# EFiled: Oct 04 2023 03:30PI Transaction ID 71007532 Case No. 2022-0702-PAF IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

# IN RE FAST ACQUISITION CORP. STOCKHOLDERS LITIGATION

CONSOLIDATED C.A. No. 2022-0702-PAF

# STIPULATION AND AGREEMENT OF SETTLEMENT, COMPROMISE, AND RELEASE

This Stipulation and Agreement of Settlement, Compromise, and Release, dated October 4, 2023 (the "Stipulation"), is entered into by and among: (i) Plaintiffs Special Opportunities Fund, Inc. ("SPE" or "Lead Plaintiff"), ADAR1 Partners, L.P. ("ADAR1"), Great Point Capital, LLC ("GPC"), Cladrius LTD. ("Cladrius"), and George A. Spritzer ("Spritzer") (collectively, "Plaintiffs"), on behalf of themselves and the other members of the Settlement Class (as defined in Paragraph 1(dd) below); and (ii) Defendants Sandy Beall, William Douglas Jacob, Kevin Reddy, Michael Lastoria, Ramin Arani, Alice Elliot, Sanjay Chadda, and Steve Kassin (collectively, "Defendants") (Plaintiffs and Defendants together, the "Parties").<sup>1</sup> Subject to the terms and conditions set forth herein and the approval of the Court of Chancery of the State of Delaware (the "Court") under Court of Chancery Rule 23, the Settlement embodied in this Stipulation is intended to be a

<sup>&</sup>lt;sup>1</sup> All terms herein with initial capitalization shall, unless defined elsewhere in this Stipulation, have the meanings given to them in Paragraph 1 below.

full and final disposition of the claims asserted against Defendants in the abovecaptioned consolidated stockholder class action (the "Action").

#### WHEREAS:

A. On August 25, 2020, FAST Acquisition Corp. ("FAST" or the "Company"), a special purpose acquisition corporation ("SPAC") incorporated in Delaware and formed by certain Defendants, consummated its IPO of 20,000,000 units, whereby each unit (1) consisted of one share of Class A common stock and one-half of one redeemable warrant, with each whole warrant entitling the holder thereof to purchase one share of Class A common stock for \$11.50 per share, and (2) was sold for \$10.00 per unit; as a SPAC, FAST's Amended and Restated Certificate of Incorporation required FAST to complete an initial business combination within 24 months of the IPO or otherwise redeem all of its outstanding Class A Common stock and dissolve.

B. Before FAST's IPO, certain Defendants had purchased 7,187,500 shares of Class B common stock in FAST (the "**Founder Shares**") in exchange for a capital contribution of \$25,000; subsequently, 2,187,500 Founder Shares were forfeited, resulting in 5,000,000 Founder Shares remaining.

C. On February 1, 2021, FAST entered into an agreement and plan of merger (the "Merger Agreement," and the transaction contemplated therein, the "Merger") with Fertitta Entertainment, Inc. ("Fertitta").

D. On November 24, 2021, FAST issued its proxy statement asking FAST's stockholders to consider and vote upon (among other things) the Merger.

E. On December 1, 2021, the Company received a notice from Fertitta that purported to terminate the Merger Agreement.

F. On December 9, 2021, FAST and Fertitta entered into a Termination and Settlement Agreement (the "**Merger Settlement Agreement**"), pursuant to which the parties agreed to mutually terminate the Merger Agreement and Fertitta agreed to (1) pay \$6,000,000.00 to the Company within three business days, (2) loan \$1,000,000.00 to the Company within five business days, and (3) pay to FAST either (a) \$10,000,000.00 in the event that the Company consummated an initial business combination, or (b) \$26,000,000.00 if the Company did not consummate an initial business combination and determined to redeem its public shares and liquidate and dissolve (all amounts collectively, the "**Termination Fee**").

G. On August 9, 2022, SPE filed its Verified Class Action Complaint in *Special Opportunities Fund, Inc. v. FAST Acquisition Corp. et al.*, C.A. No. 2022-0702-PAF (the "*SPE* Action") for Declaratory, Injunctive, and Monetary Relief (the "*SPE* Complaint") on behalf of itself and similarly situated stockholders of FAST against Defendants asserting a claim for breach of fiduciary duty with respect to the termination of the Merger Agreement and the Termination Fee.

H. On August 11, 2022, Spritzer filed his Verified Stockholder Class Action Complaint (the "**Spritzer Complaint**") in *Spritzer v. Jacob et al.*, C.A. No. 2022-0706-PAF (the "*Spritzer* Action") asserting substantially similar claims as in the *SPE* Action.

I. On August 17, 2022, GPC filed its Verified Stockholder Class Action Complaint (the "GPC Complaint") in *Great Point Capital, LLC v. Jacob et al.*, C.A. No. 2022-0726-PAF (the "*GPC* Action") asserting substantially similar claims as the *SPE* Action.

J. On August 25, 2022, ADAR1 filed its Verified Stockholder Derivative and Direct Class Action Complaint (the "**ADAR1 Complaint**") in *ADAR1 Partners, L.P. v. Fast Sponsor, LLC et al.*, C.A. No. 2022-0760-PAF (the "*ADAR1 Action*") asserting substantially similar claims as in the *SPE* Action.

K. On August 26, 2022, FAST redeemed all of its outstanding shares of Class A common stock because FAST did not consummate an initial business combination within the time period required by its Amended and Restated Certificate of Incorporation.

L. On September 15, 2022, the Court entered an Order, which consolidated the *SPE*, *Spritzer*, *GPC*, and *ADAR1* Actions for all purposes into the Action and, among other things, (1) appointed SPE as Lead Plaintiff in the Action, (2) appointed the law firms Bernstein Litowitz Berger & Grossmann LLP

("**Bernstein Litowitz**") and Morris Kandinov LLP as Lead Counsel (collectively, "**Plaintiffs' Co-Lead Counsel**"), and (3) formed an Executive Committee comprised of GPC, Spritzer, and ADAR1 and represented by Chimicles Schwartz Kriner & Donaldson-Smith LLP, Fields Kupka & Shukurov LLP, and AFN Law, PLLC.

M. On December 27, 2022, Lead Plaintiff filed the Amended Verified Class Action Complaint for Declaratory, Injunctive, and Monetary Relief (the "Amended Complaint").

N. On March 1, 2023, Defendants filed their Motion to Dismiss Counts I,III, and IV of the Amended Complaint.

O. On March 31, 2023, Lead Plaintiff filed the Notice of Voluntary Partial Dismissal Without Prejudice, dismissing Counts I, III, and IV of the Amended Complaint.

P. Between April 2023 and August 2023, the Parties engaged in document and other written discovery, including the following: (1) Lead Plaintiff served on Defendants 21 interrogatories, 10 requests for admission, and 21 requests for the production of documents, and (2) Defendants served (a) on Plaintiffs ADAR1, GPC, Cladrius, and Spritzer 15 interrogatories, (b) on Lead Plaintiff SPE 21 interrogatories, (c) on Plaintiffs ADAR1, GPC, Cladrius, and Spritzer 25 requests

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for the production of documents, and (d) on Lead Plaintiff SPE 34 requests for the production of documents.

