

# EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

RIGOBERTO SANDOVAL,	:	Civil Action
individually and as a representative of a class of	:	No. 3:17-cv-1573 (MPS)
similarly situated plan participants and	:	
beneficiaries, on behalf of the	:	
EXELA 401(k) PLAN,	:	
the successor-in-interest of the	:	
NOVITEX ENTERPRISE SOLUTIONS	:	
RETIREMENT SAVINGS PLAN,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
EXELA ENTERPRISE SOLUTIONS, INC.,	:	
NOVITEX ENTERPRISE SOLUTIONS	:	
EMPLOYEE BENEFITS COMMITTEE	:	
and DOES NO. 1-10, Whose Names Are	:	
Currently Unknown,	:	
	:	
Defendants.	:	April 22, 2021

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**AMENDED SETTLEMENT AGREEMENT AND RELEASE**

This Amended Settlement Agreement and Release (the “Agreement”) is entered into as of April 22, 2021, by and among Plaintiff, Rigoberto Sandoval, on his own behalf and, subject to court approval, on behalf of the proposed Class (defined below) and the Exela 401(k) Plan, the successor-in-interest of the Novitex Enterprise Solutions Retirement Savings Plan, on the one hand, and Defendants, Exela Enterprise Solutions, Inc. and the Novitex Enterprise Solutions Employee Benefits Committee (collectively, “Defendants,” and together with Plaintiff, the “Parties”), on the other, in consideration of the promises, covenants, and agreements herein described, and for other good and valuable consideration acknowledged by each of them to be satisfactory and adequate.

The capitalized terms used in this Agreement are defined in Part I, below.

**RECITALS**

**WHEREAS**, on September 20, 2017, Plaintiff filed this Action against Defendants in the United States District Court for the District of Connecticut, asserting certain claims for breach of fiduciary duty under Section 404 of ERISA (as defined below), 29 U.S.C. § 1104, and related claims for co-fiduciary and/or non-fiduciary liability under ERISA, on behalf of the Novitex Plan;

**WHEREAS**, on December 19, 2017, Defendants moved to dismiss Plaintiff's initial Complaint;

**WHEREAS**, on November 20, 2018, the Court entered an order granting in part and denying in part Defendants' motion to dismiss Plaintiff's initial Complaint;

**WHEREAS**, on March 1, 2019, Plaintiff filed an Amended Complaint;

**WHEREAS**, on April 1, 2019, Defendants moved to dismiss Plaintiff's Amended Complaint;

**WHEREAS**, on March 30, 2020, the Court entered an order granting in part and denying in part Defendants' motion to dismiss Plaintiff's Amended Complaint;

**WHEREAS**, on May 1, 2020, Plaintiff filed a Second Amended Complaint with Defendants' consent to, *inter alia*, account for the termination of the Novitex Plan and the merger of its assets with the Source HOV 401(k) Plan to form the Exela 401(k) Plan at the end of 2018, remove allegations dismissed by the Court's March 30, 2020 order, and add class allegations;

**WHEREAS**, during the course of litigation, the Parties exchanged substantial documentation and retained experts, engaged in other pretrial proceedings, and were able to fully evaluate the merits of the Claims (defined below), and Defendants' defenses to the Claims;

**WHEREAS**, on October 30, 2020, Plaintiff filed a motion for class certification, and both Parties provided their expert disclosures and exchanged expert reports;

**WHEREAS**, on December 11, 2020, the Parties engaged in a videoconference mediation session with a highly qualified mediator, Mark Segall, Esq. (JAMS), which was unsuccessful;

**WHEREAS**, after the unsuccessful mediation, the Parties resumed litigation but continued to engage in informal settlement discussions and reached a settlement in principle;

**WHEREAS**, on February 18, 2021, the Parties agreed to settle the Claims in this action on the terms and conditions set forth in this Agreement;

**WHEREAS**, Defendants have vigorously denied, and continue to vigorously deny, any wrongdoing and any liability arising from the factual allegations and Claims set forth in any of the Plaintiff's complaints;

**WHEREAS**, the Parties have decided to enter into this Agreement because it provides substantial and meaningful benefits to the members of the Class and the Exela Plan, and to avoid the substantial costs, uncertainties, and risks of continued litigation;

**WHEREAS**, entry into this Agreement is not an admission of liability by Defendants, which liability each Defendant denies in its entirety;

**NOW, THEREFORE**, it is agreed by, between, and among the undersigned that the Action shall be settled and dismissed with prejudice on the terms and conditions set forth herein, subject to judicial approval.

## I. DEFINITIONS

1.1. “Action” shall mean this action, *Rigoberto Sandoval v. Exela Enterprise Solutions, Inc., et al.*, No. 3:17-cv-1573 (MPS) (D. Conn.) (originally captioned *Rigoberto Sandoval v. Novitex Enterprise Solutions, Inc., et al.*).

1.2. “Active Accounts” shall mean Class Members’ accounts in the Exela Plan, which have a positive balance as of the date of the Preliminary Approval Order.

1.3. “Administration Costs” shall mean: (a) the costs and expenses associated with the production, dissemination, and publication of the Notice; (b) the reasonable costs and expenses incurred by Defendants in causing the Plan Recordkeeper(s) to provide participant data and lists to the Settlement Administrator (pursuant to Section 4.1 of the Agreement); (c) all reasonable costs incurred by the Settlement Administrator in administering and effectuating this Settlement, including the costs of obtaining the Class Members’ contact and account information and distributing the Settlement Amount, which costs are necessitated by performance and implementation of this Agreement and any court orders relating thereto; and (d) all reasonable fees charged by the Settlement Administrator.

1.4. “Alternate Payee” shall mean a person, other than a Participant or Beneficiary, who is entitled to a benefit under the Exela Plan or the former Novitex Plan as a result of a valid QDRO, as determined by the Plan Administrator on or before the date of the Preliminary Approval Order, where the QDRO relates to a Participant’s balance in the Exela Plan or a Former Participant’s balance in the Novitex Plan or the Exela Plan.

1.5. “Attorneys’ Fees and Expenses” shall mean any and all attorneys’ fees, costs (including fees and costs charged or incurred by retained experts or consultants), and expenses of

Class Counsel for their past, present, and future work, efforts, and expenditures in connection with the Action and Settlement.

1.6. “Authorized Former Participant” shall mean a Former Participant who has submitted a Former Participant Claim Form by the Claims Deadline set by the Court in the Preliminary Approval Order, and whose Former Participant Claim Form is accepted by the Settlement Administrator and determined by the Settlement Administrator to be completed and satisfactory.

1.7. “Beneficiary” shall mean a person who is entitled to receive a benefit under the Exela Plan or the former Novitex Plan, as determined by the Plan Administrator on or before the date of the Preliminary Approval Order, that is derivative of a deceased Participant’s or Former Participant’s interest in the Exela Plan or the former Novitex Plan, other than an Alternate Payee. A Beneficiary includes, but is not limited to, a spouse, surviving spouse, domestic partner, child or other individual or trust designated by the Participant or Former Participant, or determined under the terms of the Exela Plan or the Novitex Plan to be entitled to a benefit.

1.8. “Case Contribution Award” shall have the meaning ascribed to it in Section 7.1.

1.9. “Claim(s)” shall mean the claims asserted in the Action.

1.10. “Class” or “Settlement Class” shall mean all participants and beneficiaries of the Novitex Plan prior to the merger of the Novitex Plan with the SourceHOV 401(k) Plan, at any time during the Class Period, including any beneficiary of a deceased person who was a participant in the Novitex Plan at any time during the Class Period, and any alternate payees, in the case of a person subject to a QDRO who was a participant in the Novitex Plan at any time during the Class Period. The Class shall exclude all Defendants.

1.11. “Class Period” shall mean at any time on or after January 1, 2014, through and including December 31, 2018.

1.12. “Class Counsel” shall mean Miller Shah LLP.

1.13. “Class Member” in the singular shall mean an individual member of the Class and “Class Members” in the plural shall mean all Members of the Class.

1.14. “Court” shall mean the United States District Court for the District of Connecticut.

1.15. “Defendants” shall mean Defendants, Exela Enterprise Solutions, Inc. and the Novitex Enterprise Solutions Employee Benefits Committee.

1.16. “Defendants’ Counsel” shall mean Murtha Cullina LLP and O’Melveny & Myers, LLP.

1.17. “Defendant Released Parties” shall mean (a) Defendants, (b) their insurers, co-insurers, and reinsurers, (c) their past, present, and future parent corporation(s), (d) their past, present, and future affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, and assigns, (e) their past, present and future members of their respective boards of trustees or boards of directors, agents, officers, employees, independent contractors, representatives, attorneys, administrators, fiduciaries, accountants, auditors, advisors, consultants, personal representatives, spouses, heirs, executors, associates, employee benefit plan fiduciaries (with the exception of the Independent Fiduciary), employee benefit plan administrators, service providers to the Plan, including Plan Recordkeepers (including their owners, officers, and employees), members of their immediate families, consultants, subcontractors, and all persons acting under, by, through, or in concert with any of them, and (f)

the Novitex Plan's and Exela Plan's fiduciaries, administrators, plan administrators, recordkeepers, service providers, consultants, and parties-in-interest.

1.18. "Effective Date" shall mean (a) the date upon which the applicable period to appeal the Final Approval Order and Judgment has expired, if no appeal is taken during such period; or (b) if, during the appeals period, an appeal is taken from such Final Approval Order and Judgment, the date upon which all appeals, including further petitions for review, rehearing, or certiorari, and any proceedings resulting therefrom, have been finally disposed of, or the date upon which the applicable period to initiate all such further petitions or proceedings has expired. The Parties shall agree in writing when the Effective Date has occurred, and any dispute shall be resolved by the Court. It is expressly agreed by the Parties and their counsel that no Party intends this Section 1.18 or any other part of this Agreement to establish or acknowledge that anyone is entitled to or has the right to appeal from the Final Approval Order and Judgment.

1.19. "ERISA" shall mean the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, as amended.

1.20. "Escrow Account" shall mean an account at an established Financial Institution agreed upon by the Parties that is established for the deposit of the Settlement Amount and amounts relating to it, including interest earned on investment of the Settlement Amount, if any.

1.21. "Escrow Agent" shall mean the entity approved by the Parties to act as escrow agent for any portion of the Settlement Amount deposited in or accruing in the Escrow Account pursuant to this Agreement.

1.22. "Exela Plan" shall mean the Exela 401(k) Plan, the successor-in-interest of the Novitex Enterprise Solutions Retirement Savings Plan.

1.23. “Fee and Expense Application” shall mean the petition to be filed by Class Counsel seeking approval of an award of Attorneys’ Fees and Expenses.

1.24. “Final Approval Hearing” or “Fairness Hearing” shall mean the hearing to be held before the Court pursuant to Federal Rule of Civil Procedure 23(e) to determine whether the Agreement should receive final approval by the Court. The Parties will request that the Final Approval Hearing be scheduled for a date no earlier than one hundred and forty (140) calendar days after the entry of the Preliminary Approval Order.

1.25. “Final Approval Order and Judgment” shall mean a final order entered by the Court after the Final Approval Hearing, substantially the same in all material respects to that attached hereto as Exhibit A (subject to the Court’s discretion on awarding Attorneys’ Fees and Expenses and Case Contribution Awards, as stated in Sections 7.1(b) and 7.2(b)), granting approval of the Settlement. The Parties may agree to additions or modifications to the form of the Final Approval Order and Judgment as they agree are appropriate at the time that it is submitted to the Court for final approval of the Settlement.

1.26. “Financial Institution” shall mean Huntington Bank, the institution at which the Escrow Account is established.

1.27. “Former Participant” shall mean any Class Member who maintained a positive balance in the Novitex Plan at any time during the Class Period, but who does not have an Active Account with the Exela Plan.

1.27.1. “Former Participant Claim Form” shall mean the form to be provided to Former Participants and returned to the Settlement Administrator by Former Participants and Beneficiaries.

1.28. “Independent Fiduciary” shall mean the person or entity selected by the Parties to serve as an independent fiduciary to the Exela Plan with respect to the Agreement as defined in Paragraph 2.6.

1.29. “Independent Fiduciary Fees and Costs” shall mean all reasonable fees, costs, and expenses of the Independent Fiduciary. The Independent Fiduciary Fees and Costs shall be paid from the Settlement Fund after such funds are deposited with the Escrow Agent and upon receipt of an invoice from the Independent Fiduciary.

1.30. “Net Settlement Amount” means the Settlement Amount minus (a) all Attorneys’ Fees and Expenses paid to Class Counsel; (b) all Case Contribution Awards; (c) all Administration Costs (and any contingency reserve for Administration Costs); and (d) all Independent Fiduciary Fees and Costs approved by the Court.

1.31. “Notice” shall mean the notice, identical in all material respects to that attached hereto as Exhibit B-1, to be provided directly to Class Members pursuant to Section 2.5 and made available on the Settlement Website and the website of Class Counsel.

1.31.1. “Summary Notice” shall mean the notice, identical in all material respects to that attached hereto as Exhibit B-2, to be issued as a press release by the Settlement Administrator on PRNewswire.

1.32. “Novitex Plan” shall mean the Novitex Enterprise Solutions Retirement Savings Plan.

1.33. “Participant” shall mean any Class Member who maintained a positive balance in the Novitex Plan at any time during the Class Period and has an Active Account in the Exela Plan.

1.34. “Parties” in the plural shall mean Plaintiff and Defendants, and “Party” in the singular shall mean one of the Parties.

1.35. “Plaintiff” shall mean Plaintiff, Rigoberto Sandoval, individually and on behalf of the Class and the Exela Plan.

1.36. “Plan Administrator” shall mean SourceHov, LLC and its designee(s).

1.37. “Plan of Allocation” shall mean the framework for allocating the Settlement Fund that is approved by the Court, which framework shall be in the form attached hereto as Exhibit C.

