fund and file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitations the returns described in Treas. Reg. Section 1.468B-2(k));

(l) Pay the Net Settlement Amount to the Class Members or the Republic 401(k) Plan, consistent with instructions from Class Counsel and the court-approved Plan of Allocation; and

(m) Any other responsibilities set forth in this Agreement and any other responsibilities agreed to by the Settling Parties related to administration of the Settlement and consistent with the orders of the Court or any other responsibilities ordered by the Court.

3. **Plan Administrator.** The administrator of the Republic 401(k) Plan will be responsible for allocating the settlement payments to the Class Members' accounts consistent with the Plan of Allocation and the directions from the Settlement Administrator and/or distributing the settlement payments to the Class Members. The Plan Administrator will comply with the instructions of the Settlement Administrator in accordance with the Plan of Allocation



regarding the amounts to allocate to Class Members and Defendants will not have any input as to how the Cash Settlement Amount is allocated among Class Members.

4. **Prohibition on Assessment of Expenses to the Class.** The Class Members will not be charged or assessed any amount by the Republic 401(k) Plan (or its service providers), for any of the following: (1) payment of the Class Members' pro rata share of the Settlement Fund, (2) expenses related to administration or implementation of this Settlement, or (3) expenses incurred in allocating or distributing any amounts paid into the Republic 401(k) Plan or to the Class Members (or according to their distribution elections).

5. **Tax Treatment of the Plan.** Republic Defendants will use their best efforts to ensure that the Settlement will not adversely affect the tax-qualified status of the Republic Services 401(k) Plan and that the distributions from the Settlement Amount paid to Class Members qualify for tax-deferred treatment. Republic Defendants will be responsible for all costs associated with any steps that they undertake to ensure the tax favored treatment of the Settlement Payment into the Republic 401(k) Plan and the continued tax qualification of the Republic Services 401(k) Plan with respect to the Settlement.

## **VII. PAYMENT OF FEES, SERVICE AWARDS, AND REIMBURSEMENT OF COSTS AND EXPENSES**

1. **Attorneys' Fees and Expenses from the Settlement Fund.** Prior to the deadline for Class Members to object to the Settlement Agreement and by a date to be set by the Court, Class Counsel will be entitled to file any motion with the Court for an award from the Settlement Fund of: (a) attorneys' fees (the "Fee Award"), (b) service awards for Plaintiffs/Class Representatives ("Service Awards"), and (c) reimbursement of litigation costs and expenses (the "Expense Award"). Any Fee Award, Expense Award, or Service Award will be paid solely from the Settlement Fund and is subject to the Court's approval at the Final Approval Hearing.

2. **Defendants' Non-Opposition.** Defendants and their counsel will take no position regarding the application for or an award of the Fee Award, the Service Awards, or the Expense Award, provided that the application for the Fee Award does not exceed 30% of the Cash Settlement Amount and the reimbursement for litigation costs and expenses does not exceed \$275,000.00. Defendants will not object to the payment of reasonable amounts, not to exceed \$100,000.00, for Class Notice out of the Settlement Fund.

3. **Payment of Fees/Expenses to Class Counsel.** All amounts to be paid pursuant to this Section will be paid into an account designated by Class Counsel to be distributed and allocated among any Plaintiffs' Counsel as directed by Class Counsel. Neither Defendants nor their insurers will have any input as to the division of such fees and expenses among Plaintiffs' Counsel.

4. **Timing of Payment of Attorneys' Fees and Reimbursement of Expenses.** In the event that the Court grants any Fee Award, Expense Award, or Service Award, disbursement of any Fee Award, Expense Award, or Service Award from the Settlement Fund may be made upon the Final Order becoming Non-Appealable. In the event that there is no appeal of the Final Judgment of the Settlement, but an appeal solely of a Fee Award, an Expense Award, or a Service Award, Class Counsel will be entitled to a disbursement from the Settlement Fund of such amount of attorneys' fees and/or such amount of expenses/costs as to which there is no appeal or the amount which is not contested on appeal.

