

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

NICHOLAS PONZIO AND WOLCOT CAPITAL,
INC. V. JOHN MICHAEL PRESTON, ET AL.

C.A. NO. 8672-VCG

STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement (the “Agreement” or “Stipulation”) is entered into as of February 17, 2015 by and among Plaintiffs Nicholas Ponzio and Wolcot Capital Inc.,¹ on behalf of themselves and the Class (as defined below), and Defendants Velcera, Inc. (“Velcera” or the “Company”), John Michael Preston, R. Scott Barry, Pedro Lichtinger, Josh Kazam, Michael Mashaal, Dennis F. Steadman, and Sal Uglietta (collectively, the “Individual Defendants,” and together with Velcera, the “Defendants”) by and through their undersigned attorneys. The Parties have concluded, in consideration of the terms set forth herein, that, subject to approval by the Court, the Action and the Released Claims should be fully and finally compromised, settled, and released, and the Action dismissed with prejudice, upon and subject to the terms and conditions contained herein.

Recitals

WHEREAS, on or about October 17, 2008 the Company filed a Form 15 with the United States Securities and Exchange Commission (“SEC”) seeking

¹ Except where stated otherwise, all capitalized terms are defined in paragraph 2 of this Agreement.

exemption from certain filing obligations under the United States federal securities laws;

WHEREAS, in December 2009, the Company entered into a short term bridge financing transaction in the amount of \$4 million (the “2009 Bridge Financing”), in which Defendants Preston, Kazam, and Uglietta, among others, participated;

WHEREAS, on or about June 7, 2010, the Company completed a capital raise pursuant to which investors, including investment funds affiliated with Defendants Barry and Mashaal, agreed to invest up to approximately \$38 million in the Company in exchange for shares of Velcera common stock and warrants to purchase shares of common stock (the “2010 Financing”);

WHEREAS, on or about June 17, 2010, the Company filed with the SEC a Form D, Notice of Exempt Offering of Securities, disclosing the completion of the 2010 Financing in the amount of \$37,700,000, stating that the date of first sale of such securities was on June 7, 2010 and that the securities were acquired by a total of 18 investors;

WHEREAS, in connection with the 2010 Financing, the Company entered into, among other agreements, a Repurchase Rights Agreement with certain investors, including investment funds affiliated with Defendants Barry and Mashaal, pursuant to which Velcera agreed to repurchase shares of common stock

issued in the 2010 Financing (or issuable under warrants issued in the 2010 Financing) in the event of a Change of Control (as defined in the Repurchase Rights Agreement) at a repurchase price equal to the sum of (i) 175% of the purchase price per share of common stock issued in the 2010 Financing or underlying warrant, plus accrued and unpaid dividends, and (ii) the amount such share would have otherwise received upon the consummation of a Change of Control (less, in the case of shares underlying the warrants, the applicable exercise price), subject to a cap of 275% of the sum of the purchase price plus accrued and unpaid dividends;

WHEREAS, following the closing of the 2010 Financing, certain of the investors in the 2010 Financing alleged that the Company had breached representations and warranties in the 2010 Financing agreements and threatened to withdraw their funding and/or liquidate the Company as a result of a notification received by the Company in June 2010 from its sole supplier of fipronil, the main ingredient in the Company's then-planned pet healthcare product, that it would no longer supply fipronil to the Company;

WHEREAS, on or about October 14, 2010, the Company entered into an agreement with certain of the investors in the 2010 Financing, pursuant to which the terms of the financing were amended and the investors agreed to invest additional capital of approximately \$6 million in the Company and provide

releases for all claims relating to the alleged breaches by the Company of the 2010 Financing agreements;

WHEREAS, in connection with the amendment to the terms of the 2010 Financing, on or about December 6, 2010, the Company filed a Form D Amendment, Notice of Exempt Offering of Securities stating the offering amount was \$37,690,960, and was acquired by a total of 25 investors;

WHEREAS, Plaintiffs allege that certain terms of the 2010 Financing were not disclosed to the public shareholders of Velcera until the Company's issuance of the Information Statement to the shareholders dated March 11, 2013 (the "Information Statement") in connection with the Merger, described below;

WHEREAS, on May 14, 2012, the Velcera board of directors formed a Transaction Committee (the "Transaction Committee") consisting of Defendants Barry, Mashaal, and Preston to assist and oversee Velcera's management and its financial advisor, J.P. Morgan Securities LLC ("JP Morgan"), in identifying and negotiating with potential acquirers of the Company, including Perrigo Company ("Perrigo");

WHEREAS, between May 2012 and January 2013, the Transaction Committee, assisted by its financial and legal advisors, communicated with more than 10 parties (other than Perrigo) about a potential strategic transaction with

Velcera, several of whom conducted preliminary diligence on the Company, but none of whom submitted a bid;

WHEREAS, on February 1, 2013, Velcera and Perrigo jointly announced that they had entered into a definitive agreement pursuant to which Perrigo would acquire the outstanding shares of Velcera for \$160 million in cash (the “Merger”) and that the Merger had been approved by the requisite number of Velcera stockholders by written consent;

WHEREAS, on March 11, 2013, the Company sent the Information Statement to Velcera shareholders pursuant to Section 228(e) of the General Corporation Law of the State of Delaware giving them notice of the Merger and related matters;

WHEREAS, on or about April 1, 2013, the Merger closed.