1.38. “Plan Recordkeeper(s)” shall mean Transamerica Retirement Solutions Corporation (“Transamerica”) and the current and, if applicable, prior recordkeeper(s) of the Exela Plan.

1.39. “Preliminary Approval Order” shall mean an order entered by the Court preliminarily approving the Settlement, pursuant to Section 2.3, which order is substantially the same in all material respects to that attached hereto as Exhibit D.

1.40. “QDRO” shall mean, for the purposes of this Agreement, a valid Qualified Domestic Relations Order as defined in 29 U.S.C. § 1056(d)(3)(K), and as determined by the Plan Administrator on or before the date of the Preliminary Approval Order.

1.41. “Released Claims” shall mean any and all actual or potential claims (including any Unknown Claims), actions, causes of action, demands, obligations, or liabilities (including claims for attorney’s fees, expenses, or costs), whether arising under federal, state, or local law, whether by statute, contract, or equity, whether brought in an individual or representative capacity, whether known or unknown, suspected or unsuspected, for monetary, injunctive, and

any other relief against the Defendant Released Parties through the date the Court enters the Final Approval Order and Judgment:

- (a) That were asserted in the Action, or that arise out of the conduct alleged in the Action, including conduct that was alleged in, or could have been alleged in, the Action's operative Second Amended Complaint by any Class Member, whether or not the conduct was actually included as counts in the Second Amended Complaint;
- (b) That arise out of, relate to, are based on, or have any connection with (1) the selection, retention, performance, and monitoring of the Novitex Plan's actual or potential investment options and service providers; (2) the performance, costs, fees, and other characteristics of the Novitex Plan's investment options, including any revenue sharing paid by any such investment options; (3) the Novitex Plan's fees and expenses, including without limitation, its recordkeeping and other service provider fees; (5) the nomination, appointment, retention, monitoring, and removal of the Novitex Plan's fiduciaries;
- (c) That would be barred by *res judicata* base on entry of the Final Order;
- (d) That relate to the direction to calculate, the calculation of, and/or the method or manner of allocation of the Settlement Fund in accordance with the Plan of Allocation; or
- (f) That relate to the approval by the Independent Fiduciary of the Settlement.

The Released Claims shall not include claims to enforce the covenants or obligations set forth in this Agreement.

1.42. "Settlement" shall mean the compromise and resolution embodied in this Agreement.

1.43. “Settlement Administrator” shall mean Strategic Claims Services.

1.44. “Settlement Allocation Score” shall have the meaning described in Section 1.5.1 of the Plan of Allocation.

1.45. “Settlement Amount” shall mean seven hundred fifty thousand dollars (\$750,000.00).

1.46. “Settlement Fund” shall have the meaning set forth in Section 3.1(b).

1.47. “Settlement Website” shall have the meaning set forth in Section 2.5.

1.48. “Taxes” shall have the meaning set forth in Section 3.1(i).

1.49. “Tax-Related Costs” shall have the meaning ascribed to the term in Section 3.1(i).

1.50. “Unknown Claims” shall mean any Released Claims that Plaintiff or any Class Members do not know or suspect to exist in their favor at the time of the release of the Defendant Released Parties, including claims which, if known by them, might have affected their settlement with the Defendants and release of the Defendant Released Parties, or might have affected their decision not to object to this Settlement. Plaintiff or any Class Member may later discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiff and all Class Members, upon the date of the Court’s entry of the Final Approval Order and Judgment, shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, and forever settled and released all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of

any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiff and all Class Members shall be deemed by operation of the Final Approval Order and Judgment to have acknowledged that the foregoing waiver was bargained for and is a key element of the Settlement of which their release and waiver of Unknown Claims is a part.

## **II. SETTLEMENT APPROVAL**

2.1. ***Motion for Class Certification.*** Plaintiff has withdrawn his motion for class certification filed on October 30, 2020 and, in connection with this Settlement, will move the Court for certification of the Class for settlement purposes only. Defendants will not object to Plaintiff's motion for class certification for settlement purposes only, pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(1). If the Court does not issue the Final Approval Order and Judgment, then no Class shall be deemed to have been certified by or as a result of this Agreement, Defendants shall not be deemed to have admitted the propriety of certification of the Class under any provision of Federal Rule of Civil Procedure 23, and the Action shall for all purposes revert to its status on December 11, 2020.

2.2. ***Motion for Preliminary Approval.*** Plaintiff shall move the Court for preliminary approval of the Settlement on April 22, 2021, including entry of an order identical in all material respects to the form of the Preliminary Approval Order. Defendants will not object to Plaintiff's motion for preliminary approval of the Settlement but reserve the right to make a submission related to the motion.

2.3. ***Rights of Exclusion.*** Class Members shall not be permitted to exclude themselves from the Class.

2.4. ***Right to Object.*** Class Members shall be permitted to object to the Settlement. Requirements for filing an objection shall be set forth in the Preliminary Approval Order and in the Class Notice.

2.5. ***Class Notice.***

a) Within sixty (60) calendar days of the entry of the Preliminary Approval Order or as may be modified by the Court, the Settlement Administrator shall send the Notice by electronic mail (if available) or first-class mail to the Class Members. The Notice shall be sent to the last known electronic mail address or last known mailing address of the Class Members that is reasonably obtainable from the Plan Recordkeepers. The Settlement Administrator shall update mailing addresses through the National Change of Address database before mailing (with all returned mail skip-traced and promptly re-mailed). The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Notice is returned and re-mail such Notice one additional time if an updated location is identified. The Settlement Administrator shall also cause the Summary Notice to be issued as a press release with national distribution via PRNewswire within sixty (60) calendar days of entry of the Preliminary Approval Order.

b) The Former Participant Claim Form must be returned to the Settlement Administrator within one hundred and twenty (120) days of entry of the Preliminary Approval Order by all Former Participants, and Beneficiaries or Alternate Payees who do not have Active Accounts, who wish to receive the benefits of this Settlement. For each such Former Participant, Beneficiary, and/or Alternate Payee that has not returned the

Former Participant Claim Form within ninety (90) days of the entry of the Preliminary Approval Order, the Settlement Administrator will send within fourteen (14) days thereafter a post card by electronic mail (if available) or first class mail, postage prepaid, to such Class Member notifying them again of the deadline by which to submit the Former Participant Claim Form, unless the previous mailings and communications to the Class Member have been returned as undeliverable and the Settlement Administrator is unable to identify a valid electronic mail or physical mailing address through the exercise of reasonable and good faith efforts.

c) Within sixty (60) calendar days of the entry of the Preliminary Approval Order and no later than the first date that the e-mailing or the mailing of the Notice occurs, or as may be extended by the Court on application of the Parties, the Settlement Administrator shall establish a website containing the Notice and this Agreement and its exhibits, the Second Amended Complaint, the motions for preliminary approval and final approval (when filed); the Motion for Attorneys' Fees and Expenses and Case Contribution Award (when filed); any approval order or other Court orders related to the Settlement, any amendments or revisions to these documents, and any other documents or information mutually agreed upon by the Settling Parties. The Settlement Website URL web address shall be mutually agreed upon by the Parties. No other information or documents (other than the date, time, and location of the Fairness Hearing and the toll-free number for the call center described in Paragraph 2.5(d) below) will be posted on this website unless agreed to in advance by the Parties in writing. The Notice will identify the web address of this website.

d) Within sixty (60) calendar days of the entry of the Preliminary Approval Order and no later than the first date that the e-mailing or the mailing of the Notice occurs, or as may be extended by the Court on application of the Parties, the Settlement Administrator shall establish a toll-free telephone number to which Class Members can direct questions about the Settlement. The Settlement Administrator shall develop a question-and-answer type script, with input and approval from Defendants' Counsel and Class Counsel, for the use of persons who answer calls to this line.

2.6. ***Approval of Settlement by Independent Fiduciary.*** The Independent Fiduciary retained by the Parties shall have the following responsibilities on behalf of the Exela Plan:

a) The Independent Fiduciary shall determine whether to approve and authorize the settlement of Released Claims on behalf of the Exela Plan.

b) The Independent Fiduciary shall comply with all relevant conditions set forth in Prohibited Transaction Class Exemption 2003-39, "Release of Claims and Extensions of Credit in Connection with Litigation," issued December 31, 2003, by the United States Department of Labor, 68 Fed. Reg. 75,632, as amended ("PTE 2003-39"), in making its determination, for the purpose of Defendants' reliance on PTE 2003-39.

c) The Independent Fiduciary shall notify Defendants of its determination in writing and in accordance with PTE 2003-39, which notification shall be delivered no later than forty-five (45) calendar days before the Fairness Hearing (and shall be submitted to the Court not later than forty-two (42) calendar days before the Fairness Hearing).

d) Defendants, Defendants' Counsel, Plaintiff, and Class Counsel shall provide the Independent Fiduciary with sufficient information so that the Independent Fiduciary can review and evaluate the Agreement.

e) Should the Independent Fiduciary fail to approve and authorize the Settlement or fail to give a release on behalf of the Exela Plan, the Agreement shall be terminable, pursuant to Section 8.3.

2.7. ***Class Action Fairness Act Notice.*** The Settlement Administrator, on behalf of Defendants, shall comply with the notice requirements of 28 U.S.C. § 1715, and pursuant to the Preliminary Approval Order, shall file a notice with the Court confirming compliance at least thirty (30) calendar days prior to the Final Approval Hearing.

2.8. ***Motion for Final Approval.*** Plaintiff shall move the Court for final approval of the Settlement no later than the deadline set by the Court in the Preliminary Approval Order, or as may be extended by the Court on application of the Parties. On or after the date set by the Court for the Final Approval Hearing pursuant to Federal Rule of Civil Procedure 23(e)(2), the Court shall determine, among other things: (a) whether to enter the Final Order and Judgment finally approving the Settlement; and (b) what, if any, Case Contribution Award and Attorneys' Fees and Expenses should be awarded to Plaintiff and Class Counsel, respectively, pursuant to Sections 7.1 and 7.2 of this Agreement.

### **III. PAYMENTS TO THE CLASS**

#### **3.1. *The Settlement Amount.***

a) In consideration of all of the promises and agreements set forth in this Agreement, Defendants will pay, or cause to be paid, the Settlement Amount as specified

in Section 1.45. None of the other Defendant Released Parties shall have any obligation to contribute financially to this Settlement. It is understood and agreed by the Parties that, by paying the Settlement Amount, Defendants do not agree with or in any way admit, and shall not be deemed to agree with or in any way admit, any of Plaintiff's or Class Counsel's theories regarding Defendants' liability in the Action, including that any of Defendants' prior or existing actions or practices are in violation of any federal or state laws, statutes, or regulations. Prior to the execution of this Agreement, Plaintiff will provide a completed W-9 and wire instructions and an address for the institution where the Settlement Amount will be paid.

b) Defendants shall pay, or cause to be paid, the Settlement Amount as set forth in section 1.45 in two segments, and the total funding, in the aggregate, together with any interest and investment earnings thereon, shall constitute the "Settlement Fund." First, Defendants shall pay, or cause to be paid, \$250,000 of the Settlement Amount, with those amounts to be deposited by wire transfer into the Escrow Account within thirty (30) calendar days of the entry of the Preliminary Approval Order to fund any Administration Costs and Independent Fiduciary Fees and Costs that arise before the Court's entry of the Final Approval Order and Judgment. Second, Defendants shall pay, or cause to be paid, the remaining portion of their Settlement Amount obligation to be deposited by wire transfer into the Escrow Account within thirty (30) calendar days following the Court's entry of the Final Approval Order and Judgment, subject to the provisions of Section 8.5.

c) The Settlement Amount shall be used solely for the purposes set forth in Section 3.1(j).

d) Subject to Court approval and oversight, the Escrow Account will be controlled by the Settlement Administrator. Neither Defendants, Defendants' Counsel, the Defendant Released Parties, Plaintiff, nor Class Counsel shall have any liability whatsoever for the acts or omissions of the Settlement Administrator. The Settlement Administrator shall not disburse the Settlement Amount or any portion of the Settlement Fund except as provided for in this Agreement, by an order of the Court, or with prior written agreement of Class Counsel and Defendants' Counsel.

e) The Settlement Administrator is authorized to execute transactions on behalf of Class Members that are consistent with the terms of this Agreement and with orders of the Court.

f) All funds held in the Escrow Account shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until the funds are distributed in accordance with this Agreement.

g) The Settlement Administrator shall, to the extent practicable and prudent, invest the Settlement Fund in discrete and identifiable instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. The Settlement Administrator shall maintain records identifying in detail each instrument in which the Settlement Fund or any portion thereof has been invested, and identifying the precise location (including any safe deposit box number) and form of holding of each such instrument. Neither the Settlement Fund nor any portion thereof shall be commingled

with any other monies in any instruments. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this Section 3.1(g) shall be maintained by the Settlement Administrator, and not commingled with any other monies, in a bank account, which shall promptly be identified to the Parties at any Party's request by bank and account number and any other identifying information. The Settlement Administrator and Class Members shall bear all risks related to investment of the Settlement Fund. All income, gain, or loss earned by the investment of the Settlement Amount shall be credited to the Escrow Account.

h) The Escrow Account is intended to be a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1. The Settlement Administrator, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Escrow Account and paying from the Escrow Account any Taxes owed with respect to the Escrow Account.

i) All taxes on the income of the Escrow Account ("Taxes") and expenses and costs incurred in connection with the taxation of the Escrow Account (including expenses of tax attorneys and accountants) ("Tax-Related Costs") shall be timely paid by the Settlement Administrator out of the Escrow Account.

j) The Settlement Fund will be used to pay the following amounts associated with the Settlement:

- (1) Compensation to Class Members determined in accordance with Section 3.2;
- (2) Any Case Contribution Award approved by the Court;

- (3) All Attorneys' Fees and Expenses approved by the Court;
- (4) Independent Fiduciary Fees and Costs;
- (5) Administration Costs; and
- (6) Taxes and Tax-Related Costs.