5. **Non-Materiality of Award of Attorneys' Fees, Reimbursement of Expenses, or Service Award to Settlement.** In the event that this Court refuses to award attorneys' fees, allow reimbursement of expenses/costs, or permit a service award, in whole or in part, or any such award is rejected or modified on appeal, such rejection or modification will not

constitute a material modification of this Settlement Agreement, will not void this Settlement Agreement, and will not provide a basis for any Party to withdraw from this Settlement Agreement.

6. **Defendants' Attorneys' Fees & Expenses.** Defendants will bear their own attorneys' fees, expenses, and costs. No amount of the attorneys' fees, expenses, or costs of this Litigation incurred by Defendants or the administration of this Settlement incurred by any of the Defendants (including Rainbow and the Republic Defendants) or the Republic Services 401(k) Plan, or service providers thereto, will be paid by, or charged to, any amounts paid in this Settlement or, directly or indirectly, to any Class Member.

#### **VIII. NO ADMISSION OF WRONGDOING**

1. This Settlement Agreement embodies a compromise of disputed claims and nothing in the Settlement Agreement will be interpreted or deemed to constitute any finding of wrongdoing by Defendants or give rise to any inference of liability in this or any other proceeding. This Settlement Agreement will not be offered or received against Defendants as any admission by any such Party with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that had been or could have been asserted in the Action or in any litigation or of any liability, negligence, fault, or wrongdoing of any such Party.

2. This Settlement Agreement is not, nor may it be deemed to be, nor may it be used as an admission of, or as evidence of any infirmity in the claims asserted by Plaintiffs and Class Members.

3. This Settlement Agreement may be used in such proceedings as may be necessary to consummate or enforce this Settlement Agreement or the Final Order, and any Party may file this Settlement Agreement and/or the Final Order in any action that may be brought against it to support a claim, a defense, or a counterclaim based on principles of res judicata,

collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim, or in any action that may be brought to enforce any claim assigned pursuant to this Settlement Agreement.

Defendants may use and disclose this Settlement Agreement in connection with any proceeding involving any of their insurers or any governmental agency with respect to the ESOP.

## **IX. PRELIMINARY APPROVAL ORDER**

1. **Preliminary Approval Order.** Class Counsel, on behalf of the Class, will move the Court to enter the Preliminary Approval Order (“Preliminary Approval Motion”). The Preliminary Approval Motion will seek an Order in a form agreed upon by the Settling Parties which will provide for or set forth, among other things:

(a) Preliminary Approval of the Settlement as set forth in this Settlement Agreement, subject to further hearing and determination under Fed. R. Civ. P. 23(e);

(b) Approval of the form of Class Notice, substantially in the form agreed-upon by the Parties, and the manner of distribution and publication which is consistent with this Agreement, Fed. R. Civ. P. Rule 23, and the requirements of due process;

(c) Appointment of the Settlement Administrator;

(d) Deadlines by which all objections to the Settlement must be made or any submissions to the Settlement Administrator regarding their ESOP account data must be made;

(e) A schedule for a hearing date for the Court to determine whether the Settlement Agreement should be finally approved as fair, reasonable, and

adequate, and whether an Order finally approving the Settlement Agreement should be entered (“Final Approval Hearing”);

(f) That no objection to the Settlement Agreement will be heard and no papers submitted in support of said objection will be received and considered by the Court at the Final Approval Hearing unless the objection and reasons therefore, along with copies of any supporting papers, are filed with the Clerk of the Court and served on the Parties within forty-five (45) days of the publication and/or distribution of the Class Notice;

(g) That the Final Approval Hearing may be continued from time to time by Order of the Court if necessary, and without further notice to the Class;

(h) A deadline for filing of a Final Approval Motion and for Class Counsel’s application for Fee Award, Service Awards, and Expense Award;

(i) A requirement for Republic Defendants to produce the Class Data required pursuant to this Agreement; and

(j) To the extent requested by Defendants, approval of the form of notice by Defendants under the Class Action Fairness Act of 2005 (“CAFA”).