Q. On June 15, 2023, Plaintiffs' Co-Lead Counsel and Defendants' Counsel participated in a mediation session before Miles N. Ruthberg (the "**Mediator**"). In advance of that session, Lead Plaintiff and Defendants exchanged mediation statements and exhibits to the Mediator, which addressed the issues of both liability and damages. The session ended without any agreement being reached.

R. On June 22, 2023, Defendants made an initial production of documents consisting of approximately 1,000 pages.

S. Following the in-person mediation session, Plaintiffs' Co-Lead Counsel and Defendants' Counsel engaged in additional negotiations under the supervision and guidance of the Mediator. As a result of extensive, arm's-length negotiations at the mediation session, and following the mediation session, the Parties reached an agreement in principle to settle the Action that was memorialized in a Settlement Term Sheet executed on August 11, 2023 (the "Settlement Term Sheet"). The Settlement Term Sheet set forth, among other things, the Parties' agreement to settle and release all claims against Defendants in the Action in return for a cash payment of \$12,500,000.00 (United States Dollars), subject to certain terms and conditions and the execution of a customary "long form" stipulation and agreement of settlement and related papers.

R. On August 22, 2023, the Parties informed the Court of the agreement in principle to settle the Action and agreed to suspend all upcoming deadlines in the Action.

S. This Stipulation (together with the Exhibits hereto) has been duly executed by the undersigned signatories on behalf of their respective clients, reflects the final and binding agreement among the Parties, and supersedes the Settlement Term Sheet.

T. Plaintiffs, through Plaintiffs' Co-Lead Counsel, have conducted an investigation and pursued discovery relating to the claims and the underlying events alleged in the Action. Plaintiffs' Co-Lead Counsel have analyzed the evidence adduced during the investigation and fact discovery as described above and have also researched the applicable law with respect to the claims asserted in the Action and the potential defenses thereto. This investigation and the settlement negotiations between the Parties have provided Plaintiffs with a detailed basis upon which to assess the relative strengths and weaknesses of Plaintiffs' position and Defendants' positions in this litigation.

U. Based upon their investigation, prosecution, and mediation of the Action, Plaintiffs and Plaintiffs' Co-Lead Counsel have concluded that the terms and conditions of the Settlement and this Stipulation are fair, reasonable, and adequate to Plaintiffs and the other members of the Settlement Class and in their best interests.

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Based on Plaintiffs' direct oversight of the prosecution of this matter, along with the input of Plaintiffs' Co-Lead Counsel, Plaintiffs have agreed to settle the claims raised in the Action pursuant to the terms and provisions of this Stipulation, after considering: (i) the substantial benefits that Plaintiffs and the other members of the Settlement Class will receive from the resolution of the Action, which amount to effectively all of the SPAC's surplus cash following the redemption of Class A shares and the return of Defendants' capital contributions; (ii) the attendant risks of litigation; and (iii) the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation. The Settlement and this Stipulation shall in no event be construed as, or deemed to be, evidence of a concession by Plaintiffs of any infirmity in the claims asserted in this Action.

V. Defendants deny all allegations of wrongdoing, fault, liability, or damage to Plaintiffs or the Settlement Class, and further deny that Plaintiffs have asserted a valid claim as to any of them. Defendants further deny that they engaged in any wrongdoing or committed, or aided or abetted, any violation of law or breach of duty and believe that they acted properly, in good faith, and in a manner consistent with their legal duties and are entering into the Settlement and this Stipulation solely to avoid the substantial burden, expense, inconvenience, and distraction of continued litigation and to resolve each of Plaintiffs' claims against Defendants. The Settlement and this Stipulation shall in no event be construed as, or deemed to be, evidence of or an admission or concession on the part of any of the Defendants with respect to any claim or factual allegation or of any fault or liability or wrongdoing or damage whatsoever or any infirmity in the defenses that any of the Defendants have or could have asserted.

W. The Parties recognize that the Action has been filed and prosecuted by Plaintiffs in good faith and defended by Defendants in good faith and further that the Settlement Amount to be paid, and the other terms of the Settlement as set forth herein, were negotiated at arm's length, in good faith, and reflect an agreement that was reached voluntarily after consultation with experienced legal counsel.

NOW THEREFORE, IT IS STIPULATED AND AGREED, by and among Plaintiffs (individually and on behalf of the Settlement Class) and Defendants that, subject to the approval of the Court under Court of Chancery Rule 23, for good and valuable consideration set forth herein and conferred on Plaintiffs and the Settlement Class, the sufficiency of which is acknowledged, the claims asserted in the Action on behalf of the Settlement Class against Defendants shall be finally and fully settled, compromised, and dismissed with prejudice, and that the Released Plaintiffs' Claims shall be finally and fully compromised, resolved, discharged, settled, and dismissed with prejudice against the Released Defendants' Persons, and that the Released Defendants' Claims shall be finally and fully compromised, resolved, discharged, settled, and dismissed with prejudice against the Released Plaintiffs' Persons, in the manner set forth herein.

# I. **DEFINITIONS**

1. In addition to the terms defined elsewhere in this Stipulation, the following capitalized terms, used in this Stipulation and any Exhibits attached hereto and made a part hereof, shall have the meanings given to them below:

(a) "**Complaints**" means, collectively, the SPE Complaint, the Spritzer Complaint, the GPC Complaint, the ADAR1 Complaint, and the Amended Complaint.

(b) "**Defendants**" means, collectively, Sandy Beall, William Douglas Jacob, Kevin Reddy, Michael Lastoria, Ramin Arani, Alice Elliot, Sanjay Chadda, and Steve Kassin.

(c) "**Defendants' Counsel**" means White & Case LLP and Richards, Layton & Finger, P.A.

(d) "**DTC**" means the Depository Trust & Clearing Corporation, including its subsidiary the Depository Trust Company.

(e) "**Effective Date**" means the first date by which all of the events and conditions specified in Paragraph 29 of this Stipulation have been met and have occurred or have been waived. (f) "**Escrow Account**" means the account maintained by Bernstein Litowitz and into which the Settlement Amount shall be deposited.

(g) "**Excluded Stockholders**" means (i) Defendants; (ii) any person who is, or was at the close of business on August 25, 2022, an officer or director of FAST; (iii) the immediate family members of any of the foregoing excluded persons; (iv) any trusts, estates, entities, or accounts that held FAST Class A Public Shares for the benefit of any of the foregoing excluded persons; (v) any entity in which any of the foregoing excluded persons or entities has, or had at the close of business on August 25, 2022, a controlling interest; and (vi) the legal representatives, heirs, successors-in-interest, successors, transferees, and assigns of the foregoing excluded persons or entities.