3.2. ***Distribution to Class Members.***

a) The Settlement Fund will be distributed to Class Members in accordance with the Plan of Allocation.

b) Notwithstanding anything else in this Agreement, any revisions to the Plan of Allocation that would increase the Settlement Amount or require Defendants or their affiliates to incur additional expenses or costs or to provide data not reasonably available shall be deemed a material alteration of this Agreement and shall entitle Defendants, at their election, to terminate the Agreement. In no event, and notwithstanding anything else in this Agreement, shall Defendants be required to pay any amounts other than the Settlement Amount. It is understood and agreed that Defendants' monetary obligations under this Agreement will be fully discharged by paying the amounts specified in paragraph 1.45 above and that Defendants shall have no other monetary obligations, or obligations to make any other payments under this Agreement or otherwise.

c) Class Members who receive a check from the Settlement Administrator under the Plan of Allocation must deposit or cash their checks within one hundred and eighty (180) calendar days of issuance. If they do not do so, the checks will be void, and the Settlement Administrator shall be instructed to return any such funds to the Settlement Fund pursuant to Section 3.4. This limitation shall be printed on the face of

each check. Notwithstanding these requirements, the Settlement Administrator shall have the authority to reissue checks to Class Members where it determines there is good cause to do so, provided that doing so will not compromise the Settlement Administrator's ability to implement the Plan of Allocation. The voidance of checks shall have no effect on the Class Members' release of claims, obligations, representations, or warranties as provided herein, which shall remain in full effect.

3.3. ***Responsibility for Taxes on Distribution.*** Each Class Member who receives a payment under this Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Class Member shall hold Defendants, Defendants' Counsel, the Defendant Released Parties, Class Counsel, and the Settlement Administrator harmless from (a) any tax liability, including, without limitation, penalties and interest, related in any way to payments or credits under the Agreement, and (b) the costs (including, without limitation, fees, costs and expenses of attorneys, tax advisors, and experts) of any proceedings (including, without limitation, any investigation, response, and/or suit), related to such tax liability.

3.4. ***Treatment of Undistributed Funds and Uncashed Checks.*** Any funds associated with checks that are not cashed within one hundred and eighty (180) calendar days of issuance and any funds that cannot be distributed to Class Members for any other reason, together with any interest earned on them, and any funds remaining after the payment of any applicable Taxes by the Escrow Agent, shall be returned to the Settlement Fund by the Settlement Administrator to be distributed as described in the Plan of Allocation.

3.5. **Administration Costs.** The Administration Costs shall be paid from the Settlement Fund. The Settlement Administrator will reserve from the Settlement Fund its estimated Administration Costs. Beginning thirty (30) calendar days after the entry of the Preliminary Approval Order, and on every thirtieth (30th) calendar day thereafter, the Settlement Administrator shall provide the Parties with a detailed accounting of any Administration Costs expended to date and an invoice for the amount of such Administration Costs. Any disputes as to whether amounts billed by the Settlement Administrator are reasonable and necessary under this Agreement shall be resolved by the Court.

3.6. **Entire Monetary Obligation.** Notwithstanding anything else in this Agreement, in no event shall Defendants be required to pay any amounts under this Agreement or otherwise, other than the Settlement Amount as specified in Section 1.45.

#### IV. SETTLEMENT ADMINISTRATION

4.1. Defendants shall use reasonable efforts to cause the Plan Recordkeeper(s) to provide to the Settlement Administrator, within forty-five (45) calendar days of the entry of the Preliminary Approval Order, the participant data sufficient to effectuate the Notice, implement the Plan of Allocation, and distribute the Settlement Fund. Subject to at least thirty (30) calendar days' written notice from the Settlement Administrator, Defendants shall also use reasonable efforts to cause the current Plan Recordkeeper to provide an updated list of Participants prior to the distribution, in order to identify any such participants who have taken a full distribution from their Plan account and no longer have a Plan account with a positive balance. Defendants shall

not otherwise be obligated to assist with effecting Notice, implementation of the Plan of Allocation, or distribution of the Settlement Fund.

4.2. The Settlement Administrator shall administer the Settlement subject to the supervision of Class Counsel, Defendants' Counsel, and the Court, as circumstances may require.

4.3. Defendants, Defendants' Counsel, and the Defendant Released Parties shall have no responsibility for, interest in, or liability whatsoever with respect to:

- a) Any act, omission, or determination of the Settlement Administrator, Class Counsel, or designees or agents of Class Counsel or the Settlement Administrator;
- b) The management, investment, or distribution of the Settlement Fund; or
- c) The determination, administration, calculation, or payment of any claims asserted against the Settlement Fund.

4.4. The Settlement Administrator shall provide to Class Counsel and Defendants' Counsel, no less frequently than monthly, a full accounting of all expenditures made in connection with the Settlement, including Administration Costs (as noted in Section 3.5), and any distributions from the Settlement Fund.

4.5. The Settlement Administrator shall provide such information as may be reasonably requested by Plaintiff or Defendants or their counsel relating to administration of this Agreement.

**V. RELEASES, COVENANTS, AND JUDICIAL FINDINGS**

5.1. ***Release of Defendants and the Defendant Released Parties.*** Subject to Part VIII of this Agreement, upon and through the date of the Court's entry of the Final Approval Order and Judgment, Plaintiff and each Class Member (on behalf of themselves and their current and former beneficiaries, heirs, descendants, dependents, marital community, administrators, executors, representatives, predecessors, successors, and assigns), and the Exela Plan (by and through the Independent Fiduciary pursuant to Section 2.6) absolutely and unconditionally release and forever discharge all Released Claims.

5.2. ***Covenant Not to Sue.*** Upon and through the date of the Court's entry of the Final Approval Order and Judgment, Plaintiff, Class Members, and Class Counsel (on behalf of themselves and any successors-in-interest) shall be deemed to have, and by operation of the Final Approval Order and Judgment, shall have, fully, finally, and forever released, relinquished, and discharged, and shall forever be enjoined from prosecution of the Defendant Released Parties from any and all Released Claims.

Plaintiff and Class Members further agree that, outside of the Action, none of them will institute, maintain, prosecute, sue, or assert in any claim, action, or proceeding, whether individually, in a representative capacity, or on behalf of the Exela Plan, against the Defendant Released Parties based on conduct subsequent to, or any liability or damages claimed to arise or occur after, the date of the Court's entry of the Preliminary Approval Order, related to the conduct or practices this Agreement requires Defendants to undertake. Nothing herein shall preclude any action to enforce the terms of this Agreement pursuant to the procedures set forth in this Agreement.

Should Plaintiff or Class Members breach the terms of this Section 5.2, Defendants and the Defendant Released Parties may recover any attorney's fees and costs that they may incur to enforce the provisions of this Section 5.2 after Defendants provide notice and a reasonable opportunity to cure to any alleged breaching Plaintiff or Class Members.

5.3. ***Defendants' Releases of Others.*** Upon and through the date of the Court's entry of the Final Approval Order and Judgment, Defendants (on behalf of themselves and any successors-in-interest) each shall be deemed to have, and by operation of the Final Approval Order and Judgment, shall have, fully, finally, and forever released, relinquished, and discharged, and shall forever be enjoined from prosecution of the other Defendant Released Parties, Plaintiff, the Exela Plan, Class Members, and Class Counsel from any and all actual or potential claims, actions, causes of action, demands, obligations, liabilities, attorneys' fees and costs, whether under local, state or federal law, whether by statute, contract, common law or equity, whether brought in an individual, representative or any other capacity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, relating to the Action.

5.4. ***Taxation of Settlement Fund.*** Plaintiff and Class Members acknowledge that the Defendant Released Parties have no responsibility for any taxes due on funds deposited in or distributed from the Settlement Fund, or on any funds that Plaintiff, Class Members, or Class Counsel receive from the Settlement Fund, including through any Case Contribution Awards or Attorneys' Fees and Expenses award, as applicable.

5.5. *Use of Settlement Administrator Information.* Class Counsel, Defendants' Counsel, and the Defendants shall have equal access to information held by the Settlement Administrator given that such information is necessary to administer this Settlement.

5.6. *Use of Defendants' and Plan Information.* Class Counsel and their agents, as well as the Settlement Administrator, shall use any information provided by Defendants or the Plan Recordkeepers pursuant to this Agreement solely for the purpose of providing the Notice and administering this Settlement and for no other purpose. Such information shall be marked "Confidential" and treated as such under the Protective Order governing the Action. *See Rigoberto Sandoval v. Exela Enterprises Solutions, Inc., et al.*, No. 3:17-cv-1573, Dkt. Nos. 68, 69.

## VI. REPRESENTATIONS AND WARRANTIES

6.1. *Parties' Representations and Warranties.* The Parties, and each of them, represent and warrant as follows, and each Party acknowledges that each other Party is relying on these representations and warranties in entering into this Agreement:

a) The Parties have diligently investigated the claims in this Action; that they are voluntarily and knowingly entering into this Agreement as a result of arm's-length negotiations among their counsels; that in executing this Agreement they are relying solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently-selected counsel, concerning the nature, extent and duration of their rights and claims hereunder and regarding all matters that relate in any way to the subject matter hereof; and that, except as provided in this Agreement, they have not been influenced to any extent whatsoever in executing this

Agreement by any representations, statements, or omissions pertaining to any of the foregoing matters by any Party or by any person representing any Party. Each Party assumes the risk of mistake as to facts or law;

b) The Parties have carefully read the contents of this Agreement and this Agreement is signed freely by each signatory executing the Agreement on behalf of the applicable Party. The Parties, and each of them, further represent and warrant to each other that he, she, or it has made such investigation of the facts pertaining to this Settlement, this Agreement, and all of the matters pertaining thereto, as he, she, or it deems necessary;

c) That Plaintiff has not assigned or otherwise transferred any interest in any Released Claim against any Defendant Released Parties, and that he shall not assign or otherwise transfer any interest in any Released Claims; and

d) Plaintiff, on behalf of himself and the Class, will have no surviving claims or causes of action against any of the Defendant Released Parties for any of the Released Claims, from and after the Effective Date.

6.2. ***Signatories' Representations and Warranties.*** Each counsel or other person executing this Agreement on behalf of any Party represents and warrants that such person has the authority to do so.

## **VII. MONETARY PAYMENTS**

### **7.1. *Case Contribution Award.***

a) Plaintiff intends to seek a Case Contribution Award not to exceed the amount of \$15,000, subject to Court approval (“Case Contribution Award”). Any Case

Contribution Award approved by the Court shall be paid within thirty (30) calendar days of the Effective Date. The Case Contribution Award shall be paid by the Settlement Administrator solely out of the Settlement Fund and shall be deducted (to the extent approved by the Court) from the Settlement Fund on or after the Effective Date and prior to the distribution of the Settlement Fund to the Class Members. Plaintiff shall also be entitled to distribution under this Settlement pursuant to Section 3.2 as a Class Member.

b) Notwithstanding any other provision of this Agreement to the contrary, the procedure for and the allowance or disallowance (in whole or in part) by the Court of any application for the Case Contribution Award shall be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceedings relating to the Case Contribution Award, or any appeal of any order relating thereto, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

c) Other than the Settlement Amount, Defendants shall have no obligations whatsoever with respect to any Case Contribution Award to Plaintiff, which shall be payable solely out of the Settlement Fund.

**7.2. *Attorney's Fees and Expenses.***

a) Class Counsel intends to submit a Motion for Attorneys' Fees and Expenses seeking an award of Attorneys' Fees not to exceed 25% of the Settlement Amount, inclusive of reasonable litigation Expenses, at the appropriate time. Any amount awarded by the Court in response to such Motion shall be paid by the Settlement Administrator solely out of the Settlement Fund and shall be deducted (to the extent

approved by the Court) from the Settlement Fund and paid to Class Counsel within thirty (30) calendar days of the Effective Date.

b) Notwithstanding any other provision of this Agreement to the contrary, the procedure for and the allowance or disallowance (in whole or in part) by the Court of the Motion for Attorneys' Fees and Expenses to be paid out of the Settlement Fund shall be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceedings relating to the award of Attorneys' Fees and Expenses, or any appeal of any order relating thereto, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

c) Other than the Settlement Amount, Defendants shall have no obligations whatsoever with respect to any Attorneys' Fees and Expenses incurred by Class Counsel, which shall be payable solely out of the Settlement Fund.

**VIII. CONTINGENCIES, EFFECT OF DISAPPROVAL, OR TERMINATION OF SETTLEMENT**

8.1. This Agreement and the Settlement shall terminate and be cancelled if, within ten (10) calendar days after any of the following events, one of the Parties provides all other Parties with written notification of an election to terminate the Settlement, provided that the Parties shall negotiate in good faith to cure any deficiency identified by the Court:

a) The Court declines to maintain certification of the Class as described under Section 2.1;

b) The Court declines to provide preliminary approval of this Agreement, or declines to enter, or materially modifies, the contents of the Preliminary Approval Order, or the

Preliminary Approval Order is vacated, reversed, or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date;

d) The Court declines to provide final approval of this Agreement, or declines to enter, or materially modifies, the contents of the Final Approval Order and Judgment;

e) The Court's Final Approval Order and Judgment is vacated, reversed, or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date; or

f) The Effective Date is not triggered for some other reason by December 31, 2022.

8.2. For purposes of this Agreement, no order of the Court, or modification or reversal on appeal of any order of the Court, solely concerning the administration of the Settlement or the persons performing such administrative functions, or the amount or award of any Attorneys' Fees and Expenses or Case Contribution Award shall constitute grounds for cancellation or termination of the Agreement, provided that such order, modification, or reversal does not increase any Defendant's total financial obligation under this Settlement, including its portion of the Settlement Amount, or impose injunctive relief against any Defendant.

8.3. This Agreement and the Settlement shall terminate and be cancelled at the sole election of Defendants if the Independent Fiduciary disapproves or otherwise does not authorize the Settlement or refuses to approve the release on behalf of the Exela Plan of the Released Claims. Alternatively, Defendants shall have the option to waive this condition. Unless otherwise agreed by the Parties, either option is to be exercised in writing within the earlier of (a) ten (10) business days after the Parties' receipt of the Independent Fiduciary's written determination

under Section 2.6, or (b) three (3) business days prior to the date set for the Final Approval Hearing.