WHEREAS, on or about June 21, 2013, this Action was commenced by the filing of a Verified Class Action Complaint (the “Complaint”) by Plaintiffs Nicholas Ponzio and Wolcot Capital Inc. against the above named Defendants alleging a single cause of action for breach of fiduciary duty in connection with the 2010 Financing, the Merger, and accompanying Information Statement;

WHEREAS, Plaintiffs, through their counsel, have thoroughly investigated the claims and allegations asserted in the Action, as well as the underlying events and transactions relevant to the Action;

WHEREAS, in connection with their investigation, Plaintiffs' Counsel have reviewed thousands of pages of confidential documents produced by Defendants; taken the depositions of: (i) Defendant Dennis Steadman, President, Chief Executive Officer and a director of Velcera since 2004; and (ii) Thomas Monaghan, Velcera's lead investment banker from JP Morgan; and conducted factual and legal research concerning the validity of Plaintiffs' claims;

WHEREAS, on May 15, 2014, the parties participated in a mediation before Judge (Ret'd) Layn Philips;

WHEREAS, following the mediation, the parties engaged in further arm's-length negotiations, which ultimately led to an agreement in principle to settle the Action on the terms memorialized in a Memorandum of Understanding dated July 24, 2014;

WHEREAS, given the discovery taken of Defendants and others to date, including both before and after the agreement in principle to settle the Action, Plaintiffs are satisfied that an adequate factual record has been established that supports the Settlement;

WHEREAS, Plaintiffs and Plaintiffs' Counsel recognize and acknowledge the risk attendant to continuing to prosecute the Action against Defendants through trial and possible appeals, based on, including, but not limited to: the uncertain outcome and the risk of any litigation, especially in complex litigation such as the

Action; the difficulties and the delays inherent in any such litigation; and the inherent problems of proof and possible defenses to the claims asserted;

WHEREAS, based upon their evaluation, Plaintiffs and Plaintiffs' Counsel believe that it is desirable that the Released Claims (as defined below) be fully and finally compromised, settled and resolved and have determined that the Settlement set forth in this Agreement is fair, reasonable and adequate and in the best interests of Plaintiffs and the Class, and that it confers substantial benefits upon the Class;

WHEREAS, Plaintiffs and Plaintiffs' Counsel believe that the Settlement provides an excellent recovery for the Class based on the claims asserted, the evidence developed and the damages that might be proven in the Action if the Class were to prevail;

WHEREAS, Defendants deny any and all allegations of wrongdoing, fault, liability or damage to Plaintiffs in the Action or to any other member of the Class, deny that they engaged in, committed or aided or abetted the commission of any breach of duty, wrongdoing or violation of law, deny that Plaintiffs or any of the other member of the Class suffered any damage whatsoever, deny that they acted improperly in any way, believe that they acted properly at all times, maintain that they complied with their fiduciary duties, and maintain that they have complied with all applicable federal and state laws in connection with the matters raised in the Complaint; and Defendants desire to enter into the Settlement solely to

eliminate the uncertainty, burden, and expense of further litigation and nothing in this Agreement shall be construed as an admission by Defendants of wrongdoing, fault, liability, or damages whatsoever;

WHEREAS, the Parties now wish to enter into this Agreement in order to memorialize all of the terms pursuant to which they agreed to resolve their dispute.

NOW THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO AND AGREED, by (i) Plaintiffs, for themselves and on behalf of the Class, and (ii) Defendants, that subject to the approval of the Court, the Action shall be settled, compromised and dismissed as to the Parties, on the merits and with prejudice (and without costs to any party), and the Released Claims shall be finally and fully compromised, settled, and dismissed as to the Released Parties, in the manner and upon the terms and conditions hereafter set forth:

Terms and Conditions of Settlement

No Admission of Liability

1. The Parties agree that, by entering into this Agreement, Defendants do not admit that they or any of the other Released Parties engaged in any wrongdoing, violation of law, or breach of any duties, or otherwise have any liability to Plaintiffs or the Class. Rather, Defendants and the Released Parties continue to assert that they did not engage in any wrongdoing, did not breach any duties, and do not have liability to Plaintiffs or the Class. This Agreement, and all

related documents, shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action or in any other action or proceedings of any nature whatsoever, except that this Agreement may be used (i) as necessary to enforce its terms, and (ii) in any forum to oppose any action or objection that challenges the Agreement or raises any Released Claims against any of the Released Parties, in order to establish or support a defense or counterclaim based on principles of res judicata, collateral estoppel, release and discharge, good-faith settlement, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

Definitions

2. In addition to the terms defined above, the following capitalized terms, used in this Agreement, shall have the meanings specified below:

Action means the action captioned *Nicholas Ponzio and Wolcot Capital Inc. v. John Michael Preston et al.* pending in the Court of Chancery of the State of Delaware as Civil Action No. 8672-VCG.

Authorized Claimant means a Class Member who submits a properly executed Claim Form to the Claims Administrator, in accordance with the requirements established by the Court, which Claim is approved for payment, in whole or in part, from the Net Settlement Fund.

Claim means a Claim Form submitted to the Claims Administrator.

Claimant means a Person that submits a Claim Form to the Claims Administrator seeking to share in the proceeds of the Settlement Fund.

Claim Form or **Proof of Claim Form** means the proof of claim form and release, as approved by the Court, that will be mailed to all Class Members and that a Claimant must complete, execute and submit to the Claims Administrator in accordance with the requirements established by the Court in order for that Claimant to be eligible to share in a distribution of the Net Settlement Fund and which shall be substantially in the form annexed hereto as Exhibit A-2.