# (h) **"FAST**" means FAST Acquisition Corp.

(i) "**Final**," when referring to the Judgment or any other court order, means (i) if no appeal is filed, the expiration date of the time provided for filing or noticing any motion for reconsideration, reargument, appeal, or other review of the order; or (ii) if there is an appeal from the Judgment or order, the later of (a) the date of final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari, reconsideration, or otherwise, or (b) the date the judgment or order is finally affirmed on an appeal, the expiration of the time to file a petition for a writ of certiorari, reconsideration, reargument, or other form of review, or the denial of a writ of certiorari, reconsideration, reargument, or other form of review, and, if certiorari, reconsideration, or other form of review is granted, the date of final affirmance following review pursuant to that grant; provided, however, that any disputes or appeals relating solely to (i) the amount, payment, or allocation of attorneys' fees and expenses or (ii) the plan of allocation of the Settlement proceeds (as submitted or subsequently modified) shall have no effect on finality for purposes of determining the date on which the Judgment becomes Final and shall not otherwise prevent, limit or otherwise affect the Judgment, or prevent, limit, delay or hinder entry of the Judgment.

(j) "**Judgment**" means the Order and Final Judgment, substantially in the form attached hereto as **Exhibit D**, to be entered by the Court approving the Settlement.

(k) "**Litigation Expenses**" means costs and expenses incurred by Plaintiffs' Counsel in connection with commencing, prosecuting, and settling the Action, for which Plaintiffs' Counsel intend to apply to the Court for payment from the Settlement Fund.

(1) "Net Settlement Fund" means the Settlement Fund less: (i) any
Taxes; (ii) any Notice and Administration Costs; (iii) any attorneys' fees and/or
Litigation Expenses awarded by the Court from the Settlement Fund, including

appropriate incentive awards to Plaintiffs, which shall be deducted solely from any award of attorneys' fees; and (iv) any other costs or fees approved by the Court.

(m) "**Notice**" means the Notice of Pendency and Proposed Settlement of Stockholder Class Action, Settlement Hearing, and Right to Appear, substantially in the form attached hereto as **Exhibit B**, which is to be mailed (or emailed) to potential Settlement Class Members.

(n) "Notice and Administration Costs" means the costs, fees, and expenses that are incurred by the Settlement Administrator and/or Plaintiffs' Counsel in connection with: (i) providing notice to the Settlement Class; and (ii) administering the Settlement, including but not limited to the costs, fees, and expenses incurred in connection with the Escrow Account.

(o) **"Plan of Allocation**" means the proposed plan of allocation of the Net Settlement Fund set forth in the Notice.

(p) "Plaintiffs" means Special Opportunities Fund, Inc., ADAR1Partners, L.P., Great Point Capital, LLC, Cladrius LTD., and George A. Spritzer.

(q) "**Plaintiffs' Co-Lead Counsel**" means Bernstein Litowitz and Morris Kandinov LLP.

(r) "**Plaintiffs' Counsel**" means Plaintiffs' Co-Lead Counsel, Chimicles Schwartz Kriner & Donaldson-Smith LLP, Fields Kupka & Shukurov LLP, AFN Law, PLLC, and all other legal counsel who, at the direction and under the supervision of Plaintiffs' Co-Lead Counsel, performed services on behalf of the Settlement Class in the Action.

(s) "**Released Claims**" means, collectively, the Released Plaintiffs' Claims and the Released Defendants' Claims.

(t) "**Released Defendants' Claims**" means any claims, demands, rights, actions, causes of action, liabilities, damages, losses, obligations, judgments, duties, suits, costs, expenses, matters, and issues, whether contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, including known claims and Unknown Claims, that arise out of or relate to the institution, prosecution, or settlement of the claims asserted in the Action; provided, however, that the Released Defendants' Claims shall not include any claims to enforce the Settlement.

(u) "**Released Defendants' Persons**" means Defendants, FAST, FAST Acquisition Corp. II, FAST Sponsor, LLC, or any of their family members, spouses, parent entities, controlling persons, associates, affiliates or subsidiaries and each and all of their respective past or present officers, directors, stockholders, principals, representatives, employees, fiduciaries, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, entities providing fairness opinions, advisors or agents, heirs, executors, trusts, trustees, general or limited partners or partnerships, limited liability companies, members, managers, joint ventures, personal or legal representatives, estates, administrators, beneficiaries, predecessors, successors, and assigns.

(v) "Released Plaintiffs' Claims" means any claims, demands, rights, actions, causes of action, liabilities, damages, losses, obligations, judgments, duties, suits, costs, expenses, matters, and issues, whether contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, including known claims and Unknown Claims, that have been asserted in the Complaints or could have been asserted in any other court, tribunal, or proceeding by or on behalf of Plaintiffs or any other member of the Settlement Class that arise out of or relate to (i) the acts, events, facts, matters, transactions, occurrences, statements, representations, misrepresentations, or omissions, or any other matter set forth in, any of the Complaints, including without limitation, any such claims concerning the Merger Agreement between Fertitta and FAST, and any amendments thereto, the Sponsor Agreement, the Merger Settlement Agreement, the decision of FAST to redeem the Class A Shares, the decision to liquidate FAST, or disclosures made in connection therewith (including the adequacy and completeness of such disclosures) and (ii) the ownership of FAST Class A Public Shares at the close of business on

August 25, 2022; provided, however, that the Released Plaintiffs' Claims shall not include any claims to enforce the Settlement.

(w) "**Released Plaintiffs' Persons**" means Plaintiffs, any other Settlement Class Member, Plaintiffs' Counsel, or any of their respective family members, spouses, parent entities, controlling persons, associates, affiliates or subsidiaries and each and all of their respective past or present officers, directors, stockholders, principals, representatives, employees, fiduciaries, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, entities providing fairness opinions, advisors or agents, heirs, executors, trusts, trustees, general or limited partners or partnerships, limited liability companies, members, managers, joint ventures, personal or legal representatives, estates, administrators, beneficiaries, predecessors, successors, and assigns.

(x) "Released Persons" means, collectively, the Released Plaintiffs"Persons and the Released Defendants' Persons.

(y) "Releases" means the releases set forth in Paragraphs 4-5 of thisStipulation.

(z) "Scheduling Order" means the Order, substantially in the form attached hereto as Exhibit A, directing notice of the Settlement and scheduling Settlement-related events.

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(aa) "**Settlement**" means the resolution of the Action as against Defendants on the terms and conditions set forth in this Stipulation.

(bb) "Settlement Administrator" means the settlement administrator selected by Plaintiffs to provide notice to the Settlement Class and administer the Settlement.

(cc) "**Settlement Amount**" means \$12,500,000.00 (United States Dollars) in cash.

(dd) "Settlement Class" means all holders of public shares of FAST Class A common stock ("FAST Class A Public Shares") at the close of business on August 25, 2022. Excluded from the Settlement Class are the Excluded Stockholders.

(ee) "**Settlement Class Member**" means a member of the Settlement Class.

(ff) "Settlement Fund" means the Settlement Amount plus any and all interest earned thereon.

(gg) "**Settlement Hearing**" means the hearing to be set by the Court under Delaware Court of Chancery Rule 23 to consider, among other things, final approval of the Settlement.