8.4. This Agreement and the Settlement shall terminate and be cancelled if: (a) any federal or state authorities object to, or request material modifications to, the Agreement; and (b) within ten (10) business days after the deadline set in the Preliminary Approval Order for such objections or requests, or within ten (10) business days of receiving any such objection or request, if later, Defendants provide written notice of their election to terminate the Settlement.

8.5. If for any reason this Agreement is terminated or fails to become effective, then:

a) Plaintiff and Defendants shall be deemed to have reverted to their respective status in the Action as of December 11, 2020. The Action shall then resume proceedings in the Court, and, except as otherwise expressly provided in this Agreement, the Parties shall proceed in all respects as if this Agreement and any related orders had not been entered.

b) Class Counsel and Defendants' Counsel shall within ten (10) business days after the date of termination of the Agreement jointly notify the Financial Institution in writing to return to Defendants, or their designee(s), the full amount contained in the Settlement Fund, with all interest and income earned thereon, after deduction of any amounts earlier disbursed and/or incurred by the Settlement Fund as of the termination, and direct the Financial Institution to effect such return within fourteen (14) calendar days after such notification. Prior to the return of amounts contemplated by this Section 8.5(b), the Financial Institution shall fully and finally fulfill and set aside for any and all

tax obligations of the Settlement Fund as set forth in Section 3.1(i). Defendants shall have no past, present, or future liability whatsoever for any such tax obligations.

c) Part VIII of this Agreement, and its provisions, shall survive any termination of this Agreement and the Settlement, as will Sections 3.3, 4.3, 5.4, and 5.6.

## **IX. NO ADMISSION OF WRONGDOING**

9.1. *No Admission of Wrongdoing.* The Parties understand and agree that this Agreement embodies a compromise settlement of disputed claims, and that nothing in this Agreement, including the furnishing of consideration for this Agreement, shall be deemed to constitute any finding or admission of any wrongdoing or liability by any of the Defendants, or give rise to any inference of wrongdoing or liability in the Action or any other proceeding. This Agreement and the consideration provided hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. The Defendants specifically deny any such liability or wrongdoing, and state that they are entering into the Agreement solely to eliminate the burden and expense of protracted litigation. Further, Plaintiff has concluded that the terms of this Agreement are fair, reasonable, and adequate to the Exela Plan, himself, and the Class given, among other things, the inherent risks, difficulties, and delays in complex ERISA lawsuits, like the Action. Neither the fact of this Settlement nor the terms of this Agreement shall be used, offered, or received in evidence in any action or proceeding for any purpose, except in an action or proceeding to enforce this Agreement, whether affirmatively or defensively.

**X. MISCELLANEOUS**

10.1. **Waiver.** The provisions of this Agreement may be waived only by an instrument in writing executed by the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

10.2. **Dispute Resolution.** If a dispute arises regarding compliance with any of the provisions of this Agreement, it shall first be mediated in non-binding mediation by a mutually agreed mediator. The cost of any mediation shall be split equally between Plaintiff, on the one hand, and Defendants, on the other hand. If mediation is unsuccessful, then any remaining disputes regarding compliance with this Agreement shall be heard only by this Court.

10.3. **Entire Agreement.** This Agreement is the entire agreement among the Parties and it supersedes any prior agreements, written or oral, between the Parties. This Agreement cannot be altered, modified, or amended except through a writing executed by either (a) Plaintiff and Defendants, or (b) Class Counsel and Defendants' Counsel.

10.4. **Construction of Agreement.** This Agreement shall be construed to effectuate the intent of the Parties to resolve all disputes encompassed by the Agreement. All Parties have participated in the drafting of this Agreement, and any ambiguity shall not be resolved by virtue of a presumption in favor of any Party. The Agreement was reached at arm's length by the Parties represented by counsel. None of the Parties shall be considered to be the drafter of this Agreement or any provision hereof for the purposes of any statute, case law, or rule of interpretation or construction.

10.5. ***Principles of Interpretation.*** The following principles of interpretation apply to this Agreement:

- a) The headings of this Agreement are for reference only and do not affect in any way the meaning or interpretation of this Agreement.
- b) Definitions apply to the singular and plural forms of each term defined.
- c) Definitions apply to the masculine, feminine, and neutral genders of each term defined.
- d) References to a person are also to the person's permitted successors and assignees.
- e) Whenever the words "include," "includes," or "including" are used in this Agreement, they shall not be limiting but rather shall be deemed to be followed by the words "without limitation."

10.6. ***Executed in Counterparts.*** This Agreement may be executed in counterparts, each of which shall be considered the same as if a single document had been executed. The Agreement shall be deemed executed by all Parties when such counterparts have been signed by each of the Parties' counsel and delivered to the other Parties. Counterpart copies of signature pages, whether delivered in original, by electronic mail in .pdf format or by facsimile, taken together, shall all be treated as originals and binding signatures.

10.7. ***Notices.*** Unless otherwise provided herein, any notice, request, instruction, application for Court approval, or application for Court order sought in connection with the Agreement, shall be in writing and delivered personally or sent by certified mail or overnight delivery service, postage prepaid, with copies by facsimile or e-mail to the attention of Class

Counsel or Defendants' Counsel, as applicable (as well as to any other recipients that a court may specify). Parties may change the person(s) to whom such notices should be directed by giving notice pursuant to this Section 10.7. As of the date hereof, the respective representatives are as follows:

**For Defendants:**

**Meaghan VerGow**  
O'MELVENY & MYERS LLP  
1625 Eye Street NW  
Washington, D.C. 20017  
Telephone: (202) 383-5300  
Facsimile: (202) 383-5414  
Email: [mvergow@omm.com](mailto:mvergow@omm.com)

**For Plaintiff:**

**James E. Miller**  
MILLER SHAH LLP  
65 Main Street  
Chester, CT 06412  
Telephone: (860) 526-1100  
Facsimile: (866) 300-7367  
Email: [jemiller@millershah.com](mailto:jemiller@millershah.com)

10.8. **Extensions of Time.** The Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Agreement.

10.9. **Governing Law.** Except to the extent required by federal law, this Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut without giving effect to any conflict of law provisions that would cause the application of the laws of any jurisdiction other than the State of Connecticut.

10.10. **Fees and Expenses.** Except as otherwise expressly set forth herein, each Party shall pay all fees, costs, and expenses incurred in connection with the Action, including fees,

costs, and expenses incident to his, her, or its negotiation, preparation, or compliance with this Agreement, and including any fees, expenses, and disbursements of its counsel, accountants, experts and other advisors. Nothing in this Agreement shall require Defendants to pay any monies other than as expressly provided herein.

10.11. ***Communication with Plan Participants.*** Nothing in this Agreement or Settlement shall prevent or inhibit Defendants' ability to communicate with former, active, or inactive participants of the Exela Plan or Former Participants.

10.12. ***Retention of Jurisdiction.*** The Parties shall request that the Court retain jurisdiction of this matter after the Effective Date and enter such orders as necessary or appropriate to effectuate the terms of the Agreement.

***[Signatures Appear on the Following Page]***

Dated: April 22, 2021

MILLER SHAH, LLP

/s/ James E. Miller

James E. Miller

Laurie Rubinow

On behalf of

*Plaintiff, Rigoberto Sandoval, the Class, and the  
Exela 401(k) Plan*

Dated: April 22, 2021

O'MELVENY & MYERS, LLP

/s/ Meaghan VerGow

Meaghan VerGow

Brian D. Boyle

On behalf of

*Defendants, Exela Enterprise Solutions, Inc. and  
the Novitex Enterprise Solutions Employee Benefits  
Committee*

# EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

RIGOBERTO SANDOVAL,	:	Civil Action
individually and as a representative of a class of	:	No. 3:17-cv-1573 (MPS)
similarly situated plan participants and	:	
beneficiaries, on behalf of the	:	
EXELA 401(k) PLAN,	:	
the successor-in-interest of the	:	
NOVITEX ENTERPRISE SOLUTIONS	:	
RETIREMENT SAVINGS PLAN,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
EXELA ENTERPRISE SOLUTIONS, INC.,	:	
NOVITEX ENTERPRISE SOLUTIONS	:	
EMPLOYEE BENEFITS COMMITTEE	:	
and DOES NO. 1-10, Whose Names Are	:	
Currently Unknown,	:	
	:	
Defendants.	:	

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**FINAL APPROVAL ORDER AND JUDGMENT**

**FINAL APPROVAL ORDER AND JUDGMENT**

WHEREAS, Plaintiff, Rigoberto Sandoval (“Plaintiff”), on his own behalf and on behalf of the Class and the Exela 401(k) Plan, the successor-in-interest of the Novitex Enterprise Solutions Retirement Savings Plan on the one hand, and Defendants, Exela Enterprise Solutions, Inc. and the Novitex Enterprise Solutions Employee Benefits Committee (collectively, “Defendants”), on the other hand, have entered into the Amended Settlement Agreement and Release dated April 22, 2021 (the “Agreement”), which provides for a complete dismissal with prejudice of all claims asserted in the Action against Defendants by the Class on the terms and conditions set forth in the Agreement, subject to the approval of this Court (the “Settlement”);

WHEREAS, the capitalized terms not defined in this Final Approval Order and Judgment shall have the same meaning ascribed to them in Part I of the Agreement;

WHEREAS, by Order dated \_\_\_\_\_ (the “Preliminary Approval Order”), this Court (1) preliminarily certified the Class for settlement purposes only; (2) preliminarily approved the Settlement; (3) appointed a Settlement Administrator; (4) directed notice be given to the Class and approved the form and manner of the Notice; (5) approved the Plan of Allocation; (6) scheduled a Final Approval Hearing; and (7) scheduled a hearing on Class Counsel’s Fee and Expense Application and Plaintiff’s request for a Case Contribution Award;

WHEREAS, the Court conducted a hearing on (the “Final Approval Hearing”) to consider, among other things: (1) whether the Class should be certified for settlement purposes only; (2) whether the proposed Settlement on the terms and conditions provided for in the Agreement is fair, reasonable, adequate, and in the best interests of the Class and should be finally approved by the Court; (3) whether Class Counsel’s Fee and Expense Application is reasonable and should be approved; (4) whether Plaintiff’s request for a Case Contribution

Award is reasonable and should be approved; and (5) whether this Final Approval Order and Judgment should be entered dismissing with prejudice all claims asserted in the Action against Defendants; and

WHEREAS, the Court having reviewed and considered the Agreement, all papers filed and proceedings held herein in the Action in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction**: The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each of the Class Members.

2. **Incorporation of Settlement Documents**: This Final Approval Order and Judgment incorporates and makes a part hereof: (a) the Agreement filed with the Court on \_\_\_\_\_, including the exhibits submitted therewith; and (b) the Notice approved by the Court on \_\_\_\_\_.

3. **Class Certification**: The Court has held that the non-opt out Class should be certified under Federal Rule of Civil Procedure 23(a) and 23(b)(1), under the terms of the Agreement. The Court confirms that the class preliminarily certified under Federal Rule of Civil Procedure 23(b)(1) is appropriate for the reasons set forth in its Preliminary Approval Order, and hereby finally certifies the following non-opt-out class:

All participants and beneficiaries of the Novitex Plan prior to the merger of the Novitex Plan with the SourceHOV 401(k) Plan, at any time during the Class Period, including any beneficiary of a deceased person who was a participant in the Novitex Plan at any time during the Class Period, and any alternate payees, in the case of a person subject to a QDRO who was a participant in the Novitex Plan at any time during the Class Period.

The Class Period shall mean any time on or after January 1, 2014, through and including December 31, 2018. The Class shall exclude all Defendants.

4. **Notice:** The Court finds that the dissemination of the Notice: (a) was implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice reasonably practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise all Class Members of the pendency of the Action, of the effect of the Settlement (including the releases provided for therein), of their right to object to the Settlement and appear at the Final Approval Hearing, of Class Counsel's Fee and Expense Application, and of Plaintiff's request for a Case Contribution Award; (d) constituted due, adequate, and sufficient notice to all persons or entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Federal Rule of Civil Procedure 23, the United States Constitution including the Due Process Clause, and all other applicable law and rules.

5. **Objections:** The Court finds \_\_\_\_\_.

6. **Final Settlement Approval:** Pursuant to Federal Rule of Civil Procedure 23(e), the Court hereby approves the Settlement and the terms therein as a fair, reasonable, and adequate settlement and compromise of the claims asserted in the Class Action. The Court finds that the Settlement is fair, reasonable, and adequate to the Exela 401(k) Plan and Class Members based on the following findings of fact, conclusions of law, and determinations of mixed fact/law questions:

- a. The Settlement resulted from arm's-length negotiations by experienced and competent counsel;
- b. The Settlement was negotiated only after Class Counsel had conducted a pre-settlement investigation and received pertinent information and documents from

Defendants in discovery;

- c. Class Counsel and Plaintiff were well-positioned to evaluate the value of the Action;
- d. If the Settlement had not been achieved, Plaintiff and the Class Members faced significant expense, risk, and uncertainty in connection with the litigation, which likely would have been prolonged;
- e. The amount of the Settlement is fair, reasonable, and adequate in light of the claims that were asserted, the risks of litigation, and settlements in other similar cases, and the Plan of Allocation is also fair, reasonable, and appropriate;
- f. Plaintiff, as the Class representative, and Class Counsel support the Settlement, and have concluded that the Agreement is fair, reasonable, and adequate;
- g. Class Members had the opportunity to be heard on all issues relating to the Settlement and the requested Administrative Expenses, Attorneys' Fees and Costs, and Plaintiff's Case Contribution Award by submitting objections to the Settlement Agreement to the Court. There were \_\_ objections to the Settlement.
- h. The Settlement also was reviewed by an Independent Fiduciary, \_\_\_\_\_, who has approved and authorized the Settlement.