Claims Administrator means the firm retained by Plaintiffs and Plaintiffs' Counsel, subject to approval of the Court, to provide all notices approved by the Court to potential Class Members, to process the Proof of Claim Forms and to administer the Settlement in accordance with the terms and conditions set forth in this Stipulation, the Plan of Allocation and any orders of the Court relating thereto.

Class means all persons included as set forth in paragraph 6 below.

Class Member means a member of the Class.

Court means the Court of Chancery of the State of Delaware.

Escrow Account means the interest-bearing bank account referred to below into which the Settlement Fund shall be deposited.

Effective Date means the first day following the expiration of any time for appeal or review of a Final Order and Judgment in the Action, or, if any appeal or petition for review is filed and not dismissed or withdrawn (other than an appeal or petition for review solely relating to any fees or expenses awarded to Plaintiffs' counsel or proposed distribution of the Net Settlement Fund to members of the Class), after the Final Order and Judgment is upheld on appeal or review in all material respects and is no longer subject to review upon appeal or other review, and the time for any petition for re-argument, appeal, or review by certiorari or otherwise has expired.

Judgment means the Final Order and Judgment requested by the Parties to be entered in the Action in the form attached hereto as Exhibit B, with changes only as approved by the Parties.

Net Settlement Fund means the Settlement Fund less any applicable taxes, attorneys' fees, expert fees, costs and expenses approved by the Court.

Participating Insurers means those insurers providing director and officer liability insurance to Velcera and who have funded the Settlement Fund.

Parties means Plaintiffs, and each and all of Defendants.

Person means an individual, corporation, partnership, limited partnership, association, joint stock company, joint venture, limited liability company, professional corporation, estate, legal representative, trust or trustee,

unincorporated association, government or any political subdivision or agency thereof, and any other type of legal, business or political entity and their spouses, heirs, predecessors, successors, representatives, or assignees.

Plaintiffs' Counsel means the law firms of Lifshitz Law Firm and Cooch and Taylor LLP.

Plaintiffs' Lead Counsel means Lifshitz Law Firm.

Plaintiffs' Liaison Counsel means Cooch & Taylor LLP.

Plan of Allocation means the proposed plan of allocation for distribution of the Net Settlement Fund to Authorized Claimants, as set forth in the Notice and subject to the approval of the Court, or such other plan of allocation as the Court may approve.

Released Claims means (1) all claims, demands, rights, liabilities, losses, obligations, duties, costs, debts, expenses, interest, penalties, sanctions, fees, attorneys' fees, actions, potential actions, causes of action, suits, agreements, judgments, decrees, matters, issues and controversies of any kind, nature or description whatsoever, whether known or unknown, disclosed or undisclosed, accrued or unaccrued, apparent or not apparent, foreseen or unforeseen, matured or not matured, suspected or unsuspected, liquidated or not liquidated, fixed or contingent, including Unknown Claims, that have been, could have been, or are in the future asserted against the Released Parties (as defined below) by Plaintiff or

any other member or members of the Class, or by any other person or entity purporting to act as, on behalf of, for the benefit of, or derivatively for any Class member, whether based on any federal, state, foreign or other law, rule or regulation, that are based upon, arise out of, concern, involve, or relate to in any manner, either directly or indirectly, (i) the Merger between Perrigo and Velcera, (ii) 2009 Bridge Financing consummated by Velcera, (iii) the 2010 Financing (including all subsequent amendments and rounds of financing), (iv) any other allegation in any complaint or amended complaint, including any amended complaint filed in the future, in the Action, and (v) the defense or settlement of the Action; (2) any actions pending against the Released Parties relating to the Released Claims described above; and (3) all claims, sanctions, causes of action and/or rights, known and unknown, by Defendants against Plaintiffs and their counsel in the Action, that are based on, arise out of, or relate in any manner, either directly or indirectly, to the filing, prosecution or settlement of the Action including, without limitation, the actions taken or not taken in connection with any of the foregoing, the events, activities, and/or negotiations leading to or concerning any of the foregoing or concerning potential alternatives thereto, the agreements and disclosures relating to the foregoing, any compensation or other payments made in connection with the foregoing or any related agreements or transactions, the consideration paid pursuant to the Merger, the dissemination of information

concerning any of the foregoing, any purchase, sale, or holding of Velcera securities insofar as it relates in any way to any other matter covered in this definition of Released Claims, or any other act or omission in connection with any of the foregoing; provided, however, that the claims to be released shall not include the right of any member of the Class or any of the Released Parties to enforce the terms of the Settlement.

Released Parties means the Plaintiffs and their counsel in the Action, Defendants, Perrigo, and Related Persons. The term “Related Persons” means, for each of Defendants and Perrigo, his, her or its past or present directors, officers, employees, general partners, limited partners, principals, members, managing members, insurers and co-insurers, re-insurers, controlling stockholders, attorneys, advisors, consultants, accountants, auditors, personal or legal representatives, predecessors, successors, divisions, joint ventures, assigns, spouses, heirs, executors, parents, subsidiaries, affiliates (including the officers, directors and employees of such parents, subsidiaries, and affiliates), any entity in which he, she or it has a controlling interest, any member of his, her or its immediate family, and any trust of which he, she or it is the settlor or that is for the benefit of any member of his, her or its immediate family.