(hh) "**Sponsor Agreement**" means the August 20, 2020 letter agreement between Defendants and FAST in connection with FAST's IPO.

(ii) "Summary Notice" means the Summary Notice of Pendency and Proposed Settlement of Stockholder Class Action, Settlement Hearing, and Right to Appear, substantially in the form attached hereto as Exhibit C, to be published as set forth in the Scheduling Order.

(jj) "**Taxes**" means: (i) all federal, state, and/or local taxes of any kind on any income earned by the Settlement Fund; and (ii) the reasonable expenses and costs incurred by Lead Counsel in connection with determining the amount of, and paying, any taxes owed by the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants).

(kk) "**Unknown Claims**" means any Released Plaintiffs' Claims which Plaintiffs or any other Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, and any Released Defendants' Claims which any Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her, or its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Plaintiffs and Defendants shall expressly waive, and each of the other Settlement Class Members shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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.

Plaintiffs and Defendants acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

# II. CLASS CERTIFICATION

Solely for the purposes of the Settlement and for no other purpose, the Parties stipulate and agree to: (a) certification of the Settlement Class as a non-opt-out class pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2);
(b) appointment of Lead Plaintiff as Class Representative for the Settlement Class; and (c) appointment of Plaintiffs' Co-Lead Counsel as Class Counsel for the Settlement Class.

#### III. RELEASE OF CLAIMS

3. The obligations incurred pursuant to this Stipulation are in consideration of: (a) the full and final disposition of the Action; and (b) the Releases provided for under this Stipulation.

4. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, Plaintiffs and all other members of the Settlement Class, on behalf of themselves and their respective heirs, executors, administrators, predecessors, successors, representatives, trustees, estates, transferees, and assigns, in their capacities as such, and any other person or entity purporting to claim through or on behalf of them in such capacity, by operation of the Judgment and to the fullest extent permitted by law, shall completely, fully, finally, and forever release, relinquish, settle, and discharge the Released Plaintiffs' Claims as against the Released Defendants' Persons, and shall forever be barred and enjoined from commencing, instigating, or prosecuting the Released Plaintiffs' Claims against the Released Defendants' Persons.

5. Pursuant to the Judgment, without further action by anyone, upon the Effective Date of the Settlement, Defendants, on behalf of themselves and their respective heirs, executors, administrators, predecessors, successors, representatives, trustees, estates, transferees, and assigns, in their capacities as such, and any other person or entity purporting to claim through or on behalf of them in such capacity, by operation of the Judgment and to the fullest extent permitted by law, shall completely, fully, finally, and forever release, relinquish, settle, and discharge the Released Defendants' Claims as against the Released Plaintiffs' Persons, and shall forever be barred and enjoined from commencing, instigating, or

prosecuting the Released Defendants' Claims against the Released Plaintiffs' Persons.

6. Notwithstanding Paragraphs 4-5 above, nothing in the Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of this Stipulation or the Judgment.

#### IV. SETTLEMENT CONSIDERATION

7. Defendants shall cause the Settlement Amount to be paid into the Escrow Account no later than ten (10) business days after the date of execution of this Stipulation. If Defendants fail to cause the full payment of the Settlement Amount in a timely manner, Plaintiffs may seek an executable judgment compelling payment of the Settlement Amount or exercise their right under Paragraph 31 below to terminate the Settlement. Payment of the Settlement Amount shall be made by wire transfer into the Escrow Account; payment shall not be made by check.

## V. USE OF SETTLEMENT FUND

8. The Settlement Amount plus any and all interest earned thereon is referred to as the "Settlement Fund." The Settlement Fund shall be used to pay: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any attorneys' fees and/or Litigation Expenses awarded by the Court from the Settlement Fund; and (iv) any other costs and fees approved by the Court. The balance remaining in the Settlement Fund, that is, the Net Settlement Fund, shall be distributed to Settlement Class Members pursuant to the proposed Plan of Allocation set forth in the Notice or such other plan of allocation approved by the Court.

9. Except as provided herein or pursuant to orders of the Court, the Net Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the escrow agent ("Escrow Agent") shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Stipulation and/or further order of the Court. The Escrow Agent shall invest any funds in the Escrow Account exclusively in United States Treasury Bills (or a mutual fund invested solely in such instruments) and shall collect and reinvest all interest accrued thereon, except that any residual cash balances up to the amount that is insured by the FDIC may be deposited in any account that is fully insured by the FDIC. In the event that the yield on United States Treasury Bills is negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. Additionally, if short-term placement of the funds is necessary, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States.

10. The Parties agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and that Bernstein Litowitz, as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Settlement Fund. Bernstein Litowitz shall also be responsible for causing payment to be made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund. The Released Defendants' Persons shall not have any liability or responsibility for any such Taxes. Upon written request, Defendants will provide to Bernstein Litowitz the statement described in Treasury Regulation § 1.468B-3(e). Bernstein Litowitz, as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a "relation back election," as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

11. All Taxes shall be paid out of the Settlement Fund, and shall be timely paid, or caused to be paid, by Bernstein Litowitz and without further order of the

Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous paragraph and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein.

12. The Settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, Defendants, the other Released Defendants' Persons, Defendants' insurance carriers, and any other person or entity who or which paid any portion of the Settlement Amount shall not have any right to the return of the Settlement Fund or any portion thereof for any reason whatsoever, including the inability to locate Settlement Class Members or the failure of Settlement Class Members to deposit settlement funds distributed by the Administrator.

13. Notwithstanding the fact that the Effective Date of the Settlement has not yet occurred, Plaintiffs' Co-Lead Counsel may pay from the Settlement Fund, without further approval from Defendants or further order of the Court, all Notice and Administration Costs actually incurred and paid or payable. Such costs and expenses shall include, without limitation, the actual costs of printing and mailing the Notice, publishing the Summary Notice, reimbursements to nominee owners for forwarding the Notice to their beneficial owners, the administrative expenses incurred and fees charged by the Settlement Administrator in connection with providing notice and administering the Settlement and the costs, fees, and expenses incurred in connection with the Escrow Account, including the fees, if any, of the Escrow Agent. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all Notice and Administration Costs paid or incurred, including any related fees, shall not be returned or repaid to Defendants, any of the other Released Defendants' Persons, or any other person or entity who or which paid any portion of the Settlement Amount.

# VI. ATTORNEYS' FEES AND LITIGATION EXPENSES

14. In connection with the Settlement, Plaintiffs' Counsel will apply to the Court for a collective award of attorneys' fees and payment of Litigation Expenses (the "**Fee and Expense Award**") to be paid solely from (and out of) the Settlement Fund. In connection with Plaintiffs' Counsel's application for a Fee and Expense Award, each Plaintiff may petition the Court for an incentive award to be paid solely from any Fee and Expense Award to Plaintiffs' Counsel (the "**Incentive Awards**"). Plaintiffs' Counsel's application for a Fee and Expense Award, including any application for Incentive Awards, is not the subject of any agreement among the Parties other than what is set forth in this Stipulation.