2. **Final Approval of the Settlement.** If the Court preliminarily approves this Settlement, and if Class Counsel has not exercised its right to withdraw pursuant to Section XI, below, Class Counsel will file a Final Approval Motion. Defendants will either join in or not oppose the Final Approval Motion. The Final Approval Motion will seek entry of a proposed Final Order in a form to be agreed-upon by the Settling Parties and will, among other things:

(a) Order Final Approval of the Settlement set forth in this Settlement Agreement;

- (b) Adjudge that the Settlement is fair, reasonable, and adequate to the Class pursuant to Fed. R. Civ. P. 23(e);
- (c) Dismiss the Action against Defendants with prejudice;
- (d) Adjudge that Plaintiffs and the Class will be deemed conclusively to have released and waived any and all Settled Class Claims against Defendants as provided in this Settlement Agreement;
- (e) Bar and permanently enjoin the Parties and the Class from prosecuting any and all Settled Claims, as provided in this Settlement Agreement, against any Party from whom they have released claims;
- (f) Determine Class Counsel's request(s) for Fee Award, Service Awards, and Expense Award;
- (g) Retain exclusive jurisdiction, without affecting the finality of the Order entered, with regard to: (i) implementation of this Settlement Agreement; (ii) disposition of the Settlement Fund and distributions from the Settlement Fund; and (iii) enforcement and administration of this Settlement Agreement, including the release provisions thereof; and
- (h) To the extent that Defendants have timely complied with CAFA and provided CAFA Notice consistent with this Agreement, find that notice to the appropriate state and federal officials has been provided as required by CAFA and Defendants have satisfied their obligations pursuant to 28 U.S.C. § 1715.

## **X. CONDITIONS OF SETTLEMENT**

1. **Court Approval.** Each of the following is an express condition of Settlement: (a) the Court enters a Preliminary Approval Order substantially in the form as

required by this Agreement; and (b) the Court enters the Final Order, substantially in the form as required by this Agreement.

2. **Non-Conditional Matters.** Court approval of the Fee Award, Service Awards, or Expense Award, are not conditions of the Settlement. No action by the Court or any courts of appeal related to the Fee Award, the Service Awards, or the Expense Award, will prevent the Final Order allowing the approval of the Settlement from becoming Non-Appealable.

#### **XI. INDEPENDENT FIDUCIARY**

Republic Defendants, at their own expense, will hire an Independent Fiduciary to approve the Settlement consistent with Prohibited Transaction Exemption 2003-39 and issue a release to Defendants on behalf of the ESOP on terms comparable to the releases given by Plaintiffs and the Class. No later than twenty-one (21) days prior to the hearing on Final Approval, the Independent Fiduciary will issue its final opinion. If at any point, the Independent Fiduciary issues an opinion that does not approve all aspects of this Settlement Agreement, Defendants or Class Counsel will have the right, but not the obligation, to withdraw from the Settlement Agreement so long as such right is exercised within seven (7) days of receipt of the Independent Fiduciary's opinion. If either Class Counsel or one of Defendants exercises such right under this provision, then the entire Settlement Agreement will be terminated.

#### **XII. ISSUANCE OF NOTICE UNDER THE CLASS ACTION FAIRNESS ACT**

1. **CAFA Notice.** Pursuant to CAFA, Republic Defendants, at their own expense, will prepare and provide the CAFA Notice, including the notices to the United States Department of Justice, the United States Department of Labor, and to the Attorneys General of all states in which the Class Members reside, as specified by 28 U.S.C. § 1715, within ten (10) days of the execution of this Settlement Agreement.

2. **CAFA Notice Provided to Class Counsel.** Republic Defendants will provide Class Counsel with a copy of the CAFA Notice and materials that Republic Defendants sent within three (3) business days after such notices have been sent. The CAFA Notice and materials will be provided automatically and without further request by Class Counsel.