Settlement means the settlement contemplated by this Agreement.

Settlement Amount means the amount of Three Million Eight Hundred Fifty Thousand Dollars (\$3,850,000) to be paid in consideration for the full settlement and release of the Released Claims, which amount includes any payments to members of the Class and any legal fees or expenses awarded by the Court.

Settlement Fund means the fund consisting of the Settlement Amount deposited in the Escrow Account plus any interest and other income earned thereon.

Unknown Claims means any claim that may be related to the Released Claims that Plaintiffs or any member of the Class do not know or suspect exists in his, her or its favor at the time of the release of the Released Claims as against the Released Parties, including without limitation those claims which, if known, might have affected the decision to enter into the Settlement.

With respect to any of the Released Claims, the Parties stipulate and agree that upon approval of the Settlement, Plaintiffs shall expressly and each member of the Class shall be deemed to have, and by operation of the final order and judgment by the Court shall have, waived, relinquished, and released any and all provisions, rights, and benefits conferred by or under Cal. Civ. Code § 1542 or any law of the United States or any state of the United States or territory of the

United States, foreign jurisdiction, or principle of common law, which is similar, comparable or equivalent to Cal. Civ. Code § 1542, which provides:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

Plaintiffs acknowledge, and the members of the Class by operation of law shall be deemed to have acknowledged, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Claims, but that it is the intention of Plaintiffs, and by operation of law the members of the Class, to completely, fully, finally, and forever extinguish any and all Released Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery of additional or different facts that may be related to the Released Claims. Plaintiffs acknowledge, and the members of the Class by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of “Released Claims” was separately bargained for and was a material element of the Settlement and was relied upon by each and all of Defendants in entering into the Settlement.

Settlement Consideration

3. In consideration for the full settlement and release of all Released

Claims, Defendants shall pay, or cause the Participating Insurers to pay, a total of \$3,850,000, which amount includes any payments to members of the Class (as defined below) and any legal fees or expenses awarded by the Court to counsel for the Class.

4. Defendants shall also pay, or cause the Participating Insurers to pay within thirty (30) days of being invoiced by the Claims Administrator or Plaintiffs' Counsel, customary and reasonable costs of providing notice to the Class and administering the disbursement process.

5. Other than as set forth above, Defendants and the Participating Insurers shall have no obligation to pay or bear any additional amounts, expenses, costs, damages, or fees to or for the benefit of Plaintiffs or any member of the Class in connection with this Settlement.

Conditional Certification of the Class and Class Representatives

6. The Parties agree that the Action should be certified as a Class solely for purposes of the Settlement. The Parties agree that the Class (the "Class") includes any and all record holders and beneficial owners of common stock of Velcera who held such stock between December 1, 2009 through and including April 1, 2013 (the "Class Period"), and any and all of their successors-in-interest, successors, predecessors-in-interest, predecessors, representatives, trustees, executors, administrators, estates, heirs, assigns and transferees, immediate and

remote, and any Person acting for or on behalf of, or claiming under, any of them.

The Class shall exclude:

(a) Defendants and Perrigo and each of their affiliates, immediate families, legal representatives, heirs, successors or assigns and any entity in which Defendants or Perrigo have a controlling interest;

(b) any Velcera shareholder who received repurchase rights in connection with the 2010 Financing; and

(c) any Persons who properly exercise their right to exclude themselves from the Class for damage claims only.

7. Solely for the purpose of the Settlement, the Parties agree to appointment of Plaintiffs Nicholas Ponzio and Wolcot Capital Inc. as representatives of the Class (the “Class Representatives”) and appointment of Plaintiffs’ counsel as counsel to the Class.

8. In the event the Settlement is not consummated for any reason, the Action may proceed, but only as if the Class had never been certified and Defendants may oppose class certification in the Action.

9. As set forth below, any member of the Class shall be entitled to opt out provided that such persons or entities timely and properly advise Defendants of their intention to opt out in accordance with the instructions set forth in the Notice. If, prior to the Fairness Hearing (as defined in Paragraph 10(c) below), the

aggregate number of shares of Velcera common stock held by Class Members who submit timely and valid requests for exclusion from the Class exceeds the sum specified in a separate supplemental agreement between Plaintiffs and Defendants (the “Supplemental Agreement”), Defendants shall have the option to withdraw from the Settlement and to render this Stipulation null and void in accordance with the procedures set forth in the Supplemental Agreement. The Supplemental Agreement is confidential and will not be filed with the Court unless required by Court order or rule, or unless and until a dispute as between Plaintiffs and Defendants concerning its interpretation or application arises, in which case, the parties agree to seek confidential treatment for such filing in accordance with the rules of the Court.

Submission of Settlement to the Court

10. As soon as practicable after execution of the Agreement, the Parties shall apply to the Court for entry of an Order (the “Scheduling Order”) in the form attached hereto as Exhibit A that, among other things,:

(a) sets the method for providing notice of the Settlement to the Class, approving the form of notice attached hereto as Exhibit A-1 (the “Notice”), approving the Proof of Claim Form attached hereto as Exhibit A-2 and the form of summary notice attached hereto as Exhibit A-3 (the “Summary Notice”);

(b) preliminarily enjoins any member of the Class from commencing or prosecuting any action or other proceeding asserting any Released Claim pending the final determination as to whether the Settlement set forth in this Agreement should be approved; and

(c) sets a time and date for a hearing (the “Fairness Hearing”) to determine, among other things, whether the Final Order and Judgment should be entered dismissing and releasing the Released Claims with prejudice.