15. The Fee and Expense Award shall be paid to Plaintiffs' Co-Lead Counsel, and any Incentive Awards approved by the Court shall be paid to Plaintiffs, from the Settlement Fund immediately upon award, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral

attack on the Settlement or any part thereof, subject to Plaintiffs' Counsel's and Plaintiffs' obligation to make appropriate refunds or repayments to the Settlement Fund, plus accrued interest at the same net rate as is earned by the Settlement Fund, if the Settlement is terminated pursuant to the terms of this Stipulation or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the Fee and Expense Award is reduced or reversed and such order reducing or reversing the award has become Final. Plaintiffs' Counsel and Plaintiffs shall make the appropriate refund or repayment in full no later than seven (7) business days after: (a) receiving from Defendants' Counsel notice of the termination of the Settlement; or (b) any order reducing or reversing the Fee and Expense Award has become Final. Any Fee and Expense Award is not a necessary term of this Stipulation and is not a condition of the Settlement embodied herein. Neither Plaintiffs nor Plaintiffs' Counsel may cancel or terminate the Settlement based on this Court's or any appellate court's ruling with respect to any Fee and Expense Award.

16. Plaintiffs' Co-Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which they, in their discretion, believe reflects the contributions of such counsel to the institution, prosecution, and settlement of the Action. The Released Defendants' Persons shall have no responsibility for or liability whatsoever with respect to the allocation or award of any Fee and Expense Award to Plaintiffs' Counsel.

# VII. SUBMISSION OF THE SETTLEMENT TO THE COURT FOR APPROVAL

As soon as practicable after execution of this Stipulation, Plaintiffs shall 17. apply to the Court for entry of the Scheduling Order, substantially in the form attached hereto as **Exhibit A**, providing for, among other things: (a) the dissemination by mail (or email) of the Notice; (b) the publication of the Summary Notice; and (c) the scheduling of the Settlement Hearing to consider: (1) final approval of the proposed Settlement, (2) the request that the Judgment, substantially in the form attached hereto as **Exhibit D**, be entered by the Court, (3) Plaintiffs' Counsel's application for the Fee and Expense Award, including any application for incentive awards to Plaintiffs, and approval of the proposed Plan of Allocation, and (4) any objections to any of the foregoing. The Parties shall take all reasonable and appropriate steps to seek and obtain entry of the Scheduling Order. The date and time of the Settlement Hearing set by the Court in the Scheduling Order may be changed by the Court without further written notice to the Settlement Class.

18. The Parties shall request at the Settlement Hearing that the Court approve the Settlement and enter the Judgment, substantially in the form attached hereto as **Exhibit D**. The Parties shall take all reasonable and appropriate steps to obtain entry of the Judgment.

# **VIII. SETTLEMENT ADMINISTRATION**

19. Plaintiffs shall retain a Settlement Administrator to provide notice of the Settlement and for the disbursement of the Net Settlement Fund to eligible Settlement Class Members. Defendants and the other Released Defendants' Persons shall not have any involvement in or any responsibility, authority, or liability whatsoever for the selection of the Settlement Administrator.

20. Defendants shall cooperate with Plaintiffs in providing notice of the Settlement and administering the Settlement, including, but not limited to, providing the information required under Paragraphs 21 and 22 below.

21. For purposes of providing notice of the Settlement to potential Settlement Class Members, Defendants, at no cost to the Settlement Fund, Plaintiffs' Counsel, or the Settlement Administrator, have provided to Bernstein Litowitz the stockholder register from FAST's transfer agent containing the names and mailing addresses for all registered holders ("**Registered Holders**") of FAST Class A Public Shares at the close of business on August 25, 2022.

22. For purposes of distributing the Net Settlement Fund to eligible Settlement Class Members and effectuating any plan of allocation, within five (5) business days after entry of the Judgment by the Court, Defendants, at no cost to the Settlement Fund, Plaintiffs' Counsel, or the Settlement Administrator, shall cause to be provided to the Settlement Administrator or Bernstein Litowitz in an electronically searchable form, such as Excel, the following information:

(a) the names, mailing addresses and, if available, email addresses of all Registered Holders of FAST Class A Public Shares at the close of business on August 25, 2022, and the number of FAST Class A Public Shares held by those persons and entities at the close of business on August 25, 2022;

(b) the allocation or "chill" report generated by DTC to facilitate the redemption of the FAST Class A Public Shares (the "**Allocation Report**"), which shall include, for each DTC participant, the number of FAST Class A Public Shares reflected on the Allocation Report used by DTC to redeem the FAST Class A Public Shares;

(c) for each of the Excluded Stockholders, (1) an indication of whether the Excluded Stockholder was, at the close of business on August 25, 2022, either (i) a Registered Holder of the FAST Class A Public Shares listed or (ii) a beneficial holder of FAST Class A Public Shares whose shares were held via a financial institution on behalf of the Excluded Stockholder ("**Beneficial Holder**"); (2) the number of FAST Class A Public Shares owned by the Excluded Stockholder at the close of business on August 25, 2022 ("**Excluded Shares**"); and (c) for each of the Excluded Stockholders that is a Beneficial Holder, the name and "DTC

Number" of the financial institution where their Excluded Shares were held and the Excluded Person's account number at such financial institution.

23. At the request of Plaintiffs' Co-Lead Counsel, Defendants will use reasonable efforts to provide to the Settlement Administrator or Bernstein Litowitz any additional information as may be required to distribute the Net Settlement Fund to eligible Settlement Class Members and not to Excluded Stockholders, including, without limitation, the correct address or other contact information used to communicate with the appropriate representatives of each DTC Participant listed on the Allocation Report. Defendants shall also use reasonable efforts to obtain suppression letters from Excluded Stockholders and/or Excluded Stockholders' brokers if requested to do so by the DTC.

24. Defendants and other Excluded Stockholders shall not have any right to receive any part of the Settlement Fund for his, her, or its own account(s) (*i.e.*, accounts in which he, she, or it holds a proprietary interest, but not including accounts managed on behalf of others), or any additional amount based on any claim relating to the fact that Settlement proceeds are being received by any other stockholder, in each case under any theory, including but not limited to contract, application of statutory or judicial law, or equity.

25. The Net Settlement Fund shall be distributed to eligible Settlement Class Members in accordance with the proposed Plan of Allocation set forth in the Notice or such other plan of allocation as may be approved by the Court. The Plan of Allocation proposed in the Notice is not a necessary term of the Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation that any particular plan of allocation be approved by the Court. Plaintiffs and Plaintiffs' Co-Lead Counsel may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation in this Action. Defendants and the other Released Defendants' Persons shall not object in any way to the Plan of Allocation or any other plan of allocation in this Action and shall not have any involvement with the application of the Court-approved plan of allocation.