### **XIII. RELEASES**

Upon the Final Order becoming Non-Appealable, and provided that each Party has performed all of the respective obligations under this Settlement Agreement to be performed on or prior to such date by such Party:

1. **Release of Defendants by the Class.** The Class Members (including their heirs, executors, administrators, successors, and assigns), solely in their capacity as participants in the ESOP or as beneficiaries of Class Members who are participants in the ESOP, fully and finally release Defendants themselves and as applicable depending on whether the Party is an individual or an entity, their past, present, and future officers, directors, shareholders, members, affiliates, independent contractors, agents, insurers, insurance administrators, employees, attorneys, fiduciaries, trustees, heirs, administrators, executors, devisees, conservators, representatives, parents, subsidiaries, predecessors-in-interest, successors-in-interest, trusts, spouses, and assigns, from any and all claims, or causes of action, including any claims for costs, attorneys' fees, and/or expenses, whether in law or in equity, whether known or unknown, whether fixed or contingent, that the Class Members have that relate to or arise out of the facts alleged or the claims set forth in the Second Amended Complaint (filed by Plaintiffs on behalf of the Class), which are summarized as follows:

- (a) Rainbow Disposal Co., Inc.'s investments before October 1, 2014, including but not limited to investments or ownership in Southeast



Renewables, LLC, Rainbow West Florida, LLC, and/or West Florida Recycling, LLC;

- (b) The 2009 Summary Plan Description for the Rainbow ESOP;
- (c) The 2014 ESOP Transaction, including but not limited to funds placed into an escrow account pursuant to a holdback arrangement under the 2014 ESOP Transaction (the “Holdback Escrow Funds”);
- (d) The negotiation and resolution by GreatBanc on behalf of the Rainbow ESOP regarding disputes with Republic Services, Inc. related to the Holdback Escrow Funds;
- (e) The investment of the ESOP funds after the 2014 ESOP Transaction through January 15, 2020;
- (f) Disclosures or alleged failure to disclose by Defendants relating to
  - (i) the 2014 ESOP Transaction or
  - (ii) the investment of the ESOP funds after the 2014 ESOP Transaction through January 15, 2020; and
- (g) Any alleged action or inaction taken by GreatBanc as the Rainbow ESOP trustee based on facts or events alleged in Plaintiffs’ Second Amended Complaint.

2. **Release of Plaintiffs and the Class by Defendants.** Defendants and their insurers fully and finally release Plaintiffs, each Class Member, and Class Counsel from any and all claims or causes of action, whether in law or in equity, whether known or unknown, that Defendants have or have had against Plaintiffs, each Class Member, or Class Counsel that could have been asserted in this Action related to the filing of this Action, including any claims for attorneys’ fees, costs, expenses, or sanctions, that relate to the filing, commencement,

prosecution, or settlement of this Action, whether such Claim arises under ERISA or any federal law, state law, foreign law, common law doctrine, rule, regulation, or otherwise.

3. **Release Among All Defendants.** Each of the Defendants on behalf of themselves and, as applicable depending on whether the Party is an individual or an entity, their past, present, and future officers, directors, shareholders, members, affiliates, independent contractors, agents, insurers, insurance administrators, employees, attorneys, fiduciaries, trustees, heirs, administrators, executors, devisees, conservators, representatives, parents, subsidiaries, predecessors-in-interest, successors-in-interest, trusts, and assigns, releases and forever discharges each of the other Defendants, and their officers, directors, shareholders, members, affiliates, independent contractors, agents, insurers, insurance administrators, employees, attorneys, fiduciaries, trustees, heirs, administrators, executors, devisees, conservators, representatives, parents, subsidiaries, predecessors-in-interest, successors-in-interest, trusts, spouses, and assigns from any and all claims, demands, actions, causes of action, or losses, whether known or unknown, arising out of or relating to the 2014 ESOP Transaction, the Action, or allegations in the Complaint, provided however, that with respect to insurers, this release applies only to amounts paid to defend and indemnify any of the Parties in or in respect to the Action and any claims or potential claims for reimbursement or recoupment of such amounts prior to the Effective Date. For the avoidance of doubt, this provision is not intended to release any insurer from any obligation to defend, or reimburse defense costs for, any Party or Defendant after the Effective Date.