11. At the Fairness Hearing, the Parties shall jointly request entry of the Judgment, substantially in the form attached hereto as Exhibit B, the entry of which is a condition of this Agreement and Settlement.

Attorneys’ Fees and Expenses

12. Plaintiffs’ Lead Counsel may request entry of an Order approving Plaintiffs’ Counsel’s application for an award of attorneys’ fees and expenses in an amount not to exceed 25% of the Settlement Amount plus reimbursement of litigation expenses (to be deducted from the Settlement Fund). Defendants agree that they will not oppose this application. The award, if any, that the Court makes to Plaintiffs’ Counsel pursuant to this application shall constitute full compensation to Plaintiffs’ Counsel for all services rendered and disbursements made in connection with the Action.

13. Within fifteen (15) business days after the Effective Date, the attorneys' fees and expenses, if any, awarded to Plaintiffs' Counsel by the Court shall be paid by Plaintiffs' Lead Counsel from the Settlement Fund. Once the payment required by the first sentence of paragraph 3 of this Agreement has been made, the Released Parties shall have no obligation to pay any amounts, fees, or expenses, including attorneys' fees, on behalf of Plaintiffs or any other member of the Class.

14. This Settlement is not conditioned on the Court's approval of any fees and expenses pursuant to this paragraph or otherwise. Any disapproval or modification of Plaintiffs' Counsel's fee application by the Court or on appeal shall not affect or delay the enforceability of this Agreement, nor provide any of the Parties with the right to terminate the Settlement, nor affect or delay the binding effect or finality of the Judgment and release of the Released Claims.

15. Defendants shall have no responsibility for or liability with respect to the allocation of any fees, or expenses among Plaintiffs' Counsel.

The Settlement Fund

16. Within thirty (30) days following entry of the Scheduling Order, Velcera shall pay, or shall cause its Participating Insurers to pay, the Settlement Amount into the Escrow Account. The Settlement Fund shall be deemed to be in the custody of the Court and will remain subject to the jurisdiction of the Court

until such time as it is distributed or returned pursuant to the terms of this Stipulation and/or further order of the Court. Plaintiffs' Counsel and the Claims Administrator shall hold and use the Settlement Fund strictly in accordance with the terms of this Agreement, the Scheduling Order, and any further order that may be issued by the Court.

17. The Parties agree to treat the Settlement Fund as a Qualified Settlement Fund within the meaning of Treasury Regulation §1.468B-1 and the Claims Administrator shall be responsible for filing tax returns for the Settlement Fund and paying from the Settlement Fund any taxes, including any interest or penalties thereon (the "Taxes"), owed with respect to such Settlement Fund. In addition, the Claims Administrator, as required, shall do all things necessary or advisable to carry out the provisions of this paragraph.

18. All Taxes arising with respect to the income earned by the Settlement Fund, including any Taxes or Tax consequences that may be imposed with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a "qualified settlement fund" for federal or state income tax purposes and any expenses and costs incurred in connection with the payment of Taxes pursuant to this paragraph (including without limitation, expenses of tax attorneys and/or accountants and mailing, administration and distribution costs, expenses relating to the filing or the failure to file all necessary

or advisable tax returns and Taxes imposed on amounts payable by or on behalf of Defendants pursuant to this paragraph (the “Tax Expenses”)), shall be paid out of the Settlement Fund. Defendants shall not have any liability or responsibility for the Taxes or the Tax Expenses. The Claims Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund and the distributions and payments therefrom, including, without limitation, the tax returns described in Treas. Reg. § 1.468B-2(k), and to the extent applicable, Treas. Reg., §1.468B-2(1). Such tax returns shall be consistent with the terms herein and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund. The Claims Administrator shall also timely pay Taxes and Tax Expenses out of the Settlement Fund, and is authorized to withdraw, without prior order of the Court, from the Settlement Fund amounts necessary to pay Taxes and Tax Expenses.

Notice to Members of Class

19. The Claims Administrator shall make reasonable efforts to identify all persons who are members of the Class, including beneficial owners whose shares of Velcera’s common stock were held by banks, brokerage firms, or other nominees and those shareholders who received the merger consideration in connection with the Merger. Within ten (10) business days after entry of the

Scheduling Order, Defendants shall supply the Claims Administrator with a list of the names and addresses of the persons who were record holders of the common stock of Velcera during the Class Period and a list of those record holders who received merger consideration in connection with the Merger (the “Stockholder Lists”). Defendants shall use their best efforts in compiling the Stockholder Lists.

20. Within twenty-one (21) days after entry of the Scheduling Order, the Claims Administrator shall send the Notice by first class mail to all persons who appear on the Stockholder Lists. Each recipient of the Notice who held the common stock of Velcera as nominee for another person shall, within five (5) days after the nominee receives the Notice, either (a) send the Notice by first class mail to the person for whom it held the common stock of Velcera as nominee, or (b) send the name and address of the person for whom it held the common stock of Velcera as nominee to the Claims Administrator by first class mail. In the latter event, the Claims Administrator shall send the Notice by first class mail to the person identified by the nominee. In all other instances in which the Claims Administrator becomes aware of the identity of a beneficial owner who may be a member of the Class, the Claims Administrator shall send the Notice by first class mail to that beneficial owner.

21. In accordance with the Scheduling Order, Plaintiffs' Counsel shall cause the Claims Administrator to publish the Summary Notice once over the *BusinessWire* or *PR Newswire*.