26. The Net Settlement Fund shall be distributed to eligible Settlement Class Members only after the Effective Date of the Settlement and after: (i) all Notice and Administration Costs, all Taxes, and any Fee and Expense Award, including any Incentive Awards to Plaintiffs to be paid solely from any Fee and Expense Award, have been paid from the Settlement Fund or reserved; and (ii) the Court has entered an order authorizing the specific distribution of the Net Settlement Fund (the "**Class Distribution Order**"). At such time that Plaintiffs' Co-Lead Counsel, in their sole discretion, deem it appropriate to move forward with the distribution of the Net Settlement Fund to the Settlement Class, Plaintiffs' Co-Lead Counsel will apply to the Court, on notice to Defendants' Counsel, for the Class Distribution Order.

27. Payment pursuant to the Class Distribution Order shall be final and conclusive against all Settlement Class Members. Plaintiffs, Defendants, and the other Released Defendants' Persons and their respective counsel, shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund, the determination, administration, or calculation of any payment from the Net Settlement Fund, the nonperformance of the Settlement Administrator or a nominee holding FAST Class A Public Shares, the payment or withholding of Taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

28. All proceedings with respect to the administration of the Settlement and distribution pursuant to the Class Distribution Order shall be subject to the exclusive jurisdiction of the Court.

#### IX. CONDITIONS OF SETTLEMENT

29. The Effective Date of the Settlement shall be deemed to occur on the occurrence or waiver of all of the following events, which the Parties shall use their best efforts to achieve:

(a) the full amount of the Settlement Amount has been paid into the Escrow Account in accordance with Paragraph 7 above;

(b) the Court has entered the Scheduling Order, substantially in the form attached hereto as **Exhibit A**;

(c) Defendants have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation;

(d) Plaintiffs have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation;

(e) the Court has approved the Settlement as described herein, following notice to the Settlement Class and a hearing, and entered the Judgment, substantially in the form attached hereto as **Exhibit D**; and

(f) the Judgment has become Final.

30. Upon the occurrence of the Effective Date, any and all remaining interest or right of Defendants or their insurance carriers in or to the Settlement Fund, if any, shall be absolutely and forever extinguished and the Releases herein shall be effective.

## X. TERMINATION OF SETTLEMENT; EFFECT OF TERMINATION

31. Plaintiffs (provided Plaintiffs unanimously agree amongst themselves) and Defendants (provided Defendants unanimously agree amongst themselves) shall each have the right to terminate the Settlement and this Stipulation, by providing written notice of their election to do so ("**Termination Notice**") to the other Parties within thirty (30) calendar days of: (a) the Court's refusal to enter the Scheduling

Order in any material respect and such refusal decision has become Final; (b) the Court's refusal to approve the Settlement or any material part thereof and such refusal decision has become Final; (c) the Court's refusal to enter the Judgment in any material respect as to the Settlement and such refusal decision has become Final; or (d) the date upon which an order modifying or reversing the Judgment in any material respect becomes Final. In addition to the foregoing, Plaintiffs shall have the unilateral right to terminate the Settlement and this Stipulation, by providing written notice of their election to do so to Defendants within thirty (30) calendar days of any failure of Defendants to cause the full payment of the Settlement Amount into the Escrow Account in a timely manner in accordance with Paragraph 7 above. However, any decision or proceeding, whether in this Court or any appellate court, with respect to an application by Plaintiffs' Counsel for attorneys' fees and Litigation Expenses, or with respect to any plan of allocation, shall not be considered material to the Settlement, shall not affect the finality of the Judgment, and shall not be grounds for termination of the Settlement.

32. If (i) Plaintiffs exercise their right to terminate the Settlement as provided in this Stipulation; or (ii) Defendants exercise their right to terminate the Settlement as provided in this Stipulation, then:

(a) The Settlement and the relevant portions of this Stipulation shall be canceled and terminated;

(b) Plaintiffs and Defendants shall revert to their respective positions in the Action as of immediately prior to the execution of the Settlement Term Sheet on August 11, 2023;

(c) The terms and provisions of this Stipulation, with the exception of this Paragraph 32 and Paragraphs 13, 15, 33, and 57 of this Stipulation, shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*; and

(d) Within twenty (20) business days after joint written notification of termination is sent by Defendants' Counsel and Plaintiffs' Co-Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest thereon, and change in value as a result of the investment of the Settlement Fund, and any funds received by Plaintiffs' Counsel consistent with Paragraph 15 above), less any Notice and Administration Costs actually incurred, paid, or payable and less any Taxes paid, due, or owing shall be refunded by the Escrow Agent to Defendants and/or such other person or entity contributing to the payment of the Settlement Amount, with the refund allocated according to the respective contributions to the Settlement Amount (according to instructions to be provided by Defendants to Plaintiffs' Co-Lead Counsel). In the event that the funds received by Plaintiffs' Counsel consistent with Paragraph 15 above have not been refunded to the Settlement Fund within the twenty (20) business days specified in this Paragraph, those funds shall be refunded by the Escrow Agent to Defendants and/or such other person or entity contributing to the payment of the Settlement Amount, with the refund allocated according to the respective contributions to the Settlement Amount (according to instructions to be provided by Defendants to Plaintiffs' Co-Lead Counsel) immediately upon their deposit into the Escrow Account consistent with Paragraph 15 above.

#### XI. NO ADMISSION OF WRONGDOING

33. Neither the Term Sheet, this Stipulation (whether or not consummated), including the Exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Term Sheet or this Stipulation, nor any proceedings taken pursuant to or in connection with the Term Sheet or this Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Released Defendants' Persons as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Released Defendants' Persons with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Released Defendants' Persons or in any way referred to for any other reason as against any of the Released Defendants' Persons, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(b) shall be offered against any of the Released Plaintiffs' Persons, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Released Plaintiffs' Persons that any of their claims are without merit, that any of the Released Defendants' Persons had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault, or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Released Plaintiffs' Persons, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; or

(c) shall be construed against any of the Released Persons as an admission, concession, or presumption that the consideration to be given hereunder represents the consideration which could be or would have been achieved after trial; *provided, however*, that if this Stipulation is approved by the Court, the Parties and the Released Persons and their respective counsel may refer to it to effectuate the

protections from liability granted under this Stipulation or otherwise to enforce the terms of the Settlement.

#### **XII. MISCELLANEOUS PROVISIONS**

34. All of the Exhibits attached hereto are incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, if there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any Exhibit attached hereto, the terms of the Stipulation shall prevail.

35. Each of the Defendants warrants that, as to the payments made or to be made on behalf of him, her, or it, at the time of entering into this Stipulation and at the time of such payment he, she, or it, or to the best of his, her, or its knowledge, any persons or entities contributing to the payment of the Settlement Amount were not insolvent, nor will the payment required to be made by or on behalf of them render them insolvent, within the meaning of and/or for the purposes of the United States Bankruptcy Code, including §§ 101 and 547 thereof. This representation is made by each of the Defendants and not by their counsel.

36. Each of the Plaintiffs represents and warrants that none of the Plaintiffs' Released Claims have been assigned, encumbered, or in any manner transferred, in whole or in part.