4. **Waiver of California Civil Code Section 1542.** The Parties, on behalf of themselves and all persons and entities on whose behalf they are providing the releases herein, acknowledge and understand that there is a risk that, subsequent to the execution of this

Agreement, they may accrue, obtain, incur, suffer, or sustain claims which in some conceivable way arise out of, are caused by, are connected with, or relate to the 2014 ESOP Transaction, the Action, or the allegations in the Complaint, and that such claims are unanticipated at the time this Agreement is signed, or are not presently capable of being ascertained. The Parties further acknowledge that there is a risk that any claims as are known or should be known may become more serious than they now expect or anticipate. Nevertheless, the Parties hereby expressly waive all rights they may have in such unknown consequences or results. The Parties acknowledge that they have had the benefit of and the opportunity to consult with their counsel, understand the import of Civil Code section 1542, and expressly waive the protection of Civil Code section 1542, which provides as follows:

**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.**

5. **Correctness of Class Data.** Neither the ESOP, nor any of the fiduciaries on behalf of the ESOP, will assert any claims that challenge the correctness of any of the Class Data provided by Defendants for purpose of this Settlement or challenge the prior distributions to Class Members resulting from the 2014 ESOP Transaction or an allocation to any of the Class Members' ESOP accounts that are subject to this Settlement unless that Class Member challenges the data.

6. **Non-Released Claims.** Notwithstanding the foregoing or any other language in this Settlement Agreement, the Settling Parties are not releasing Claims to enforce this Settlement Agreement.

#### **XIV. EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION**

1. **Termination Notice.** In the event that the Court refuses to grant Preliminary Approval or enter the Final Approval Order, or approval of the Settlement is reversed on appeal or materially altered, either Class Counsel or Defendants may void this Settlement by providing written notice to counsel for all other Parties to the Settlement within fourteen days (14) days after the event prompting the right to terminate (“Termination Notice”). In the event that the Final Order has not become Non-Appealable, the Party providing such Termination Notice will be entitled to withdraw based on the specified condition not being met and may void the Settlement within the time period specified in Section XIV.2.

2. **Effectiveness of Termination Notice.** The Termination Notice will become effective to void the Settlement Agreement only if and after the Settling Parties have failed to reach a written agreement within thirty (30) days of the Termination Notice to modify this Settlement Agreement to resolve the issue.

3. **Effect of Withdrawal.** In the event that the Court refuses to grant Preliminary Approval or enter the Final Approval Order, or such approval is reversed on appeal and one of the Settling Parties exercises its right to withdraw from the Settlement Agreement within the time specified above, or any other circumstance which causes the Final Order to not become Non-Appealable and the Parties have not entered into a written modification of the Settlement Agreement within thirty (30) days of such occurrence: (a) the monies in the Escrow Account (including any interest or earnings accrued while in Escrow, but less any amount paid or owing for taxes or other expenses incurred in connection with administering the Settlement Agreement while in Escrow, including any amounts necessary to prepare tax returns or monies paid or owing to the Settlement Administrator, will be returned to each payor, pro rata according to the amount of its/his respective payment(s) into the Settlement Fund upon written request

within ten (10) business days of such written request; (b) the Settling Parties will not be released from the claims asserted in this Litigation; (c) this Agreement will be void *ab initio*; and (d) the Parties' positions, rights, and responsibilities will be deemed to have reverted to their respective status in this Action as of January 14, 2020 (except that Paragraph 3 of the Settlement in Principle will still be enforceable) and, except as may otherwise be expressly provided herein, the Settling Parties will proceed in all respects as if this Settlement Agreement never existed.