22. Any member of the Class may request exclusion from the Class at any time until thirty (30) days before the Fairness Hearing. Any requests for exclusion must be made in accordance with the instructions contained in the Scheduling Order, Notice and the Summary Notice, including providing all applicable requested information. Any member of the Class who does not request exclusion from the Class in compliance with the Scheduling Order, Notice and Summary Notice will be bound by all of the terms of this Agreement and by the Final Order and Judgment to be entered by the Court. At the Fairness Hearing, Plaintiffs' Counsel shall provide the Court a list of those members of the Class who have requested to be excluded from the Settlement in accordance with this paragraph.

23. Any member of the Class may object to this Settlement if he or she does not believe that it is fair, reasonable, adequate, and in the best interests of the Class. In order to be considered at the Fairness Hearing, an objection must be made in accordance with the instructions set forth in the Scheduling Order, Notice and Summary Notice.

Administration and Distribution of the Settlement Fund

24. After the Effective Date, the Net Settlement Fund shall be distributed to Authorized Claimants pursuant to the Plan of Allocation as approved by the Court. Plaintiffs' Lead Counsel shall seek Court approval of the Plan of Allocation at the Fairness Hearing.

25. The Plan of Allocation is neither a part of this Settlement nor a necessary term of this Stipulation. It is not a condition of the Stipulation or the Settlement that any particular plan of allocation be approved by the Court. The Court shall consider the Plan of Allocation separate and apart from its consideration of whether the proposed Settlement is fair, reasonable and adequate. Any order or proceedings relating to the Plan of Allocation or any appeal thereafter (or any other plan of allocation that may be proposed or approved in the Action) shall not: (a) operate to modify, terminate or cancel this Settlement; (b) affect or delay the validity or finality of the Settlement or the Judgment or any other orders entered by the Court giving effect to this Stipulation; (c) affect or delay the Effective Date; and/or (d) provide any grounds or otherwise permit Plaintiffs, any other Class Member, or Plaintiffs' Counsel to cancel, terminate or withdraw from the Stipulation or the Settlement.

26. Plaintiffs' Counsel shall retain a Claims Administrator, which shall, subject to the supervision, direction and approval of the Court, oversee administration and distribution of the Settlement Fund.

27. The Settlement Fund shall be applied as follows:

(a) To distribute the Net Settlement Fund to the Class, and pay all escrow fees and costs.

(b) Subject to the approval and further order(s) of the Court, to pay to Plaintiffs' Counsel the amount awarded by the Court as attorneys' fees, and to pay to Plaintiffs' Counsel the amount awarded as costs and expenses, including fees of experts and consultants.

(c) To pay Taxes and Tax Expenses owed by the Settlement Fund.

(d) Subject to the approval and further order(s) of the Court, to distribute the balance of the Settlement Fund as provided in paragraph 38 herein.

28. Defendants shall bear no responsibility for making any of the foregoing payments or distributions, or for the costs, fees or expenses described in paragraph 12. However, Defendants shall pay, or cause the Participating Insurers to pay, the customary and reasonable costs of providing the Notice and Summary Notice to the Class, processing the claims and administering the disbursement process.

29. For purposes of determining the extent, if any, to which a Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

(a) Each Class Member shall be required to complete and submit a Claim Form signed under penalty of perjury and supported by such documents as are designated therein, including proof of the number of shares of Velcera common stock held by the Claimant as of the effective date of the Merger, or such other documents or proof as the Claims Administrator or Plaintiffs' Lead Counsel, in their discretion, may deem acceptable;

(b) All Claim Forms must be submitted by the date set by the Court in the Scheduling Order and specified in the Notice, unless such deadline is extended by order of the Court. Provided that it is received before the motion for the Class Distribution Order (defined below) is filed, a Claim Form shall be deemed to be submitted when mailed, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator;

(c) Each Claim Form shall be submitted to and reviewed by the Claims Administrator, who shall determine, in accordance with this Stipulation and under the supervision of Plaintiffs' Lead Counsel, the extent, if any, to which each Claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below;

(d) Claim Forms that do not meet the submission requirements may be rejected. Prior to rejecting a Claim in whole or in part, the Claims Administrator shall communicate with the Claimant in writing to give the Claimant the chance to remedy any curable deficiencies in the Claim Form submitted. The Claims Administrator, under the supervision of Plaintiffs' Lead Counsel, shall notify, in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be rejected has the right to a review by the Court if the Claimant so desires and complies with the requirements of subparagraph (e) below;

(e) If any Claimant whose Claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) calendar days of the date of mailing of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a Claim cannot be otherwise resolved, Plaintiffs' Counsel shall thereafter present the request for review to the Court; and

(f) No Person that is not a Class Member shall have any right to any share of the Net Settlement Fund or to receive a distribution therefrom.

30. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim, and the Claim will be subject to investigation and discovery under the applicable rules and procedures of the Court, provided that such investigation and discovery shall be limited to that Claimant's status as a Class Member and the validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of the Action or this Settlement in connection with the processing of Claim Forms.

31. Plaintiffs' Counsel will apply to the Court, on notice to Defendants' Counsel, for an order (the "Class Distribution Order"): (a) approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the Claims submitted; (b) approving payment of any administration fees and expenses associated with the administration of the Settlement from the Escrow Account; and (c) if the Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants from the Escrow Account.