7. The Motion for Final Approval of the Settlement Agreement is hereby GRANTED, the settlement of the Class Action is APPROVED as fair, reasonable, and adequate to the Settlement Class, and the Parties are hereby directed to take the necessary steps to effectuate the terms of the Agreement.

8. Plaintiff's Motion for Attorneys' Fees and Expenses and Request for Case Contribution Award is hereby approved.

9. Pursuant to, and in accordance with, Federal Rule of Civil Procedure 23, this Court fully and finally approves the Settlement set forth in the Agreement in all respects including, without limitation, the terms of the Settlement; the releases provided for therein; and the dismissal with prejudice of the claims asserted in the Action, and finds that the Settlement is, in all respects, fair, reasonable, and adequate, and is in the best interests of Plaintiff, the Class, and the Exela 401(k) Plan. The Parties are directed to implement, perform, and consummate the Settlement in accordance with the terms and provisions of the Agreement.

10. The Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each Active Participant and each Authorized Former Participant pursuant to the Plan of Allocation.

11. With respect to payments or distributions to Authorized Former Participants, all questions not resolved by the Settlement Agreement shall be resolved by the Settlement Administrator in its sole and exclusive discretion.

12. Within twenty-one (21) calendar days following the issuance of all settlement payments to Class Members as provided by the Plan of Allocation, the Settlement Administrator shall prepare and provide to Class Counsel and Defense Counsel a list of each person who received a settlement payment or contribution from the Qualified Settlement Fund and the amount of such payment or contribution.

13. **Dismissal of Claims:** As of the Effective Date, pursuant to Federal Rule of Civil Procedure 54, all of the Claims against Defendants are dismissed with prejudice. The Parties shall bear their own costs and expenses, except as otherwise expressly provided in the Agreement.

14. **Binding Effect:** The terms of the Agreement and of this Final Approval Order

and Judgment shall be forever binding on Defendants, Plaintiff, and all Class Members, as well as their respective current and former beneficiaries, heirs, descendants, dependents, marital communities, administrators, executors, representatives, predecessors, successors, and assigns, and as described under the Agreement.

15. **CAFA:** Pursuant to the Class Action Fairness Act, 29 U.S.C. § 1711, et seq., a separate notice of the Settlement (“CAFA Notice”) was provided to the Attorneys General for each of the states in which a Class Member resides, the Attorney General of the United States, and the United States Secretary of Labor. All requirements of the Class Action Fairness Act (“CAFA”), 29 U.S.C. § 1711, et seq., have been met, and Defendants have fulfilled their obligations under CAFA.

16. **Releases:** The releases of the Released Claims, as set forth in the Agreement (the “Releases”), are expressly incorporated herein in all respects. The Releases are effective as of the date of the entry of this Final Approval Order and Judgment.

17. **No Admissions:** This Final Approval Order and Judgment, the Preliminary Approval Order, the Agreement (whether or not consummated), including the exhibits thereto and the Plan of Allocation contained therein (or any other plan of allocation that may be agreed-upon by the Parties or approved by the Court) and any other supporting papers, and any related negotiations or proceedings: (a) shall not give rise to any inference of, and shall not be construed or used as an admission, concession, or declaration against any of the Defendant Released Parties of wrongdoing or liability in the Action or any other proceeding; (b) are not an admission of any liability of any kind, whether legal or factual; (c) shall not be used or received in evidence in any action or proceeding for any purpose, except in an action or proceeding to enforce the Agreement, whether affirmatively or defensively; (d) shall not be construed or used as an

admission, concession, or declaration by or against Plaintiff, the Exela 401(k) Plan, or the Class that their claims lack merit or that the relief requested in the Action is inappropriate, improper, or unavailable; and (e) shall not be construed or used as an admission, concession, declaration, or waiver by any Party of any arguments, defenses, or claims they may have in the event that the Agreement is terminated. This Order and the Agreement and any proceedings taken pursuant to the Agreement are for settlement purposes only.

18. **Retention of Jurisdiction**: Without affecting the finality of this Final Approval Order and Judgment in any way, this Court retains continuing and exclusive jurisdiction over: (a) the Parties for purposes of the administration, interpretation, implementation, and enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) Class Counsel's Fee and Expense Application and Plaintiff's request for a Case Contribution Award; and (d) the Class Members for all matters relating to the Action.

19. **Modification of the Agreement**: Without further approval from the Court, Plaintiff and Defendants are authorized to agree to and adopt such amendments or modifications of the Agreement or any exhibits attached thereto to effectuate this Settlement that: (a) are not materially inconsistent with this Final Approval Order and Judgment; and (b) do not materially limit the rights of Class Members in connection with the Settlement.

20. **Termination**: If the Settlement does not go into effect or is terminated as provided for in the Agreement, then this Final Approval Order and Judgment (and any orders of the Court relating to the Settlement, including the Order certifying a settlement class) shall be vacated, rendered null and void, and be of no further force or effect, except as otherwise provided by the Agreement.

21. **Entry of Final Judgment**: There is no just reason to delay entry of this Final

Approval Order and Judgment as a final judgment with respect to the claims asserted in the Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this Final Approval Order and Judgment pursuant to Federal Rule of Civil Procedure 54 as against Defendants.

**SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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The Honorable Michael P. Shea  
United States District Judge

# EXHIBIT B-1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

**If you were a participant in the Novitex Enterprise Solutions Retirement Savings Plan between January 1, 2014 and December 31, 2018, your legal rights will be affected by this class action settlement.**

***The case is called Rigoberto Sandoval v. Exela Enterprise Solutions, Inc., et al., No. 3:17-cv-1573 (MPS) (D. Conn.). A Court authorized this Notice. This is not a solicitation from a lawyer.***

This Notice advises you of the settlement (“Settlement”) of a lawsuit against Exela Enterprise Solutions, Inc. (“Exela”) and the Novitex Enterprise Solutions Employee Benefits Committee (“Committee”) (collectively, “Defendants”) (Plaintiff with Defendants, the “Parties”). In the lawsuit, Plaintiff, Rigoberto Sandoval (“Plaintiff”), alleges that Defendants violated the Employee Retirement Income Security Act of 1974 (“ERISA”) by, among other things, failing to perform proper oversight of the former Novitex Enterprise Solutions Retirement Savings Plan (“Novitex Plan”), which was terminated in December 2018 and its assets merged with those of the Source HOV 401(k) Plan to form the Exela 401(k) Plan (“Exela Plan”). Defendants deny these allegations and deny that they engaged in any improper conduct. **YOU SHOULD READ THIS ENTIRE NOTICE CAREFULLY BECAUSE YOUR LEGAL RIGHTS WILL BE AFFECTED, WHETHER YOU ACT OR NOT.**

Your rights and options, and the deadline for you to object if you are opposed to the Settlement, are explained in this Notice.

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## **1. Why did I get this Notice?**

You have been identified as a Participant, Former Participant, Beneficiary or Alternate Payee of a Participant or Former Participant, of the Novitex Plan at any time on or after January 1, 2014, through and including December 31, 2018 (the “Class Period”).

You are receiving this Notice because you have a right to know about the proposed Settlement of a class action lawsuit in which you are a Class Member before the Court decides whether to approve the Settlement.

This Notice summarizes the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible to receive them, and how to get them.

The lawsuit is pending in the United States District Court for the District of Connecticut (the “Court”). It is known as *Rigoberto Sandoval v. Exela Enterprise Solutions, Inc., et al.*, No. 3:17-cv-1573 (MPS) (D. Conn.), and is brought against Defendants.

## **2. What is this lawsuit about?**

On September 20, 2017, Plaintiff filed an action against Defendants, alleging that they violated ERISA by, among other things, failing to perform proper oversight of the Novitex Plan. Since the filing of the action, the parties engaged in litigation, including amending the pleadings to reflect the termination of the Novitex Plan at the end of 2018, exchanging substantial documentation and engaging in extensive fact and expert discovery, and briefing motions to dismiss and for class certification. In December 2020, the Parties mediated the action and ultimately were able to reach the terms of the Settlement explained in this Notice. Defendants have denied and continue to deny any wrongdoing or liability and would continue to vigorously defend the lawsuit if the proposed Settlement is not approved.

## **3. What is a class action lawsuit?**

In a class action lawsuit, one or more people called “class representatives” sue on their own behalf and on behalf of other people who they allege may have similar claims. One court resolves all the issues for all class members in a single lawsuit. Plaintiff is the class representative in this lawsuit, and is sometimes referred to in this Notice as the “Class Representative” or as “Plaintiff.”

## **4. Why is there a Settlement?**

The Parties have agreed to the Settlement after extensive negotiations. By agreeing to a settlement, the Parties avoid the costs and risks of further litigation, and Plaintiff and the other members of the Class will receive compensation. Class Counsel have conducted an extensive review of the evidence in the case and the potential risks and benefits of continued litigation. Plaintiff and Class Counsel agree that the Settlement is in the best interest of the Class. The Court has not made any finding that Defendants have done anything wrong or violated any law or regulation.

**5. How do I get more information about the Settlement?**

This notice summarizes the proposed settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement (“Agreement”) available at [www.strategicclaims.net/sandoval401k](http://www.strategicclaims.net/sandoval401k), by contacting Class Counsel (*see* answer to question 12 for contact information) or the Settlement Administrator (*see* answer to question 6 for contact information), by accessing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.ctd.uscourts.gov/>.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

**6. Who will administer the Settlement?**

The Settlement Administrator, Strategic Claims Services, will administer the Settlement, including the processing of the Former Participant Claim Form, if applicable, that you may need to fill out and send in to receive any settlement payment. You may contact the Settlement Administrator by: (a) sending a letter to Sandoval 401k Settlement Administrator, c/o Strategic Claims Services, 600 N Jackson St #205, Media, PA 19063; (b) sending an e-mail to [info@strategicclaims.net](mailto:info@strategicclaims.net); (c) visiting the Settlement website at [www.strategicclaims.net/sandoval401k](http://www.strategicclaims.net/sandoval401k); or (d) calling toll-free at 866-274-4004.

**THE SETTLEMENT BENEFITS – WHAT DOES THE SETTLEMENT PROVIDE**

**7. What does the Settlement provide?**

Defendants have agreed to pay a total of \$750,000 to the Class Members, with up to 25% of that amount to be paid to Class Counsel in attorneys’ fees and expenses to the extent approved by the Court and \$15,000 to be paid to the Class Representative, to the extent approved by the Court. The amount that will be available for distribution to Class Members (known as the “Net Settlement Amount”) will be the Settlement Amount *minus* the amounts used for other Settlement purposes (Case Contribution Fee, Court-approved Attorneys’ Fees and Expenses to Class Counsel, Administration Expenses, and certain taxes and tax-related costs).

**8. How may I benefit from the Settlement?**

You may benefit by receiving payment of a portion of the Net Settlement Amount. The amount paid to each current Participant and Authorized Former Participant will be determined by a Plan of Allocation. As explained below, if you are a current Participant, or Beneficiary or Alternate Payee of a Participant and you have an active account in the Exela Plan, you do not need to take any action in order to receive payment under the Settlement. If you are a Former Participant, or a Beneficiary or Alternate Payee of a Former Participant and you do not have an active account in the Exela Plan, you will need to submit a Former Participant Claim Form by the deadline for submission in order to receive payment under the Settlement. Payments made to current Participants, or to Beneficiaries or Alternate Payees of a current Participant who have active

accounts in the Exela Plan under the Settlement shall be made into these persons' individual investment accounts in the Plan. Payments made to Authorized Former Participants, or to Beneficiaries or Alternate Payees of Former Participants who do not have active accounts in the Plan under the Settlement may be made either by check or tax-qualified rollover to an individual retirement account or other eligible employer plan.

**9. How do I submit a claim for a Settlement Payment?**

If you are a current Participant, or a Beneficiary or Alternate Payee of a current Participant and you have an active account in the Exela Plan, you do not need to submit a claim to be eligible for a payment under the Settlement. Your payment amount will automatically be calculated by the Settlement Administrator. If you are a Former Participant, or a Beneficiary or an Alternate Payee of a Former Participant and you do not have an active account in the Exela Plan, you must submit a Former Participant Claim Form by the deadline for submission in order to be eligible for a payment under the Settlement. "Former Participant" means a person who had an account in the Novitex Plan during the Class Period and who did not have account in the Exela Plan with a balance greater than \$0 as of \_\_\_\_\_, 2021 [actual date of Preliminary Approval Order to be substituted in final notice].

**If you are a Former Participant, or a Beneficiary or Alternate Payee of a Former Participant and you do not have an active account in the Exela Plan, and want to receive any monetary benefits from the Settlement, you must submit the Former Participant Claim Form by no later than \_\_\_\_\_ 2021 [actual date to be 120 days after entry of Preliminary Approval Order to be substituted in final notice]. You must mail the Former Participant Claim Form to the address shown on the Form.**

A Former Participant Claim Form will be deemed submitted when it is actually received by the Settlement Administrator at the address listed in the Form.

**Even if you do not submit a Former Participant Claim Form, you will be bound by the Settlement. (See answer to question 14 below.)**

**10. What is the Plaintiff receiving from the Settlement?**

Class Counsel intends to ask the Court to award the Class Representative a Case Contribution Fee of \$15,000 in recognition of the work and effort he expended on behalf of the Class.

**THE SETTLEMENT BENEFITS – WHAT YOU GIVE UP**

**11. What do I give up by participating in the Settlement?**

Each Member of the Class gives Defendants a "release." A release means you give up your rights to sue Defendants or receive any benefits from any other lawsuit against Defendants if the lawsuit asserts claims or relates in any way to the practices at issue in this lawsuit.

For additional details about the scope of the release, consult the Agreement or contact Class Counsel. (*See* answer to question 5 for details.)

### **THE LAWYERS REPRESENTING YOU**

**12. Do I have a lawyer in this case?**

Yes. The Court has appointed the law firm of Miller Shah LLP as Class Counsel. You will not be charged for the work of these lawyers. If you want to be represented by a different lawyer in this case, you may hire one at your own expense.

