SETTLEMENT AGREEMENT

AND

RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims ("Agreement") is made between KARDELL SMITH ("RELEASOR") and the CITY OF ANTIOCH ("RELEASEE") with respect to the following facts:

RECITALS

A. **Description of Event**:

On or about 2019, RELEASOR was arrested on state possession charges by RELEASEE's police officers. RELEASOR served a parole violation and was later charged on the same basis by the Federal government.

On or about April 13, 2022, a Federal judge dismissed RELEASOR's case, dropped every charge, and withdrew all previous pleadings.

On or about June 2, 2023, RELEASOR filed a First Amended Complaint against RELEASEE in the United States District Court, Northern District of California, Case No. 3:23-cv-01895-VC ("the Action"), alleging the following causes of action: (6) 42 U.S.C. § 1983 – Malicious Prosecution (by Kardell Smith against Defendants BROOKS. MOREFIELD, FORD, EVANS, ROMBOUGH, DUGGAR, AMIRI, LENDERMAN, BLEDSOE, THOMAS SMITH, and DOES 1 – 100).

On or about February 3, 2025, RELEASOR filed a Fourth Amended Consolidated Complaint against RELEASEE alleging the following causes of action: (1) 42 U.S.C. § 1983 – Unreasonable Seizure (by Kardell Smith against Defendants MORTEZA AMIRI, ERIC ROMBOUGH, and DOES 26 – 100); (2) 42 U.S.C. § 1983 – Malicious Prosecution (by Kardell Smith against Defendants MORTEZA AMIRI, ERIC ROMBOUGH, and DOES 26 – 100).

The RELEASEE denies and disputes RELEASOR's claims and allegations.

In order to avoid the substantial expense and inconvenience of further litigation, the parties now desire to finally settle all claims asserted in, as well as all issues that were raised or could have been raised in the Action, on the terms set forth in this Agreement.

THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, IT IS HEREBY AGREED AS FOLLOWS:

TERMS OF AGREEMENT

1. Payment. In exchange for the promises and warranties of **RELEASOR** as set forth below, the RELEASEE shall pay the total sum of Six Hundred and Fifty Thousand Dollars and zero cents ($650, 000.00) jointly to **RELEASOR** and his attorneys, The Law Offices of John K. Burris, 7677 Oakport Street, Suite 1120, Oakland, CA 94621.

2. General Release of All Claims. RELEASOR unconditionally, irrevocably and absolutely releases and discharges the RELEASEE, as well as its present or former employees, officers, agents, attorneys, affiliates, successors, assigns and all other representatives of the RELEASEE (collectively, "Released Parties"), from any and all causes of action, judgments, liens, indebtedness, damages, losses, claims (including attorneys' fees and costs), liabilities, administrative complaints, and demands of whatsoever kind and character that RELEASOR may now or hereafter have against the Released Parties arising from incidents or events giving rise to this lawsuit (hereafter collectively, "Released Claims").

3. Unknown or Different Facts or Law. RELEASOR acknowledges he may discover facts or law different from, or in addition to, the facts or law he knows or believes to exist with respect to a Released Claim. He agrees, nonetheless, that this Agreement and the releases contained in it shall be and remain effective in all respects notwithstanding such different or additional facts or law.

4. California Civil Code Section 1542 Waiver. RELEASOR expressly acknowledges and agrees that the releases contained in this Agreement include a waiver of all rights under Section 1542 of the California Civil Code. This statute reads 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.**

Cal. Civ. Code § 1542 RELEASOR acknowledges that he has read all of this Agreement, including the above Civil Code section, and that acknowledges he fully understands both the Agreement and the Civil Code section. RELEASOR waives any benefits and rights granted to him pursuant to Civil Code section 1542.

5. Dismissal of the Action. RELEASOR agrees to take all actions necessary to dismiss the Action, with prejudice, as soon as possible after this Agreement becomes effective, including, but not limited to, executing and filing a Request for Dismissal of

the Action with Prejudice with the United States District Court, Northern District of California.

