

CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the “Settlement Agreement” or “Agreement”) is made and entered into as of the Effective Date by and between the individuals in the list attached hereto as Exhibit A (the “Claimants”) and their counsel (“Claimants’ Counsel”), on the one hand, and Molekule, Inc. (“Defendant” or “Molekule”), on the other hand. Each may also be referred to as a “Party” or collectively as the “Parties.” This Agreement shall take effect on the date last executed by any Party as set forth next to the signature of each Party or its authorized representative below (“Effective Date”).

RECITALS

WHEREAS, Claimants’ Counsel has represented to Molekule that they have been retained by Claimants in connection with potential arbitrations asserting claims on their behalves related to the purchase of a Molekule Air Purifier device(s) based on alleged false advertising by Molekule;

WHEREAS, Claimants purchased their device(s) directly from Molekule, agreeing to the arbitration provision in Molekule’s Terms & Conditions, or later established an account with Molekule, which required them to agree to the arbitration provision in Molekule’s Terms & Conditions;

WHEREAS, Defendant denies Claimants’ allegations and specifically denies that Claimants have suffered any damage whatsoever; and

WHEREAS, as a result of confidential settlement discussions of counsel, and to avoid the expense, inconvenience, and burden of arbitration and/or litigation, the Parties have agreed to a settlement as set forth herein.

AGREEMENT

NOW, THEREFORE, IT IS HEREBY AGREED, by and among the Parties to this

Settlement Agreement, that the dispute be settled and compromised, with no Party admitting liability, on the following terms and conditions:

1. **Consideration.** In exchange for the releases described below, and contingent upon satisfaction of all conditions of this Settlement (including the Participation Threshold), Defendant agrees to pay a total amount to Claimants, Claimants' Counsel, and a Claims Administrator (if one is used) of up to \$100,000 (the "Payment"). The Payment shall be made into a Settlement Fund ("SF") maintained by Claimants' Counsel or a Claim Administrator at the direction of Claimants' Counsel. Claimants' Counsel or the Claim Administrator shall provide necessary tax forms and wire instructions for the SF to Defendant prior to transmission of the Payment.

2. **Allocation of Consideration.** The amounts allocated to each Claimant will be set forth in the Settlement Acceptance and Approval Form and are based on information that the Claimants provided to Claimants' Counsel about the number and kind of devices that they purchased. The amount allocated to Claimants' Counsel in attorneys' fees from the Payment, based on Claimants' Counsel's representation to Defendant about their agreements with Claimants, is \$33,000. The amount allocated to Claimants' Counsel for claims' administration and other costs is \$5,000.

3. **No Arbitration Demand.** The Parties agree that neither Claimants nor Claimants' Counsel will file any arbitration demand with the AAA regarding the matters released herein.

4. **Notification.** Within five (5) days of execution of this Agreement, Claimants' Counsel will notify the Claimants of the terms of this proposed Settlement by email. The notifications will advise the Claimants of the terms of the confidential settlement and the

payment that they are eligible to receive in exchange for a general release, contingent upon satisfaction of all other conditions of the Settlement (including the Participation Threshold) as set forth below. The notification will provide a link in which the Claimants can view this Agreement. The notification will also provide a link to view and electronically sign a Settlement Acceptance and Approval Form (*see* Exhibit B, attached hereto) and instruct the Claimants that they must electronically execute the Settlement Acceptance and Approval Form within thirty (30) days in order to be eligible to receive a payment in the event all other terms of this Settlement are satisfied. The notifications will further state that (a) Claimants' Counsel has negotiated the best settlement possible on Claimants' behalves and (b) Claimants' Counsel recommends that Claimants accept the settlement.