**13. How will the lawyers (Class Counsel) be paid?**

Class Counsel will ask the Court for an award of attorneys' fees and expenses of up to 25% of the Settlement Amount based upon the value of the Settlement, the time they have devoted to this engagement, and the expenses they have advanced in prosecuting this matter.

### **OPTING OUT OF THE SETTLEMENT**

**14. Can I exclude myself from the Class?**

No. The Class has been certified under Federal Rule of Civil Procedure 23(b)(1). Therefore, as a Class Member, you are bound by any judgments or orders that are entered in the lawsuit for all claims that were asserted in the lawsuit or are otherwise included as Released Claims as defined in the Agreement. If you wish to object to any part of the Settlement, you may (as discussed below) write to the Court and counsel about why you object to the Settlement.

### **OBJECTING TO THE SETTLEMENT**

**15. What does it mean to object?**

Objecting is simply telling the Court that you do not like something about the Settlement. Objecting will not have any bearing on your right to receive the benefits of the Settlement if it is approved by the Court.

**16. What is the procedure for objecting to the Settlement, including any objection to Class Counsel's Motion for Attorneys' Fees and Expenses or Case Contribution Award?**

You can ask the Court to deny approval of the Settlement and/or the Motion for Attorneys' Fees and Expenses of Class Counsel or the Case Contribution Award to be requested for the Class Representative by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. The Court, however, can award less than the amount requested by Class Counsel for attorneys' fees and expenses or the amount requested for the case contribution award and, if the Court does so, because of an objection or in its own discretion, although that ruling could affect

the timing and amount of settlement payments, any such objection to or reduction in Class Counsel's attorneys' fees and expenses or case contribution fees to be paid to the Class Representative would not otherwise affect the finality of the Settlement.

Any objection to the proposed Settlement or Motion for Attorneys' Fees and Expenses or Case Contribution Award must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number *Rigoberto Sandoval v. Exela Enterprise Solutions, Inc., et al.*, No. 3:17-cv-1573 (MPS) (D. Conn.), (b) be submitted to the Court either by mailing them to the Clerk of the Court for the United States District Court for the District of Connecticut, Abraham Ribicoff Federal Building, United States Courthouse, 450 Main Street, Hartford, Connecticut 06103, or by filing them in person at any location of the United States District Court for the District of Connecticut, and (c) be filed or postmarked on or before \_\_\_\_\_, 2021 [actual date to be 30 days before the Fairness Hearing to be substituted in final notice]. Your objection must also include (1) your full name, current address, and current telephone number, and, if represented by counsel, any of your counsel's name and contact information; (2) whether the objection applies only to the objecting Class Member, to a specific subset of the Class, or to the entire Class; (3) a statement of the position(s) the objector wishes to assert; (4) copies of any other documents that the objector wishes to submit in support of his/her/its position; and (5) a list of any other objections to any class action settlements submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years.

**ANY CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED ABOVE SHALL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL NOT HAVE ANY RIGHT TO OBJECT TO THE FAIRNESS OR ADEQUACY OF THE SETTLEMENT.**

**Clerk of the Court**

U.S. District Court for the  
District of Connecticut  
Clerk of Court  
Abraham Ribicoff Federal  
Building  
United States Courthouse  
450 Main Street, Hartford,  
Connecticut 06103

**Class Counsel**

James E. Miller  
Miller Shah LLP  
65 Main Street  
Chester, CT 06412  
Tel: (860) 526-1100

**Defense Counsel**

Meaghan VerGow  
O'Melveny & Myers LLP  
1625 Eye Street NW  
Washington, D.C. 20017  
Telephone: (202) 383-5300

**THE COURT'S FAIRNESS HEARING**

**17. When/where will the Court decide whether to approve the Settlement?**

On \_\_\_\_\_, 2021 at \_\_\_\_ p.m. [actual date and time to be at least 140 days after entry of Preliminary Approval Order and as established by the Court to be substituted], in Courtroom 2 of the United States District Court for the District of Connecticut, Abraham

Ribicoff Federal Building, United States Courthouse, 450 Main Street, Hartford, Connecticut 06103, the Court will hold a Fairness Hearing to determine whether the proposed Settlement is fair, reasonable, and adequate and whether it should be approved. The hearing may be continued from time to time by the Court without further notice, and may be held via teleconference or videoconference. Please check the website or contact Class Counsel if you wish to confirm that the hearing time has not been changed and to determine if it is occurring in person or by video or teleconference.

**18. Do I have to attend the Fairness Hearing?**

No; however, you are welcome to attend at your own expense. If you file an objection to the Settlement, you do not have to go to Court to talk about it. As long as your objection is filed by \_\_\_\_\_ [actual date to be 30 days before the Fairness Hearing] and you comply with the requirements in answer to question 16 above, the Court will consider it. You also may send your own lawyer to attend the Fairness Hearing.

**19. May I speak at the Fairness Hearing?**

You may ask the Court for permission to speak at the hearing. Anyone wishing to appear must state in their written objection their intention to appear at the Fairness Hearing, at your own expense.

**IF YOU DO NOTHING**

**20. What happens if I do nothing at all?**

YOU AND ALL OTHER CLASS MEMBERS WILL BE BOUND BY THE JUDGMENT AND SETTLEMENT AGREEMENT, INCLUDING THE RELEASE OF CLAIMS, IF YOU DO NOTHING. If you are a current Participant, or a Beneficiary or Alternate Payee of a Participant and you have an active account in the Exela Plan, you do not need to take any action to be eligible to receive the Settlement benefits. If you are a Former Participant, or a Beneficiary or Alternate Payee of a Former Participant and you do not have an active account in the Exela Plan, you must submit a Former Participant Claim Form by the submission deadline or you will not receive any of the settlement payments described above in answer to questions 7 and 8.

DATED: \_\_\_\_\_ [actual Notice date to be no later than 60 days after entry of Preliminary Approval Order]

**THIS NOTICE HAS BEEN SENT TO YOU BY ORDER  
OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

## EXHIBIT B-2

HARTFORD, CT - \_\_\_\_\_ [actual date to be inserted no later than 60 days after entry of Preliminary Approval Order] /PRNewswire/ --

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

RIGOBERTO SANDOVAL,	:	Civil Action
individually and as a representative of a class of	:	No. 3:17-cv-1573 (MPS)
similarly situated plan participants and	:	
beneficiaries, on behalf of the	:	
EXELA 401(k) PLAN,	:	
the successor-in-interest of the	:	
NOVITEX ENTERPRISE SOLUTIONS	:	
RETIREMENT SAVINGS PLAN,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
EXELA ENTERPRISE SOLUTIONS, INC.,	:	
NOVITEX ENTERPRISE SOLUTIONS	:	
EMPLOYEE BENEFITS COMMITTEE	:	
and DOES NO. 1-10, Whose Names Are	:	
Currently Unknown,	:	
	:	
Defendants.	:	
	:	

**SUMMARY NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND  
SETTLEMENT FAIRNESS HEARING**

TO: ALL FORMER PARTICIPANTS IN THE NOVITEX ENTERPRISE SOLUTIONS RETIREMENT SAVINGS PLAN, (THE “NOVITEX PLAN”) WHO WERE PARTICIPANTS IN THE PLAN BETWEEN JANUARY 1, 2014 AND DECEMBER 31, 2018 (THE “SETTLEMENT CLASS PERIOD”).

**PLEASE READ THIS NOTICE CAREFULLY.  
A FEDERAL COURT AUTHORIZED THIS NOTICE.  
THIS IS NOT A SOLICITATION.  
YOU ARE NOT BEING SUED.**

A settlement has been preliminarily approved by a federal court in a class action lawsuit by Plaintiff, Rigoberto Sandoval (“Plaintiff”), on behalf of himself and on behalf of the Settlement Class against Exela Enterprise Solutions, Inc. (“Exela”) and the Novitex Enterprise Solutions Employee Benefits Committee (“Committee”), alleging breaches of fiduciary duties under the

Employee Retirement Income Security Act of 1974 (“ERISA”). This Settlement will provide for a payment of \$750,000, less any Court-approved fees and expenses, and administrative costs, to the Exela 401(k) Plan (“Exela Plan”), the successor-in-interest to the Novitex Enterprise Solutions Retirement Savings Plan (the “Novitex Plan”), which money will then be allocated to the accounts of former participants of the Novitex Plan who had accounts in the Novitex Plan during the Settlement Class Period. All capitalized terms not otherwise defined in this Summary Notice of Class Action Settlement have the meaning provided in the Settlement Agreement (the “Agreement”) available on the Settlement website (provided below). If you currently have an active account in the Exela Plan, you will receive an allocation without taking any further action. You do not need to send in a claim or take any other action to participate in the Settlement. If you do not have an active account with the Exela Plan, you need to file a Claim Form to obtain a payment. **YOU SHOULD READ THIS NOTICE CAREFULLY AS THE PROPOSED SETTLEMENT AFFECTS YOUR LEGAL RIGHTS. IF YOU DO NOTHING, YOU WILL BE BOUND BY THE JUDGMENT AND THE SETTLEMENT AGREEMENT, INCLUDING THE RELEASE CONTAINED IN THE SETTLEMENT AGREEMENT.** The United States District Court for the District of Connecticut authorized this Notice.

### **WHO IS INCLUDED IN THE SETTLEMENT?**

If you were a participant in the Novitex Plan at any time during the period from January 1, 2014 to December 31, 2018, inclusive, or you were a beneficiary or alternate payee of any such participant, then you are a member of the Settlement Class (a “Settlement Class Member”).

### **WHAT IS THIS CASE ABOUT?**

Plaintiff claims that Defendants breached their fiduciary duties under ERISA. Plaintiff’s allegations are described in more detail in the Second Amended Complaint (“Complaint”) available on the Settlement website. All Defendants deny any wrongdoing, and do not, by agreeing to the Settlement, admit any fault or liability arising from the allegations and claims set forth in the Complaint. Both sides agreed to the Settlement to avoid the cost and risk of further litigation.

### **WHAT DOES THE SETTLEMENT PROVIDE?**

Defendants have agreed to create a Settlement Fund totaling \$750,000 to be divided among eligible Settlement Class Members after payment of attorneys’ fees and expenses to Class Counsel, a Case Contribution Award to Class Representative Rigoberto Sandoval, and payment of other costs and expenses of the Settlement, including notice and claims administration, as the Court may allow. The Agreement, other related documentation, and a list of Frequently Asked Questions, available at the Settlement website identified below, describes the details of the proposed Settlement. Your share (if any) of the Settlement Fund will depend upon the amount and value of your Novitex Plan account(s) during the Settlement Class Period. This Settlement releases certain claims against Defendants relating to the investment of the Novitex Plan’s assets and the expenses of the Novitex Plan during the Settlement Class Period and releases all claims that were or could have been brought in the lawsuit based upon the allegations in the Complaint.

## **HOW DO I RECEIVE A PAYMENT?**

If you are a Settlement Class Member, are a current participant in the Exela Plan, or you are a beneficiary or alternate payee of a Novitex Plan participant who has an active account in the Exela Plan, and you are entitled to a share of the Settlement Fund according to the Agreement, you are not required to do anything to receive a payment. The payment will be made directly to your Exela Plan account(s). If you are a Settlement Class Member and you do not have an active account in the Exela Plan, or you are a beneficiary or alternate payee of a Novitex Plan participant who does not have an active account in the Exela Plan, you will need to file a Former Participant Claim Form in order to receive a payment from the Settlement Fund. If your address has changed since you closed your Plan account(s), please contact the Settlement Administrator toll-free at 866-274-4004 or by email at an e-mail to [info@strategicclaims.net](mailto:info@strategicclaims.net) to advise of the change of address.

## **CAN I OBJECT TO OR OPT OUT OF THE SETTLEMENT?**

You do not have the right to exclude yourself from the Settlement in this case, but you do have the right to object by writing to the Court, including objecting to the amount of attorneys' fees and expenses requested by Class Counsel and the amount of the Case Contribution Award requested for the Class Representative. You will be bound by any judgments or orders that are entered in this Action, and if the Settlement is approved, you will be deemed to have released all of the Defendants from all claims that were or could have been asserted in this case, including all Claims as defined under the Agreement, other than your right to obtain the relief provided to you, if any, by the Settlement.

The Court will hold a hearing in this case on \_\_\_\_\_ at \_\_\_\_ p.m. [actual date and time to be at least 140 days after entry of Preliminary Approval Order and as established by the Court to be substituted], in the courtroom of the Honorable Michael P. Shea, Courtroom 2 of the United States District Court for the District of Connecticut, Abraham Ribicoff Federal Building, United States Courthouse, 450 Main Street, Hartford, Connecticut 06103, to consider whether to approve the Settlement and a request by the lawyers representing all Settlement Class Members, Class Counsel, for attorneys' fees and expenses, for a Case Contribution Award to the Class Representative, and for other case-related expenses. If approved, these amounts will be paid from the Settlement Fund. You may ask to speak at the hearing by filing a Notice of Intention to Appear by \_\_\_\_\_ [actual date to be 30 days before the Fairness Hearing to be substituted in final notice], but you are not required to do so.

Although you cannot opt out of the Settlement, you may object to all or any part of the Settlement and/or the Motion for Attorneys' Fees filed by Class Counsel and request for award of a Case Contribution Award in accordance with the instructions included in the long-form Notice of Proposed Settlement of Class Action and Settlement Fairness Hearing available at the Settlement website below. Objections must be postmarked, or if not sent by United States Postal Service received by the Court, by filing a written objection by \_\_\_\_\_ [actual date to be 170 days after entry of Preliminary Approval Order to be substituted in final notice]. Please note that the time, place and date of the hearing may change without a further mailing. Class Counsel will update the Settlement website below if the hearing time or location is changed. The

Settlement Fairness Hearing also may be held by video or teleconference. Please check the website or contact Class Counsel if you wish to confirm that the hearing time has not been changed and to determine if it is occurring in person or by video or teleconference.