32. Payment pursuant to the Class Distribution Order shall be deemed final and conclusive as against Plaintiffs and all other Class Members. Any Class Member who does not submit a Claim or whose Claim is not approved by the Court shall be: (a) deemed to have waived his, her or its right to share in the Settlement Fund; (b) forever barred from participating in distributions from the Net Settlement Fund; (c) bound by all of the terms and provisions of this Stipulation

and the Settlement and all proceedings, determinations, judgments and orders in the Action relating thereto, including without limitation the terms of the Judgment to be entered in the Action and the releases provided for therein; and (d) permanently barred from commencing, maintaining, prosecuting or bringing any of the Released Claims against any of the Released Parties.

33. The Claims Administrator shall administer the process of receiving, reviewing and approving or denying Claims under Plaintiffs' Counsel's supervision, subject to the jurisdiction of the Court and consistent with the terms of this Stipulation.

34. No Defendant shall be permitted to contest or object to any Claim Form or any decision of the Claims Administrator or Plaintiffs' Lead Counsel with respect to accepting or rejecting any Claim Form or Claim for payment by a Class Member that is made consistent with the terms of this Stipulation and the Plan of Allocation as approved by the Court.

35. Plaintiffs' Counsel shall have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claim Forms submitted, in the interests of achieving substantial justice, provided that such waiver does not otherwise violate any provision of this Stipulation.

36. All proceedings with respect to the administration, processing and determination of Claims and the determination of all controversies relating thereto,

including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court.

37. Prior to the distribution of the Net Settlement Fund, Plaintiffs' Counsel shall present for the approval of the Court a final accounting of the receipts to and disbursements from the Settlement Fund and the proposed distribution of the Net Settlement Fund. No such distribution shall be made in the absence of an order approving the accounting and the proposed distribution. Finality of the Settlement shall not be conditioned on any ruling by the Court or any appellate court solely concerning any proposed distribution.

38. As of the Effective Date, Defendants shall not have any right to the return of the Settlement Amount or any portion thereof. If any funds remain in the Net Settlement Fund by reason of uncashed checks or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have members of the Class who are entitled to participate in the distribution of the Net Settlement Fund cash their distribution checks, any balance remaining in the Net Settlement Fund six months after the initial distribution of such funds shall be re-distributed, after payment from such funds of any unpaid costs or fees incurred in administering the Net Settlement Fund (not required to be paid by Defendants) for such re-distribution, to members of the Class who have cashed their checks and who would receive at least \$10.00 from such re-distribution. If after four months

after such re-distribution any funds shall remain in the Net Settlement Fund, then such balance shall be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s) designated by Plaintiffs' Counsel without further order of the Court.

39. Upon final approval by the Court and upon exhaustion of all possibility of appeal or review as defined in paragraph 2 of this Agreement, the Settlement Fund shall be distributed as provided in paragraphs 24 and 27 of this Agreement. If the Court denies approval of the Settlement or an appellate court enters a final disposition denying approval of the Settlement, amounts remaining in the Settlement Fund, including any interest earned thereon, and/or claims shall be returned to Velcera or the Participating Insurers who provided such funds within five (5) business days of the Court's denial or final unfavorable disposition.

40. Payment from the Settlement Fund made pursuant to and in the manner set forth above shall be deemed conclusive of compliance with this Agreement by Plaintiffs.

41. Other than payment of the customary and reasonable costs, Defendants, the Released Parties, and their counsel shall have no involvement in, responsibility for, or liability relating to (i) the administration of or distributions from the Settlement Fund, or (ii) the determination, calculation or payment of the Net Settlement Fund to members of the Class. No Class Member shall have any

claim against Defendants or the Released Parties or any of their counsel based on the distributions of the Settlement Fund.

42. Plaintiffs, Plaintiffs' Counsel, the Claims Administrator, or any of their counsel, shall have no liability relating to distributions made substantially in accordance with this Agreement and/or orders of the Court.

Effect of Disapproval, Cancellation or Termination of the Agreement

43. If the Court does not enter the Judgment substantially in the form provided for in Exhibit B, or if the Court enters the Judgment and appellate review is sought and on such review, the entry of Judgment is vacated, modified or reversed, then this Agreement shall be cancelled and terminated, unless all parties who are adversely affected thereby, in their sole discretion within ten (10) business days from the date of such ruling, provide written notice to all other parties hereto of their intent to proceed with the settlement under the terms of the Judgment as it may be modified by the Court. Such notice may be provided on behalf of Plaintiffs and the members of the Class by Plaintiffs' Counsel. No party shall have any obligation whatsoever to proceed under any terms other than substantially in the form provided and agreed to herein, except to the extent provided for in paragraph 14 relating to the award of attorneys' fees.

44. If any party hereto engages in a material breach of the terms hereof, any other party, provided that it is in substantial compliance with the terms of this

Agreement, may terminate this Agreement on notice to the breaching party or may sue for enforcement. Defendants shall have the option to terminate this Agreement in the event that members of the Class exclude themselves from the Class as set forth in paragraph 9 above.

45. In the event this Agreement is terminated or cancelled or fails to become effective for any reason, then within five (5) business days thereof, (a) the Settlement Fund including any award of attorneys fees and expenses, less any cost or expenses actually incurred, shall be returned to Velcera or the Participating Insurers who provided such funds; (b) this Settlement and this Agreement shall be null and void and have no further force or effect, and shall not be referred to, admissible in or introduced in any other way except as stated in this Agreement; (c) the Parties shall be restored to their respective positions in the Action as of July 24, 2014; and (d) the Class shall be de-certified, without prejudice to Plaintiffs' right to file a motion to certify a class and seek appointment of class representatives and class counsel, and without prejudice to Defendants' right to oppose such a motion.

46. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all funds paid by Defendants or the Participating Insurers for reasonable costs that have been actually incurred prior to the date of settlement termination shall not be returned

Release

47. Upon the entry of the Judgment, and as consideration for the obligations undertaken by Defendants hereunder, the Released Parties are hereby forever released from any and all of the Released Claims. It is the intention of the Parties to extinguish all such Released Claims and, consistent with such intentions, the Parties hereby waive their rights under any provision of state law, federal law, foreign law, or common law that may have the effect of limiting the release set forth herein. This waiver shall include a waiver by the Parties of any rights pursuant to Section 1542 of the California Civil Code (or any similar, comparable or equivalent provision in any state law, federal law, foreign law, or common law).

48. The obligations incurred pursuant to this Settlement shall be in full and final disposition of the Action and the Released Claims as set forth in this Agreement, and any and all persons shall be barred, to the fullest extent permitted by applicable law, from asserting any third party claims for contribution or indemnity against the Released Parties based upon or arising out of the Released Claims in accordance with 10 Del. C. § 6304 and any similar laws or statutes.

Return of Documents

49. Plaintiffs' Counsel agree that, within thirty days (30) after receipt of a written request by Defendants or their attorneys following final approval of the Settlement by the Court, they will (a) return all discovery material previously

identified as confidential obtained from that party or (b) certify in writing that such materials have been destroyed.

Warranties

50. Plaintiffs' Counsel represent and warrant that Plaintiffs have been continuous shareholders of Velcera at all relevant times and have not assigned, encumbered, or otherwise transferred, in whole or in part, Plaintiffs' claims in the Action. Plaintiffs' Counsel further represent and warrant that they have been duly empowered and authorized to sign this Agreement on behalf of Plaintiffs.

Miscellaneous Provisions

51. The Parties, through their counsel, agree to use their best efforts to pursue the Settlement and its approval by the Court in as expeditious and comprehensive a manner as possible and acknowledge that time is of the essence.

52. The Parties intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Plaintiffs or the Class against the Released Parties with respect to the Released Claims. Accordingly, Defendants agree not to assert any claim under any rule or regulation that the Action was brought in bad faith or without a reasonable basis. The Parties agree that the amount paid and the other terms of the Settlement were negotiated at arms' length and in good faith by the Parties, and reflect a settlement that was reached

voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

53. Unless and until the Settlement becomes null and void pursuant to paragraph 45 of this Agreement, the Parties agree to undertake their best efforts to accomplish all steps contemplated by this Agreement to effectuate the Settlement.

54. The Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation. Where necessary, the Parties agree to cooperate fully in seeking Court approval of any such extensions.

55. Whether or not the Effective Date occurs or this Agreement is terminated, neither this Agreement nor the Settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement: (i) may be deemed, or shall be used, offered, or received against Defendants or the Released Parties, or each or any of them, as an admission, concession, or evidence of, the validity of any Released Claims, the truth of any fact alleged by Plaintiffs, the deficiency of any defense that has been or could have been asserted in the Action, or of any alleged wrongdoing, liability, negligence, or fault of Defendants and/or the Released Parties, or any of them; and (ii) may be deemed, or shall be used, offered, or received against Defendants or the Released Parties, or each or any of them, as an admission, concession, or evidence of, any

fault, misrepresentation or omission with respect to any statement or written document approved or made by any Defendants and/or Released Parties.

56. The captions used herein are used for the purpose of convenience only and are not meant to have legal effect.

57. This Agreement shall be binding upon and inure to the benefit of Plaintiffs, the Class, Defendants, the Released Parties, and the successors in interest and assigns of all of the foregoing. The Released Parties who are not signatories hereto shall be third party beneficiaries under this Agreement, entitled to enforce this Agreement in accordance with its terms.

58. The Agreement has been drafted jointly by the counsel for the Parties. Accordingly, this Agreement shall be neutral, and no ambiguity shall be construed in favor of or against any of the Parties.

59. This Agreement, including its exhibits, is intended as the full, complete, and exclusive memorial of all matters agreed upon by the Parties and shall supersede all prior representations, negotiations, correspondence, drafts, or memoranda of understanding.

60. The waiver by one party of any breach of the Agreement by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

61. In the event there exists a conflict or inconsistency between the terms of this Agreement and the terms of any exhibits to be attached hereto, the terms of this Agreement shall prevail.

62. This Agreement may be executed in one or more counterparts, which may be transmitted electronically, and all of which together shall constitute a single instrument.

63. This Agreement shall not be orally modified in any respect and can be modified only by a written instrument signed by or on behalf of the Parties or their respective successors-in-interest.

64. The performance, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Delaware, without giving effect to any principles of conflict of laws and shall be heard exclusively in the Court of Chancery of the State of Delaware or, in the event that the Court of Chancery declines to accept jurisdiction over such action, any state or federal court of competent jurisdiction in the State of Delaware.


IN WITNESS HEREOF the Parties, through their counsel, have executed this Agreement.

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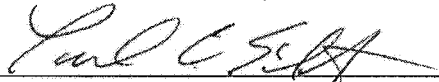


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