37. In the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion

thereof by or on behalf of Defendants to be a preference, voidable transfer, fraudulent transfer, or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited into the Settlement Fund by others, then, at the election of Plaintiffs, Plaintiffs and Defendants shall jointly move the Court to vacate and set aside the Releases given and the Judgment entered in favor of Defendants and the other Released Persons pursuant to this Stipulation, in which event the Releases and Judgment shall be null and void, and Plaintiffs and Defendants shall be restored to their respective positions in the litigation as provided in Paragraph 32 above and any cash amounts in the Settlement Fund (less any Taxes paid, due, or owing with respect to the Settlement Fund) shall be returned as provided in Paragraph 32 above.

38. The Parties intend this Stipulation and the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Plaintiffs and any other Settlement Class Members against Defendants with respect to the Released Plaintiffs' Claims. Accordingly, Plaintiffs and their counsel and Defendants and their counsel agree not to assert in any forum that this Action was brought by Plaintiffs or defended by Defendants in bad faith or without a reasonable basis. The Parties agree that the amounts paid and the other terms of the Settlement were negotiated at arm's length and in good faith by the Parties, and reflect the Settlement that was reached voluntarily after extensive negotiations and consultation

with experienced legal counsel, who were fully competent to assess the strengths and weaknesses of their respective clients' claims or defenses.

39. The terms of the Settlement, as reflected in this Stipulation, may not be modified or amended, nor may any of its provisions be waived except by a writing signed on behalf of each of the Parties (or their successors-in-interest).

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

41. If any deadline set forth in this Stipulation or the Exhibits thereto falls on a Saturday, Sunday, or a Court holiday, that deadline will be continued to the next business day.

42. Without further Order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation.

43. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel, and enforcing the terms of this Stipulation, including the Plan of Allocation (or such other plan of allocation as may be approved by the Court) and the distribution of the Net Settlement Fund to eligible Settlement Class Members.

44. The waiver by one Party of any breach of this Stipulation by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

45. The Parties agree that in the event of any breach of this Stipulation, all of the Parties' rights and remedies at law, equity, or otherwise are expressly reserved.

46. This Stipulation and its Exhibits constitute the entire agreement among the Parties concerning the Settlement and this Stipulation and its Exhibits. Each Party acknowledges that no other agreements, representations, warranties, or inducements have been made by any Party concerning this Stipulation or its Exhibits other than those contained and memorialized in such documents.

47. This Stipulation may be executed in one or more counterparts, including by signature transmitted via facsimile, or by a .pdf/.tif image of the signature transmitted via email. All executed counterparts and each of them shall be deemed to be one and the same instrument.

48. This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the Parties, and the Released Persons, and any corporation, partnership, or other entity into or with which any Party may merge, consolidate, or reorganize. The Parties acknowledge and agree, for the avoidance of doubt, that the Released Defendants' Persons and the Released Plaintiffs' Persons are intended

beneficiaries of this Stipulation and are entitled to enforce the Releases contemplated by the Settlement.

49. The Released Parties may file this Stipulation and/or the Order and Final Judgment in any action that has been or may be brought against them in order to support any claim or defense that they may raise, including without limitation any claim or defense based on principles of res judicata, release, good faith settlement, judgment bar or judgment reduction, claim preclusion, issue preclusion, or otherwise or in connection with any insurance litigation.

50. The construction, interpretation, operation, effect, and validity of this Stipulation and all documents necessary to effectuate it shall be governed by the internal laws of the State of Delaware without regard to conflicts of laws, except to the extent that federal law requires that federal law govern.

51. Any action arising under or to enforce this Stipulation or any portion thereof shall be commenced and maintained only in the Court.

52. This Stipulation shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that it is the result of arm's-length negotiations between the Parties and that all Parties have contributed substantially and materially to the preparation of this Stipulation. 53. All counsel and all other persons executing this Stipulation and any of the Exhibits hereto, or any related Settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

54. Plaintiffs' Co-Lead Counsel and Defendants' Counsel agree to cooperate fully with one another to obtain (and, if necessary, defend on appeal) all necessary approvals of the Court required of this Stipulation (including, but not limited to, using their best efforts to resolve any objections raised to the Settlement), and to use best efforts to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

55. If any Party is required to give notice to another Party under this Stipulation, such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery or email transmission, with confirmation of receipt. Notice shall be provided as follows:

If to Plaintiffs or Plaintiffs' Co-Lead Counsel:

Bernstein Litowitz Berger & Grossmann LLP Attn: Jeroen van Kwawegen, Esq. 1251 Avenue of the Americas New York, New York 10020 (212) 554-1400 jeroen@blbglaw.com

Morris Kandinov LLP Attn: Aaron T. Morris, Esq. 305 Broadway, 7th Floor New York, New York 10007 (212) 431-7473 aaron@moka.law

If to Defendants: White & Case LLP Attn: Glenn M. Kurtz 1221 Avenue of the Americas New York, New York 10020 (212) 819-8200

> Richards, Layton & Finger, P.A. Attn: Kevin Gallagher One Rodney Square 920 North King St. Wilmington, Delaware 19801 (302) 651-7692

56. Except as otherwise provided herein, each Party shall bear its own costs.

57. Whether or not the Stipulation is approved by the Court and whether or not the Stipulation is consummated, or the Effective Date occurs, the Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents signed, and proceedings in connection with the Stipulation confidential.

58. All agreements made and orders entered during the course of this Action relating to the confidentiality of information shall survive this Settlement.

59. The Parties shall mutually agree on any content relating to the Action that will be used by the Parties or their counsel and/or the Settlement Administrator in any settlement-related press release. Further, while maintaining their positions that the claims and defenses asserted in the Action are, respectively, meritorious or without merit, as the case may be, Plaintiffs and Plaintiffs' Counsel, on the one hand, and Defendants and Defendants' Counsel, on the other, shall not make any public statements or statements to the media (whether or not for attribution) that disparage the other's business, conduct, or reputation, or that of their counsel, connected to the Action, including, without limitation, any statements asserting that the Action was commenced or prosecuted in bad faith or any statements accusing any Party of wrongful conduct concerning the prosecution, defense, and resolution of the Action. Notwithstanding the foregoing, each of the Parties reserves their right to rebut, in a manner that such party determines to be reasonable and appropriate, any contention made in any public forum that the Action was brought or defended in bad faith or without a reasonable basis.

60. No opinion or advice concerning the tax consequences of the proposed Settlement to individual Settlement Class Members is being given or will be given by the Parties or their counsel; nor is any representation or warranty in this regard made by virtue of this Stipulation. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.

**IN WITNESS WHEREOF,** the Parties have caused this Stipulation to be executed, by their duly authorized attorneys, as of October 4, 2023.