**HOW DO I GET MORE INFORMATION?**

If you are a Settlement Class Member and would like to receive additional information or to receive a copy of the long-form Notice of Proposed Settlement of Class Action and Settlement Fairness Hearing, you can obtain such information by (a) sending a letter to Sandoval 401k Settlement Administrator, c/o Strategic Claims Services, 600 N Jackson St #205, Media, PA 19063; (b) sending an e-mail to [info@strategicclaims.net](mailto:info@strategicclaims.net); (c) visiting the Settlement website at [www.strategicclaims.net/sandoval401k](http://www.strategicclaims.net/sandoval401k); or (d) calling toll-free at 866-274-4004.

# EXHIBIT C

## PLAN OF ALLOCATION

**1.1** Each capitalized term below has the definition provided in the Settlement Agreement.

**1.2** After the Effective Date, the Settlement Administrator shall cause the Net Settlement Amount to be allocated and distributed to the Authorized Former Participants as set forth in Paragraph 1.7 below, and to the Exela Plan for payments to the accounts of Participants as set forth in Paragraph 1.6 below, both in accordance with the Plan of Allocation set forth herein and as ordered by the Court.

**1.3** To be eligible for a payment from the Net Settlement Amount, a person must be a Participant, an Authorized Former Participant, a Beneficiary, or an Alternate Payee. Participants, and Beneficiaries or Alternate Payees with Active Accounts, shall receive their settlement payments as additions to their Active Accounts, as provided for in Paragraph 1.6 below. Authorized Former Participants, and Beneficiaries or Alternate Payees who do not have Active Accounts, shall receive their settlement payments in the form of rollovers to an individual retirement account or other eligible employer plan or in the form of checks, as provided in Paragraph 1.7 below.

**1.4** Beneficiaries will receive settlement payments, as described in this Plan of Allocation, in amounts corresponding to their entitlement as Beneficiaries of the Participant or of the Authorized Former Participant with respect to which the payment is made. This includes settlement payments to Beneficiaries based upon the Participant's or Authorized Former Participant's Novitex Plan account during the Class Period and/or by the Beneficiary's own Novitex Plan account during the Class Period, if an account was created in the Novitex Plan for the Beneficiary. Alternate Payees will receive settlement payments if and to the extent they are entitled to receive a portion of a Participant's or Authorized Former Participant's allocation under this Plan of Allocation pursuant to the terms of the applicable QDRO, including Alternate Payees for whom an account was created in the Exela or Novitex Plan. Beneficiaries and Alternate Payees with Active Accounts will receive payments by the method described in this Plan of Allocation for Participants. Beneficiaries and Alternate Payees who do not have Active Accounts will receive payments by the method described in this Plan of Allocation for Authorized Former Participants. The Settlement Administrator shall have sole and final discretion to determine the amounts to be paid to Beneficiaries and Alternate Payees in accordance with the Plan of Allocation set forth herein and as ordered by the Court.

**1.5 Calculation of Settlement Payments.** Payments to Authorized Former Participants, Participants, Beneficiaries, or Alternate Payees, shall be calculated by the Settlement Administrator pursuant to the Plan of Allocation as follows:

1.5.1 The Settlement Administrator shall determine a "Settlement Allocation Score" for each Participant, Authorized Former Participant, Beneficiary, or Alternate Payee by (i) determining the year-end account balances of each Participant and Authorized Former Participant during the Class Period, or, if a Beneficiary or Alternate Payee had a separate account in the Novitex Plan during the Class Period, by determining the year-end balance of each such Beneficiary or Alternate Payee, and (ii) dividing the sum of each Participant's or Authorized Former Participant's, or to the extent applicable, each

Beneficiary's or Alternate Payee's, year-end account balances during the Class Period by the total sum of year-end asset amounts in the Novitex Plan during the Class Period. The Settlement Allocation Score shall be used to calculate the *pro rata* settlement payment to each Authorized Former Participant, Participant, Beneficiary, or Alternate Payee.

1.5.2 If the dollar amount of the settlement payment to an Authorized Former Participant, or a Beneficiary or Alternate Payee who does not have an Active Account, is initially calculated by the Settlement Administrator to be \$10.00 or less, then that person's payment shall be \$10.00. All such amounts shall be retained in the Qualified Settlement Fund for distribution under Paragraph 1.13.

1.5.3 The Plan Recordkeepers (or designee) shall provide the necessary data subject to its control as may be reasonably available and necessary to enable the Settlement Administrator to perform the above calculations.

1.5.4 The Settlement Administrator shall utilize the calculations required to be performed herein for (a) making the required payments to Authorized Former Participants, and to Beneficiaries or Alternate Payees who do not have Active Accounts, under Paragraph 1.7 of this Plan of Allocation; and (b) instructing the Exela Plan as to the amount of the Net Settlement Amount to be allocated to Participants, and to Beneficiaries or Alternate Payees who have Active Accounts, under Paragraph 1.6 of this Plan of Allocation and calculating the total amount to deposit into each of their Active Account(s) to fulfill this instruction.

1.5.5 The total amount of all rollovers or checks to be paid by the Settlement Administrator for Authorized Former Participants, and Beneficiaries or Alternate Payees who do not have Active Accounts, plus the total amount of all allocations that the Plan is instructed to make to Participants, and Beneficiaries or Alternate Payees who have Active Accounts, may not exceed the Net Settlement Amount. Nothing in this Paragraph 1.5 is intended to modify the requirements of Paragraph 1.8 below. In the event that the Settlement Administrator determines that the Plan of Allocation total would otherwise exceed the Net Settlement Amount, the Settlement Administrator is authorized and required to make such pro rata changes as are necessary to the Plan of Allocation such that said total does not exceed the Net Settlement Amount.

**1.6 Payments to Participants and Beneficiaries or Alternate Payees with Active Accounts.** Participants, and Beneficiaries or Alternate Payees who have Active Accounts, will not be required to submit a Former Participant Claim Form to receive a settlement payment.

1.6.1 Within two (2) business days after the Settlement Administrator has completed all payment calculations for all Participants, and Beneficiaries or Alternate Payees who have Active Accounts, the Settlement Administrator will provide the Exela Plan's Recordkeepers, in a format and via a delivery method mutually agreed upon by the Settlement Administrator and the Exela Plan's Recordkeepers, with an Excel spreadsheet containing the name, Social Security number (or alternative identifier(s) mutually acceptable), and amount of the settlement payment to be made into the Active Account(s) for each of these persons. In the event the Excel spreadsheet includes Social Security

numbers, the Settlement Administrator will transmit the spreadsheet in a manner to protect the confidentiality of any such Social Security numbers.

1.6.2 Thereafter, within ten (10) business days' written notice to the Exela Plan and the Exela Plan's Recordkeepers, the Settlement Administrator shall effect a transfer from the Qualified Settlement Fund to the trust for the Exela Plan of the aggregate amount of all settlement payments payable to Active Participants, and Beneficiaries or Alternate Payees who have Active Accounts, as reflected in the spreadsheet provided by the Settlement Administrator. Defendants (or their designee) shall direct the Exela Plan's Recordkeepers to credit the individual Active Account(s) of each such person in an amount equal to that stated on the spreadsheet provided by the Settlement Administrator in relation to each such person.

1.6.3 The settlement payment for each Participant who is an active participant in the Plan (*i.e.*, has the right to make contributions to the Plan), will be invested in accordance with and proportionate to such Participant's investment elections then on file for new contributions. If the Participant is no longer an active participant in the Plan, or does not have an investment election on file, then such Participant shall be deemed to have directed such payment to be invested in the Plan's default investment option. Likewise, the settlement payment to each Beneficiary or Alternate Payee who has an Active Account will be invested in accordance with and proportionate to such person's investment elections then on file, or if such a person does not have investment elections on file, then such persons will be deemed to have directed such payments to be invested in the Exela Plan's default investment option.

1.6.4 The Exela Plan's Recordkeeper shall process all settlement payments to Participants, and Beneficiaries or Alternate Payees who have Active Accounts, as soon as administratively feasible after the Plan receives the payment from the Qualified Settlement Fund and the Excel spreadsheet containing the agreed-upon information.

1.6.5 The Exela Plan may be amended, to the extent necessary, to reflect the settlement allocation to Active Account(s) in accordance with this Plan of Allocation.

1.6.6 If, as of the date when payments pursuant to this Settlement Agreement are made, a Participant, or Beneficiary or Alternate Payee who had an Active Account, no longer has an Active Account, he or she will be treated as an Authorized Former Participant for purposes of the settlement distribution only and will receive his or her payment from the Settlement Administrator in the form of a check or rollover as described in Paragraph 1.7. A Participant, or Beneficiary or Alternate Payee who had an Active Account, who no longer has an Active Account on the date of his or her settlement distribution need not complete a Former Participant Claim Form.

**1.7 Payments to Authorized Former Participants, and Beneficiaries or Alternate Payees without Active Accounts.** Each Authorized Former Participant, and Beneficiary or Alternate Payee who does not have an Active Account, will have the opportunity to elect a rollover of his or her settlement payment to an individual retirement account or other eligible employer plan, which he or she has identified on the Former Participant Claim Form, provided that such a

person supplies adequate information to the Settlement Administrator to effect the rollover. Otherwise, the Authorized Former Participant, or Beneficiary or Alternate Payee who does not have an Active Account, will receive his or her settlement payment directly by check. The distributions shall be issued as follows:

1.7.1 The Settlement Administrator will either effect from the Qualified Settlement Fund the rollover elected by the Authorized Former Participant, or Beneficiary or Alternate Payee who does not have an Active Account, in the Former Participant Claim Form (if the conditions for such rollover are satisfied) and any associated paperwork necessary to effect the settlement distribution by rollover, *or* issue a check from the Qualified Settlement Fund to the Authorized Former Participant, or Beneficiary or Alternate Payee who does not have an Active Account, and mail the check to the address of such person listed in his or her Former Participant Claim Form, or in the case of ambiguity or uncertainty, to the address of such person as determined by the Settlement Administrator using commercially reasonable means.

1.7.2 With respect to settlement payments that are not rolled over, the Settlement Administrator shall (i) calculate and withhold any applicable taxes associated with the payments allocable to the Authorized Former Participant, or Beneficiary or Alternate Payee who does not have an Active Account; (ii) report such payments and remit such tax withholdings to the Internal Revenue Service and applicable state revenue agents; and (iii) issue appropriate tax forms to these persons.

**1.8** This Plan of Allocation is based upon preliminary data regarding the Class Members who may be entitled to settlement payments. If the Settlement Administrator concludes that it is impracticable to implement any provision of this Plan of Allocation, the Settling Parties agree to promptly discuss modifications to the terms of this Plan of Allocation and present such modified terms to the Court for its approval. Direct mailed notice to Class Members of such proposed modification of the Plan of Allocation shall not be required. However, notice of such proposed modification shall be posted by the Settlement Administrator on the Settlement Website.

The Settlement Administrator shall be solely responsible for performing any calculations required by this Plan of Allocation.

**1.9** Within ten (10) business days of completing all aspects of this Plan of Allocation, the Settlement Administrator shall send to Class Counsel and Defense Counsel one or more affidavits stating the following: (a) the name of each Class Member to whom the Settlement Administrator sent the Settlement Notice and/or the Former Participant Claim Form, and the address of such mailing; (b) the date(s) upon which the Settlement Administrator sent the Settlement Notice and/or the Former Participant Claim Form; (c) the name of each Class Member whose Settlement Notice and/or Former Participant Claim Form was returned as undeliverable; (d) the efforts made by the Settlement Administrator to find the correct address and to deliver the Settlement Notice and/or Former Participant Claim Form for each such Class Member; and (e) the name of each Class Member to whom the Settlement Administrator made a payment from the Net Settlement Amount, together with the amount and form of the payment, the name of the payee, the date of payment, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable.

**1.10** The Parties acknowledge that any payments to Class Members or their attorneys may be subject to applicable tax laws. Defendants and Defense Counsel will provide no tax advice to the Class Members and make no representation regarding the tax consequences of any of the settlement payments described in this Settlement Agreement. To the extent that any portion of any settlement payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement. Payments from the Qualified Settlement Fund shall not be treated as wages by the Parties.

**1.11** Each Class Member who receives a payment under this Settlement Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Class Member shall hold Defendants, the Released Parties, Defense Counsel, Class Counsel, and the Settlement Administrator harmless from any tax liability, including penalties and interest, related in any way to payments under the Settlement Agreement, and shall hold Defendants, the Released Parties, Defense Counsel, Class Counsel, and the Settlement Administrator harmless from the costs (including, for example, attorneys' fees and disbursements) of any proceedings (including, for example, investigation and suit), related to such tax liability.

**1.12** All checks issued pursuant to this Plan of Allocation shall expire one hundred eighty (180) calendar days after their issue date. All checks that are undelivered or are not cashed before their expiration date shall revert to the Qualified Settlement Fund.

**1.13** No sooner than three hundred ninety-five (395) calendar days following the Settlement Effective Date, any Net Settlement Amount remaining in the Qualified Settlement Fund after payments, including costs and taxes, shall be paid to the Plan for the benefit of the Plan's participants as set forth in the Settlement Agreement.

# EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

RIGOBERTO SANDOVAL,	:	Civil Action
individually and as a representative of a class of	:	No. 3:17-cv-1573 (MPS)
similarly situated plan participants and	:	
beneficiaries, on behalf of the	:	
EXELA 401(k) PLAN,	:	
the successor-in-interest of the	:	
NOVITEX ENTERPRISE SOLUTIONS	:	
RETIREMENT SAVINGS PLAN,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
EXELA ENTERPRISE SOLUTIONS, INC.,	:	
NOVITEX ENTERPRISE SOLUTIONS	:	
EMPLOYEE BENEFITS COMMITTEE	:	
and DOES NO. 1-10, Whose Names Are	:	
Currently Unknown,	:	
	:	
Defendants.	:	April 22, 2021

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**PRELIMINARY APPROVAL ORDER**

This litigation arose out of claims alleging breaches of fiduciary duties in violation of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. § 1001, *et seq.*, which Plaintiff, Rigoberto Sandoval (“Plaintiff”), on his own behalf and on behalf of the Class and the Exela 401(k) Plan (“Exela Plan”), the successor-in-interest of the Novitex Enterprise Solutions Retirement Savings Plan (“Novitex Plan”), asserted against Defendants, Exela Enterprise Solutions, Inc. (“Exela”), the Novitex Enterprise Solutions Employee Benefits Committee (“Committee”), and unknown members of the Committee (collectively, “Defendants”).