5. Participation Threshold.

a. This Settlement is conditioned upon the receipt by Claimants' Counsel or the Claim Administrator of executed Settlement Acceptance and Approval Forms from 95% of Claimants (or, in other words, 72 of the 75 Claimants). In the event that Claimants' Counsel does not obtain the specified percentage of executed Settlement Acceptance and Approval Forms within thirty (30) days, Molekule in its sole discretion will have the option to terminate this Settlement and will not be obligated to make any payment hereunder. After this thirty (30) day period, Molekule will have twenty-one (21) days to exercise its option to terminate.

b. To the extent less than 100% of Claimants execute Settlement Acceptance and Approval Forms (and assuming Molekule does not exercise its option to terminate the agreement in the event the percentage of Claimants accepting the proposed settlement is less than 95%), Molekule shall not be required to pay any consideration that is allocated to non-releasing Claimants. For clarity, if \$1,000 is allocated to a Claimant who does not execute this settlement,

the total consideration due would be reduced by \$1,000.

c. It is the intent of the Parties that the settlement of this matter shall fully resolve all claims between Claimants and Molekule. Claimants' Counsel agrees that it shall terminate its representation of any Claimants who do not execute Settlement Acceptance and Approval Forms. This provision is not intended to be, and shall not be construed as, an impermissible limitation on Claimants' Counsel's legal or ethical rights or obligations to practice law.

6. **Payment Terms.** Within seven (7) days of receipt of signed Settlement Acceptance and Approval Forms (*see* Exhibit B) from 95% or more of Claimants, or, if that Participation Threshold is not met, within seven (7) days of Defendant's decision to not exercise its option to terminate (*see supra* paragraph 5(a)), Defendant will initiate a wire transfer of the Payment to the SF Account. If an individual Claimant or group of Claimants listed in Exhibit A has not signed the Settlement Acceptance and Approval Form by the deadline set forth in paragraph 9(a) *infra*, Claimants' Counsel and Defendant shall meet and confer in good faith to address this issue, although Molekule shall have the sole discretion to terminate this agreement if the Participation Threshold set forth in paragraph 5(a) is not met.

7. **Distribution of Payment.** Claimants' Counsel will be solely responsible for distribution of the Payment from the SF to Claimants and Claimants' Counsel, though they may use a Claim Administrator to facilitate distribution. Assuming the Participation Threshold set forth in paragraph 5(a) is met, the distribution to Claimants and Claimants' Counsel shall be made within twenty-one (21) days of the Payment from Defendant into the SF. Defendant's obligations under this agreement regarding the Payment shall be deemed complete upon the completion of the wire transfer described above.

8. **Claimants' Counsel Fees and Costs.** Except for the payment to Claimants' Counsel referenced in paragraph 2, all Parties shall bear their own attorneys' fees and costs. Claimants and Claimants' Counsel waive any rights to seek any further payment for alleged damages, attorney's fees, or costs from Defendant of any kind incurred in connection with Claimants' individual claims.

9. **Releases and Waiver of Civil Code Section 1542.**

a. Within thirty (30) days of the execution of this Agreement, the Claimants shall execute the Settlement Acceptance and Approval Form to receive their share of the Payment.

b. Each Claimant, on behalf of himself or herself, his or her heirs, executors, administrators, agents, attorneys and assigns, does hereby release, acquit and forever discharge the Molekule Released Parties (defined below), collectively and individually, from any and all past, present, and future claims, actions, demands, causes of action, suits, debts, obligations, damages, rights, or liabilities, accruing at any point before the Effective Date, of any nature and description whatsoever, known or unknown, existing or potential, recognized now or hereafter, expected or unexpected, pursuant to any theory of recovery (including but not limited to those based in contract or tort, common law or equity, federal, state, or local law, statute, ordinance, or regulation), and for claims for compensatory, consequential, punitive, or exemplary damages, statutory damages, penalties, interest, attorneys' fees, costs, or disbursements against the Molekule Released Parties, including unknown claims covered by California Civil Code section 1542, as quoted below. Molekule Released Parties means (i) Molekule; (ii) Molekule's past, present, and future parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities, whether foreign or domestic, owned by, owning,