6. No Prior Assignments or Liens; Indemnification for same. RELEASOR represents and warrants that RELEASOR acknowledges RELEASOR has not assigned to any other person or entity any Released Claim.

a. RELEASOR further expressly represents and warrants that said accident did not arise out of, or in the course of, any employment of the undersigned and no claim has been made against any employer or employer's insurance carrier under any Workers' Compensation Law.

b. RELEASOR warrants RELEASOR will satisfy any and all liens related to the action. RELEASOR further expressly represents that RELEASOR's lien holders have been notified of the settlement, including the Settlement Payment, of RELEASOR's claims.

c. RELEASOR further expressly represents and warrants there are no known or foreseeable liens or claims, including, but not limited to Medicare, Medi-Cal, other health care providers, hospitals, insurance carriers, workers compensation carriers or attorneys, arising out of the subject accident against any of the amounts being paid by the RELEASEE as provided in this Agreement.

d. RELEASOR agrees to indemnify the RELEASEE against any claims for damages, compensation or otherwise by any lien and/or subrogation RELEASOR, expressly including, but not limited to all public entities, Medicare, Medi-Cal and all other health care providers, hospitals, insurance carriers, workers compensation carriers or attorneys, arising out of the subject accident, to reimburse or make good any loss or damage or costs that RELEASEE may have to pay if any claim or litigation is brought by any lien and/or subrogation RELEASOR.

7. No Admissions. By entering into this Agreement, the RELEASEE shall not be deemed or construed to have admitted to any liability for this incident. The parties agree that it is their mutual intention that neither this Agreement nor any terms hereof shall be admissible in any other or future proceedings against the RELEASEE, except a proceeding to enforce this Agreement.

8. Attorneys' Fees and Costs. RELEASOR and the RELEASEE agree to bear their own attorneys' fees and expenses incurred in connection with the Action, or any Released Claim, except as otherwise set forth herein.

9. Court Enforceability of Settlement Agreement. The parties agree this is a court-supervised settlement and hereby stipulate that this settlement agreement is enforceable on motion pursuant to California Code of Civil Procedure 664.6.

10. Severability. Should it be determined by a court that any term of this Agreement is unenforceable, that term shall be deemed to be deleted. However, the validity and enforceability of the remaining terms shall not be affected by the deletion of the unenforceable terms.

11. Modifications. This Agreement may be amended only by a written instrument executed by all parties hereto.

12. Cooperation. The parties agree to do all things necessary and to execute all further documents necessary and appropriate to carry out and effectuate the terms and purposes of this Agreement.

13. Interpretation; Construction. The headings set forth in this Agreement are for convenience only and shall not be used in interpreting this Agreement. This Agreement has been drafted by legal counsel representing the RELEASEE, but RELEASOR and his counsel have fully participated in the negotiation of its terms. RELEASOR acknowledges he has had an opportunity to review and discuss each term of this Agreement with legal counsel and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

14. Entire Agreement. The parties to this Agreement declare and represent that no promise, inducement or agreement not herein discussed has been made between the parties, and that this Agreement contains the entire expression of agreement between the parties on the subjects addressed herein.

15. Counterparts. This Agreement may be executed in counterparts. The execution of a signature page of this Agreement shall constitute the execution of the Agreement, and the Agreement shall be binding on each party upon that party's signing of such a counterpart.

16. Advice of Counsel. RELEASOR declares and represents that he is executing this Agreement with full advice from his legal counsel, and that he intends that this Agreement shall be complete and shall not be subject to any claim of mistake, and that the releases herein express a full and complete release and, regardless of the adequacy or inadequacy of the consideration, he intends the releases herein to be final and complete. RELEASOR executes this release with the full knowledge that this release covers all possible claims, to the fullest extent permitted by law.

IN WITNESS THEREOF, the undersigned herein agree to be bound by the terms and conditions contained within this Agreement and have set their hands the day and year set forth below their respective signatures.

DATED: 6/11/25

Kardell Smith
Plaintiff

DATED: 6/11/25

Benjamin Nisenbaum, Esq.
Counsel for Plaintiff
KARDELL SMITH