## **XV. MISCELLANEOUS PROVISIONS**

1. **Return or Destruction of Confidential Information under the Protective Order.** For purposes of Paragraph 4 and 13 of the Stipulated Protective Order (Dkt. No. 134), final disposition will have been deemed to have occurred when Counsel for Republic Services provides written notice to Class Counsel that, pursuant to Section IV.5, (a) the settlement monies have been paid into the accounts of Class Members in the Republic 401(k) Plan, and (b) the distribution of proceeds of the Settlement from the Republic 401(k) Plan has been completed for Class Members who requested a distribution within 90 days of receiving the Election Distribution Packet. In addition to the archival copies of documents to which Counsel for any Party is entitled to retain pursuant to Paragraph 13 of the Stipulated Protective Order, Class Counsel may maintain the Class Data used to provide Class Notice or to calculate Distributions of the Settlement to the Class for one year following final disposition, but such materials will remain subject to the terms of the Protective Order. Additionally, the Settlement Administrator may maintain the Class Data used to provide Class Notice or to calculate Distributions of the Settlement to the Class for one year following final disposition, on the condition that the Settlement Administrator agrees to and does maintain such materials subject to the terms of the Protective Order.

2. **Tax Obligations and Tax Advice.** No opinion or advice concerning the Tax consequences of the Settlement Agreement has been given or will be given by counsel involved in the Action to the Class, nor is any representation or warranty in this regard made by virtue of this Settlement Agreement. The Tax obligations of the Class and the determination thereof are the sole responsibility of each Class Member, and it is understood that the Tax consequences may vary depending on the particular circumstances of each Class Member. No charge or claim may be asserted against any Class Member, Class Counsel, or the Settlement Fund for reimbursement of any Tax, including any penalty or excise tax, imposed or sought to be imposed upon any Defendant in relation to or as a consequence of this Agreement.

3. **Binding Effect.** This Settlement Agreement will be binding upon, and inure to the benefit of, the successors, assigns, executors, administrators, affiliates, heirs, spousal beneficiaries, and legal representatives of the Settling Parties, provided, however, that no assignment by any Settling Party will operate to relieve such Party of its obligations hereunder.

4. **Good Faith.** The Settling Parties: (a) acknowledge that it is their intent to consummate this Settlement; (b) agree to exercise their best efforts and to act in good faith to cooperate to the extent necessary to effectuate and implement all terms and conditions of this Settlement Agreement; and (c) agree to exercise their best efforts and to act in good faith to cooperate to the extent necessary to obtain the fullest possible participation of all Class Members in any Settlement. The Settling Parties and their counsel agree to cooperate fully with one another in seeking entry of the Preliminary Approval Order and final approval of the Settlement. The Settling Parties also agree to promptly execute and/or provide such documentation as may be reasonably required to obtain preliminary and final approval of this Settlement.

5. **Modification.** This Settlement Agreement may be amended or modified only by written instrument signed by Class Counsel on behalf of Plaintiffs and the Class and by Defense Counsel on behalf of Defendant(s) that they represent or their respective successors in interest.

6. **Representations.** This Settlement Agreement constitutes the entire agreement among the Settling Parties, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or the Agreement in Principle, other than the representations, warranties, and covenants contained and memorialized in such documents.

7. **Authorization.** Each signatory to this Settlement Agreement represents that he or she is authorized to enter into this Settlement Agreement on behalf of the respective Parties he or she represents. Should any non-signing Party ever contend that they did not authorize their counsel to sign this Settlement Agreement on their behalf, counsel and their law firms shall defend, indemnify, and hold harmless the other Parties with respect to any and all claims, demands, actions, causes of action, or losses related to such contention.

8. **Counterparts.** This Settlement Agreement may be executed in one or more original, photocopied, or facsimile counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument.