controlled by, or controlling Molekule; and (iii) any past, present, and future shareholders, investors, officers, directors, members, agents, employees, independent contractors, consultants, representatives, fiduciaries, insurers, attorneys, legal representatives, predecessors, successors, lenders, guarantors and assigns of the entities listed in Parts (i) or (ii) of this Subparagraph its predecessors, successors, parent entities, subsidiaries, affiliates, and related entities of any nature, as well as its past, present or future officers, directors, employees, heirs, executors, administrators, bankruptcy trustees, bankruptcy estate, investors, shareholders, lenders, guarantors, insurers, attorneys, agents and assigns (the “Molekule Released Parties”).

c. Waiver. It is further understood and agreed that as part of the consideration and inducement for the execution of this Settlement Agreement, the Parties specifically waive the provisions of Section 1542 of the California Civil Code (“Section 1542”), which reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge pursuant to the Parties’ waiver of Section 1542, the Parties expressly acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims by Claimants against the Molekule Released Parties of whatever kind arising out of or related to the Claims and the allegations of the Complaint existing as of the Effective Date of this Settlement Agreement, whether known or unknown, and that this Settlement Agreement extinguishes all such claims.

d. The Parties acknowledge that they have read this Settlement Agreement, that they have had the opportunity to discuss it with their attorneys, and that they hereby knowingly, intentionally, and voluntarily waive and relinquish the provisions of Section 1542.

10. **Confidentiality and Notification of Potential Disclosure.**

a. The Parties agree that the existence and terms of this Settlement Agreement shall be considered strictly confidential and shall not be disclosed by the Parties or their attorneys or agents to any person or entity not named as a Party in this Settlement Agreement, except (a) as necessary to officers, board or committee members or personnel for reporting, approval, compliance and implementation of the terms of the Settlement Agreement; (b) under customary obligations of confidentiality to the Parties' accountants, attorneys, tax advisers, current or prospective lenders or current or prospective lenders, investors, acquirors or shareholders to whom disclosure is reasonably necessary; or (c) as may be required by legal process, subject to the limitations set forth below. Any Party shall respond to other inquiries regarding the settlement by saying only that the action was settled in an amicable manner, pursuant to a confidential agreement, and no Party admitted any liability.

b. Upon receipt of any order, subpoena, or other compulsory process demanding production or disclosure of this Settlement Agreement or its contents, Claimants and their counsel agree that they will promptly notify Defendant in writing of the requested disclosure and the identity of the individual or entity requesting the disclosure, no later than ten (10) business days prior to the date the disclosure is to be made, or as soon as practicable if the order, subpoena, or other compulsory process demanding production or disclosure is received fewer than ten (10) business days prior to the date the disclosure is to be made.

11. **Non-Cooperation.** Claimants agree that they will not encourage, counsel, or

assist anyone in the presentation or prosecution of any disputes, differences, grievances, claims, charges or complaints by any third party against any of the Molekule Released Parties, unless under a subpoena or other court order to do so. Claimants' Counsel represent that they do not currently have any clients who have or who intend to assert claims against Defendant and have no present intention to solicit clients to bring claims against Defendant in the future.

12. **Non-Disparagement.** The Parties, Claimants' Counsel, and Defendant's Counsel agree that they will not make or cause to be made any statements that disparage Claimants or the Molekule Released Parties. Parties, Claimants' Counsel, and Defendant's Counsel also agree that they will not encourage any Person to disparage Claimants or the Molekule Released Parties. Disparagement includes, but is not limited to, statements made by any internet posting or use of social media. Nothing herein is intended to, nor shall be construed to, violate counsel's obligations under applicable ethics rules.