Presented to the Court for preliminary approval is a settlement of the litigation against

Defendants. The terms of the settlement are set out in the Settlement Agreement and Release dated February 18, 2021 (the “Agreement”). Except as otherwise defined herein, all capitalized terms used herein shall have the same meaning as ascribed to them in the Agreement.

The Court has preliminarily considered the Settlement to determine, among other things, whether to certify a class for settlement purposes only and whether the Settlement is sufficient to warrant the issuance of notice to members of the Settlement Class. Upon reviewing the record and good cause appearing;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. This Court has jurisdiction to consider the Motion and the relief requested therein under 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e)(1).
2. Venue before the Court is proper pursuant to 29 U.S.C. § 1132(e)(2).
3. The Court finds, on a preliminary basis and for the purposes of settlement only, that the requirements for certification under Rule 23(a) and Rule 23(b)(1) are satisfied:
  - a) The Settlement Class meets the numerosity requirement of Rule 23(a)(1), as it consists of over 8,000 Class Members.
  - b) Plaintiff has asserted claims that have at least one common question of law or fact to the Class and relate to the management of the Plan as a whole.
  - c) Plaintiff is a former participant of the Novitex Plan, participating until it was terminated and its assets merged with the SourceHOV 401(k) Plan at the end of 2018 to form the Exela Plan, of which the Class Representative became a participant as a result of the merger, and is typical of other Class Members.
  - d) Plaintiff has no conflicts with other Class Members, is adequate to represent the Settlement Class, and has retained experienced and qualified counsel

to represent the Class as Class Counsel.

4. Class certification is appropriate under Rule 23(b)(1) because the Class Representative asserts claims on behalf of individuals who participated in the Novitex Plan, and the prosecution of separate actions by individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for Defendants and would be dispositive of the interests of other class members as a practical matter or would substantially impair or impede their ability to protect their interests.

a) The Court appoints Miller Shah LLP as Class Counsel and appoints named Plaintiff, Rigoberto Sandoval, as the Class Representative.

b) The non-opt-out Class will be preliminarily certified for settlement purposes only, under the terms of the Agreement. The Settlement Class is defined as:

All participants and beneficiaries of the Novitex Plan prior to the merger of the Novitex Plan with the SourceHOV 401(k) Plan, at any time during the Class Period, including any beneficiary of a deceased person who was a participant in the Novitex Plan at any time during the Class Period, and any alternate payees, in the case of a person subject to a QDRO who was a participant in the Novitex Plan at any time during the Class Period.

The Class Period shall mean at any time on or after January 1, 2014, through and including December 31, 2018. The Class shall exclude all Defendants.

c) If the Court does not issue the Final Approval Order and Judgment, then the certification will be vacated, and Defendants shall not be deemed to have admitted the propriety of Class certification under any provision of Federal Rule 23.

d) The terms set forth in the Agreement are preliminarily approved, subject

to further consideration at the hearing the Court will hold pursuant to Federal Rule of Civil Procedure 23(e) to determine whether the Settlement should receive final approval by the Court, as provided for below (the “Final Approval Hearing”). Having considered the terms of the Settlement and the submissions in support of preliminary approval, the Court determines, in accordance with Federal Rule of Civil Procedure 23(e)(1)(B), that it is likely that the Court will be able to grant final approval of the Settlement under Federal Rule of Civil Procedure 23(e)(2) following notice and a hearing. The Agreement therefore is sufficiently within the range of reasonableness to warrant the preliminary approval of the Agreement, the scheduling of the Final Approval Hearing, and the mailing of Notice to Class Members, each as provided for in this Order.

5. The Court approves the retention by Class Counsel of Strategic Claims Services as the Settlement Administrator.

6. In further aid of the Court’s jurisdiction to review, consider, implement, and enforce the Settlement, the Court orders that Plaintiff, all Class Members, and the Exela Plan are preliminarily enjoined and barred from commencing, prosecuting, or otherwise litigating, in whole or in part, either directly, individually, representatively, derivatively, or in any other capacity, whether by complaint, counterclaim, defense, or otherwise, in any local, state, or federal court, arbitration forum, or in any agency or other authority or forum wherever located, any contention, allegation, claim, cause of action, matter, lawsuit, or action (including but not limited to actions pending as of the date of this Order), including, without limitation, any Unknown Claims, that arise out of or relate in any way to the Released Claims or the Action.

7. The Court approves the Notice to Class Members in substantially the form

attached as Exhibit B to the Agreement. The Court approves the form and content of the Notice and finds that the proposed Settlement Notice fairly and adequately:

Summarizes the claims that are asserted;

Identifies the Settlement Class;

Describes the terms and effect of the Settlement Agreement, including the benefits of the Settlement and the class release;

Provides information regarding who is required to submit a Claim Form and the process for doing so;

Notifies the Settlement Class that Class Counsel will seek compensation from the Net Settlement Amount for Administrative Expenses, Attorneys' Fees and Expenses, and Case Contribution Award;

Describes how the recipients of the Class Notice may object to the Settlement, or any requested Administrative Expenses, Attorneys' Fees and Expenses, or Case Contribution Award; and

Gives notice to the Settlement Class of the time and place of the Fairness Hearing, and Class Members' right to appear.

8. The Court finds that the Plan of Allocation proposed by Plaintiff and Class Counsel for allocating the Settlement Amount to Class Members, as described in **Exhibit C** to the Agreement, is likely to receive final approval and that the agreement is within the range of reasonableness to warrant preliminary approval.

#### **Manner of Giving Notice**

9. Exela shall use reasonable efforts to cause the Plan Recordkeepers to provide to the Settlement Administrator, within forty-five (45) calendar days of the entry of this Preliminary

Approval Order, the Participant Data, as defined in the Plan of Allocation as described in **Exhibit C** to the Agreement (including names and last known addresses and email addresses, if available) sufficient to effectuate the Notice, implement the Plan of Allocation, and distribute the Settlement Fund on the terms provided for in the Agreement. The names and addresses provided to the Settlement Administrator pursuant to this Order shall be used solely for the purpose of providing Notice of this Settlement and distribution of the Settlement Fund, and for no other purpose and shall be treated as “Confidential” under the Protective Order governing the Action. *See Rigoberto Sandoval v. Exela Enterprises Solutions, Inc., et al.*, No. 3:17-cv-1573, Dkt. Nos. 68, 69.

10. Within sixty (60) calendar days of the entry of this Order and no later than the first date that the e-mailing or the mailing of the Notice occurs, the Settlement Administrator shall establish a website containing, the Notice, the Agreement and its exhibits, this Order, the Second Amended Complaint, and the Motions for Preliminary Approval and Final Approval (when filed); the Motion for Attorneys’ Fees and Expenses (when filed); any approval order or other Court orders related to the Settlement, any amendments or revisions to these documents, and any other documents or information mutually agreed upon by the Parties.

11. Within sixty (60) calendar days of the entry of this Order and no later than the first date that the e-mailing or the mailing of the Notice occurs, the Settlement Administrator shall establish a toll-free telephone number to which Class Members can direct questions about the Settlement.

12. Within sixty (60) calendar days of the entry of this Order, or as may be modified by the Court, the Settlement Administrator shall cause copies of the Notice to be sent by first-class mail or electronic mail (if available) to all Class Members through the notice procedure

described in the Agreement and shall cause the Summary Notice to be issued via PRNewswire for national distribution.

13. Not later than seven (7) business days after sending the Notice to Class Members, the Settlement Administrator shall provide to Class Counsel and to Defendants' Counsel a declaration attesting to compliance with the sending of the Notice, as set forth above.

14. The Court finds that the Notice to be provided as set forth in this Order is the best means of providing notice to the Class Members as is practicable under the circumstances and, when completed, shall constitute due and sufficient notice of the Settlement and the Final Approval Hearing to all persons affected by or entitled to participate in the Settlement or the Final Approval Hearing, in full compliance with the requirements of due process and the Federal Rules of Civil Procedure.

15. All reasonable costs incurred by the Settlement Administrator for providing the Notice as well as for administering the Settlement shall be paid as set forth in the Agreement.

**Final Approval Hearing**

16. The Court will hold the Final Approval Hearing on \_\_\_\_\_ [a date to be at least one hundred and forty (140) days after the entry of the Preliminary Approval Order], for the following purposes: (a) to determine whether the non-opt out Class should be certified for settlement purposes only; (b) to determine whether the proposed Settlement on the terms and conditions provided for in the Agreement is fair, reasonable, adequate, and in the best interests of the Class and should be finally approved by the Court; (c) to determine whether Class Counsel's Fee and Expense Application is reasonable and should be approved; (d) to determine whether Plaintiff's request for a Case Contribution Award is reasonable and should be approved; (e) to determine whether a Final Approval Order and Judgment substantially in the form attached

as Exhibit A to the Agreement should be entered dismissing with prejudice all Claims; and (f) to consider any other matters that may properly be brought before the Court in connection with the Settlement. Notice of the Settlement and the Final Approval Hearing shall be given to Class Members as set forth in Paragraph 7 of this Order.

17. The Court may adjourn the Final Approval Hearing and approve the Settlement with such modification as the Parties may agree to, if appropriate, without further notice to the Class.

18. Not later than forty-two (42) calendar days before the Final Approval Hearing, Class Counsel shall submit their papers in support of final approval of the Agreement, and in support of Class Counsel's Fee and Expense Application and Plaintiff's request for a Case Contribution Award.

19. Not later than forty-five (45) calendar days before the Final Approval Hearing, the Independent Fiduciary shall submit its report pursuant to Section 2.6 of the Agreement, and the Report of the Independent Fiduciary shall be filed with the Court not later than forty-two (42) days before the Final Approval Hearing.

20. Not later than thirty (30) calendar days before the Final Approval Hearing, the Settlement Administrator shall submit its declaration pursuant to Section 2.7 of the Agreement.

#### **Objections to the Settlement**

21. The Court will consider written comments and objections to the Settlement, to the proposed Motion for Attorneys' Fees and Expenses, and to Plaintiff's request for a Case Contribution Award. Any objection to the proposed Settlement must be in writing, and must (a) clearly identify the case name and number (*i.e.*, *Rigoberto Sandoval v. Exela Enterprises Solutions, Inc., et al.*, No. 3:17-cv-1573), and (b) be submitted to the Court either by mailing it to

the Clerk of the Court for the United States District Court for the District of Connecticut, Abraham Ribicoff Federal Building, United States Courthouse, 450 Main Street, Hartford, Connecticut 06103, or by filing it in person at any location of the United States District Court for the District of Connecticut. To state a valid objection to the Settlement, an objecting Settlement Class Member must provide the following information in the Settlement Class Member's written objection: (1) his/her/its full name, current address, and current telephone number, and, if represented by counsel, any of his/her/its counsel's name and contact information; (2) whether the objection applies only to the objecting Class Member, to a specific subset of the Class, or to the entire Class; (3) a statement of the position(s) the objector wishes to assert; (4) copies of any other documents that the objector wishes to submit in support of his/her/its position; and (5) a list of any other objections to any class action settlements submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years.

22. Any Class Members' objections must be filed or postmarked on or before thirty (30) calendar days before the Final Approval Hearing. Any objections submitted by federal or state authorities must be filed no later than thirty (30) calendar days before the Final Approval Hearing.

23. Any Class Member who does not timely file and serve a written objection shall be deemed to have waived, and shall be foreclosed from raising, any objection to the Agreement, and any untimely objection shall be barred absent an order from the Court.

24. Any Class Member who files and serves a timely, written comment or objection in accordance with this Order may also appear at the Final Approval Hearing either in person or through qualified counsel retained at their own expense. Any comment or objection that is timely filed will be considered by the Court even in the absence of a personal appearance by the

Class Member or that Class Member's counsel.

25. The Parties may file written responses to any objections not later than five (5) business days before the Final Approval Hearing.

#### **Termination of Settlement**

26. This Order shall become null and void, *ab initio*, and shall be without prejudice to the rights of the Parties, all of whom shall be deemed to have reverted to their respective status in the Action as of December 11, 2020, if the Settlement is terminated in accordance with the terms of the Agreement.

#### **Use of Order**

27. This Order is not admissible as evidence for any purpose against the Defendant Released Parties in any pending or future litigation. This Order: (a) shall not give rise to any inference of, and shall not be construed or used as an admission, concession, or declaration against any of the Defendant Released Parties of wrongdoing or liability in the Action or any other proceeding; (b) is not an admission of any liability of any kind, whether legal or factual; (c) shall not be used or received in evidence in any action or proceeding for any purpose, except in an action or proceeding to enforce the Agreement, whether affirmatively or defensively; (d) shall not be construed or used as an admission, concession, or declaration by or against Plaintiff, the Exela Plan, or the Class that their claims lack merit or that the relief requested in the Action is inappropriate, improper or unavailable; and (e) shall not be construed or used as an admission, concession, declaration or waiver by any Party of any arguments, defenses, or claims he, she, or it may have in the event that the Agreement is terminated. This Order and the Agreement and any proceedings taken pursuant to the Agreement are for settlement purposes only.

**Jurisdiction**

28. The Court may adjourn or continue the Fairness Hearing without further direct notice to the Class Members other than by notice to Class Counsel and retains jurisdiction to consider all further applications or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Parties, if appropriate, without further notice to the Class.

**SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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The Honorable Michael P. Shea  
United States District Judge