9. **Governing Law.** All terms of this Settlement Agreement will be governed by and interpreted according to the laws of the state of California without regard to its rules of conflicts of law and in accordance with the laws of the United States, except that ERISA will govern (and preempt California law) to the extent applicable.

10. **Waiver.** The waiver by one Party of any breach of this Settlement Agreement by any other Party will not be deemed a waiver of any other breach of this Settlement Agreement. The provisions of this Settlement Agreement may not be waived except by a writing signed by the affected Party, or counsel for that Party, or orally on the record in court proceedings.

11. **Continuing Jurisdiction.** The Settling Parties agree to submit to the jurisdiction of the Court and will be bound by the terms of this Settlement Agreement, including, without limitation, disputes related to implementing and enforcing the Settlement embodied in this Settlement Agreement. Any and all disputes related to claims that are not satisfactorily resolved by the Settling Parties will be submitted to the Court for final resolution. The Final Order will provide that the Court will have continuing jurisdiction over this Settlement.

12. **Enforcement of this Agreement.** In the event that any Party to this Agreement believes that another Party to this Agreement has breached the terms of this Agreement, that Party will notify the alleged breaching Party and Counsel in writing setting forth the nature of the breach and the requested method to cure the breach at least 14 days prior to filing any litigation to enforce the terms of the Settlement Agreement (and if the allegedly breaching Party is a Class Member regardless of whether that Class Member has separate counsel, Defendants must also notify Class Counsel in writing). In the event that the allegedly breaching Party fails to cure the alleged breach as set forth in the written notification after 14 days, the other Party may then file an action to enforce the Settlement Agreement. A Party who substantially prevails in any action to enforce the Settlement Agreement will be entitled to attorneys' fees and expenses consistent with the standards of ERISA § 502(g)(1); however,



attorneys' fees and expenses will not be available to a Party that failed to provide the breaching Party written notification to cure the breach as set forth in this Paragraph.

13. **Extensions.** The Settling Parties reserve the right, subject to the Court's approval, to request any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

14. **Evidentiary Effect.** Neither this Settlement Agreement nor the Settlement, nor any negotiation, nor act performed, nor document executed, nor proceedings held pursuant to or in forbearance of this Settlement Agreement or the Settlement, even if this Settlement Agreement is cancelled or terminated: (a) is, or may be deemed to be, or may be used as an admission of, or evidence of the validity of any Settled Class Claims, or of any wrongdoing, negligence, misrepresentation, violation, or liability of any Settling Party; (b) is, or may be deemed to be, or may be used as an admission of, or evidence of any infirmity in the Complaint or claims asserted by the Class; or (c) is, may be deemed to be, or may be used as an admission of, or evidence of, any fault or omission of any Settling Party in any civil, criminal, or administrative proceeding in any court, administrative agency, or tribunal, including in this Action. This Settlement Agreement may be used in such proceedings as may be necessary to consummate or enforce this Settlement Agreement, the Settlement, or the Final Order; and any Settling Party may file this Settlement Agreement and/or the Final Order in any action to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

15. **Final and Complete Resolution.** The Settling Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with

respect to this Action. The Settlement compromises claims which are contested and will not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties agree that the amount paid to the Settlement Fund and the other terms of the Settlement Agreement were negotiated in good faith at arm's-length by the Settling Parties and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

16. **Duplicative Provisions.** In interpreting this Settlement Agreement, duplicative and/or overlapping release provisions will not be presumed or construed to be intended to release separate claims or have different meanings.

The Parties hereto, intending to be legally bound hereby, have caused this Settlement Agreement to be executed by them or their duly authorized counsel, on the date set forth below.

DATED: July 23, 2020

Agreed:



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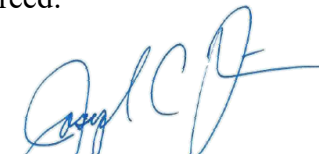
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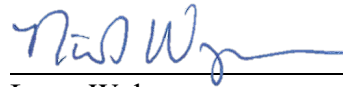
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