13. **Remedies In Event Of Breach.** Notwithstanding anything to the contrary in this Agreement, if any Party hereto shall breach any covenant, warranty, representation or condition of this Agreement, the other Parties shall have the right to seek to enforce this Agreement, to seek to set aside the Settlement Agreement, or to bring an action against the breaching party for declaratory relief and/or damages. In any action arising out of a breach of this Settlement Agreement, the prevailing party shall be entitled to its costs of suit and reasonable attorneys' fees.

14. **No Admission of Liability.** The Parties agree that, to the fullest extent permitted by law, neither this Settlement Agreement nor the settlement, nor any act performed or document executed pursuant to or in furtherance of the settlement: (1) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any claim of Claimants, or (2) is or may

be deemed to be or may be used as an admission of, or evidence of, any wrongdoing, fault, omission, or liability of Molekule or the Molekule Released Parties in any context, including in any proceeding in any court, administrative agency, or other tribunal. Nothing in this paragraph shall preclude any Party to this Settlement Agreement from using it or any act performed or document executed pursuant to the Settlement Agreement in a proceeding to enforce the Settlement Agreement.

15. **Entire Agreement; Amendment.** This Settlement Agreement represents the sole and entire agreement between the Parties and supersedes all prior agreements, negotiations, discussions, and understandings, whether oral or in writing, between the Parties and/or their representatives. This Settlement Agreement cannot be changed or modified except in a writing signed by the Parties.

16. **Counterpart Execution.** This Settlement Agreement may be executed in any number of counterparts and will be final and binding upon signature of all Parties.

17. **Voluntary Agreement.** The signatories hereto warrant and represent that each is executing this Settlement Agreement after having received full legal advice as to their respective rights from their attorneys. The Parties hereto further represent and declare that they have read this Settlement Agreement and know the contents thereof, and that they sign the same freely and voluntarily. Each Party respectively represents and warrants that it is fully authorized to enter into the terms and conditions of, and to execute and be bound by, this Settlement Agreement.

18. **Construction of Settlement Agreement.** This Settlement Agreement is the product of negotiation and preparation by and among each Party and their respective attorneys. Therefore, the Parties acknowledge and agree that this Settlement Agreement shall not be deemed prepared or drafted by one party or another and should be construed accordingly. This

Settlement Agreement shall be construed as a whole according to its plain meaning. This Settlement Agreement shall be construed to be consistent with all applicable ethical rules for attorneys.

19. **Severability.** In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable provision or part thereof shall be stricken from this Settlement Agreement, provided that the striking of such provision does not materially alter or impact any other provision of this Settlement Agreement. The Parties may elect in writing to replace the provision of the Settlement Agreement that is determined to be invalid, illegal, or unenforceable with a legal, enforceable, and valid provision that is as similar in tenor to the original provision as is legally possible.

20. **Controlling Law.** This Settlement Agreement shall be interpreted in accordance with and governed in all respects by the laws of the State of California.

21. **Waiver.** No breach of any provision hereof can be waived unless in writing. Waiver of any one breach of any provision thereof shall not be deemed to be a waiver of any other breach of the same or other provisions hereof.

22. **Captions.** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Settlement Agreement or any provision thereof.

23. **Notices.** All notices, requests, demands and communications hereunder shall be made in writing and shall be deemed to have been duly given if sent by email to the email address listed below, without notification of any error.

If to Claimant:

Jason S. Rathod
Migliaccio & Rathod LLP
412 H St NE
Washington DC 20002
jrathod@classlawdc.com

If to Molekule:

Erin E. Meyer
Keker, Van Nest & Peters LLP
633 Battery Street
San Francisco, CA 94111
emeyer@keker.com

and

and
Eric Barnett
General Counsel
Molekule, Inc.
eric.barnett@molekule.com

EXECUTION

IN WITNESS WHEREOF, the parties hereto have executed this Settlement Agreement
as of the dates listed below.

Dated: 09/29/2021

By: Jason Rathod
Claimants' Counsel

Dated: September 29, 2021

Molekule Inc.

By: Eric R. Barnett

SVP and General Counsel
Its: _____