[Signatures Beginning on Next Page]

## BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

#### OF COUNSEL:

### Jeroen van Kwawegen BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

1251 Avenue of the Americas New York, New York 10020 (212) 554-1400

Aaron T. Morris Andrew W. Robertson **MORRIS KANDINOV LLP** 305 Broadway, 7th Floor New York, New York 10007 (212) 431-7473

Co-Lead Counsel for Plaintiffs and the Settlement Class

Angus F. Ni AFN LAW, PLLC 506 2nd Ave., Suite 1400 Seattle, Washington 98104 (646) 453-7294

Times Wang NORTH RIVER LAW PLLC 1300 I Street NW, Suite 400E Washington, DC 20005 (202) 838-6489

Additional Counsel for Plaintiffs

#### /s/ Gregory V. Varallo

Gregory V. Varallo (Bar No. 2242) Mae Oberste (Bar No. 6690) Daniel E. Meyer (Bar No. 6876) 500 Delaware Avenue, Suite 901 Wilmington, Delaware 19801 (302) 364-3600

Co-Lead Counsel for Plaintiffs and the Settlement Class

#### OF COUNSEL:

William J. Fields Christopher J. Kupka Samir Shukurov FIELDS KUPKA & SHUKUROV LLP 1441 Broadway, 6th Floor #6161

New York, New York 10018 (212) 231-1500

#### ASHBY & GEDDES, P.A.

F. Troupe Mickler IV (Bar No. 5361) Tiffany Geyer Lydon (Bar No. 3950) 500 Delaware Avenue, 8th Floor P.O. Box 1150 Wilmington, Delaware 19899 (302) 654-1888

Additional Counsel for Plaintiffs

## CHIMICLES SCHWARTZ KRINER & DONALDSON-SMITH LLP

Robert J. Kriner, Jr. (Bar No. 2546) Scott M. Tucker (Bar No. 4925) 2711 Centerville Rd., Suite 201 Wilmington, Delaware 19808 (302) 656-2500

OF COUNSEL:

# CHIMICLES SCHWARTZ KRINER& DONALDSON-SMITH LLP(302) 656-2500

Nicholas E. Chimicles Kimberly M. Donaldson Smith 361 West Lancaster Avenue One Haverford Centre Haverford, Pennsylvania 19041 (610) 642-8500

Additional Counsel for Plaintiffs

#### OF COUNSEL:

Glenn M. Kurtz Andrew W. Hammond **WHITE & CASE LLP** 1221 Avenue of the Americas

New York, New York 10020 (212) 819-8200

# RICHARDS, LAYTON & FINGER, P.A.

#### /s/ Kevin M. Gallagher

Kevin M. Gallagher (Bar No. 5337) One Rodney Square 920 North King Street Wilmington, Delaware 19801 (302) 651-7700

Attorneys for Defendants FAST Acquisition Corp., FAST Sponsor, LLC, Sandy Beall, Doug Jacob, Kevin Reddy, Ramin Arani, Alice Elliot, Sanjay Chadda, and Steve Kassin

## **CERTIFICATE OF SERVICE**

I, Gregory V. Varallo, hereby certify that, on October 4, 2023, a copy of the

foregoing Stipulation and Agreement of Settlement, Compromise, and Release was

filed and served electronically via File & ServeXpress upon the following counsel

of record:

Kevin M. Gallagher, Esq. Spencer V. Crawford, Esq. RICHARDS, LAYTON & FINGER, P.A. One Rodney Square 920 North King Street Wilmington, DE 19801

Robert J. Kriner, Jr., Esq. CHIMICLES SCHWARTZ KRINER & DONALDSON-SMITH LLP 2711 Centerville Rd., Suite 201 Wilmington, DE 19808

F. Troupe Mickler IV, Esq. Tiffany Geyer Lydon, Esq. ASHBY & GEDDES, P.A. 500 Delaware Avenue, 8th Floor Wilmington, DE 19899

John G. Harris, Esq. Harry W. Shenton IV, Esq. BERGER HARRIS LLP 1105 N. Market Street, 11th Floor Wilmington, DE 19801

> <u>/s/ Gregory V. Varallo</u> Gregory V. Varallo (Bar No. 2242)

#### IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

## IN RE FAST ACQUISITION CORP. STOCKHOLDERS LITIGATION

CONSOLIDATED C.A. No. 2022-0702-PAF

#### [PROPOSED] SCHEDULING ORDER

WHEREAS, a consolidated stockholder class action lawsuit is pending in this Court captioned *In re Fast Acquisition Corp. Stockholders Litigation*, C.A. No. 2022-0702-PAF (the "Action");

WHEREAS, (i) Plaintiffs Special Opportunities Fund, Inc. ("Lead Plaintiff"), ADAR1 Partners, L.P., Great Point Capital, LLC, Cladrius LTD, and George A. Spritzer (collectively, "Plaintiffs"), on behalf of themselves and the other members of the Settlement Class (as defined in Paragraph 3 below); and (ii) Defendants Sandy Beall, William Douglas Jacob, Kevin Reddy, Michael Lastoria, Ramin Arani, Alice Elliot, Sanjay Chadda, and Steve Kassin (collectively, "Defendants") (Plaintiffs and Defendants together, the "Parties") have determined to settle all claims asserted against Defendants in the Action on the terms and conditions set forth in the Stipulation and Agreement of Settlement, Compromise, and Release dated October 2, 2023 (the "Stipulation"), subject to the approval of this Court (the "Settlement");

WHEREAS, in accordance with the Stipulation, Plaintiffs and Defendants have made an application, pursuant to Court of Chancery Rule 23, for entry of a scheduling order in accordance with the Stipulation, approving the form and content of the notice of the Settlement to the Settlement Class, and scheduling the date and time for the Settlement Hearing; and

WHEREAS, the Court having considered the Stipulation and the exhibits attached thereto; the Stipulation being sufficient to warrant notice to the Settlement Class; and all Parties having consented to the entry of this Order.

NOW THEREFORE, IT IS HEREBY ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2023, as follows:

1. **Definitions:** Unless otherwise defined herein, capitalized terms used herein shall have the same meanings given to them in the Stipulation.

2. <u>Jurisdiction</u>: The Court has jurisdiction over the subject matter of the Action and all matters relating to the Settlement, as well as personal jurisdiction over the Parties and each of the Settlement Class Members.

3. <u>Class Certification</u>: The Action is preliminarily certified as a non-optout class action, for settlement purposes only, pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2), consisting of all holders of public shares of FAST Acquisition Corp. ("FAST" or the "Company") Class A common stock ("FAST Class A Public Shares") at the close of business on August 25, 2022 (the "Settlement

Class"). Excluded from the Settlement Class are (i) Defendants; (ii) any person who is, or was at the close of business on August 25, 2022, an officer or director of FAST; (iii) the immediate family members of any of the foregoing excluded persons; (iv) any trusts, estates, entities, or accounts that held FAST Class A Public Shares for the benefit of any of the foregoing excluded persons; (v) any entity in which any of the foregoing excluded persons or entities has, or had at the close of business on August 25, 2022, a controlling interest; and (vi) the legal representatives, heirs, successors-in-interest, successors, transferees, and assigns of the foregoing excluded persons or entities (the "Excluded Stockholders"). Lead Plaintiff Special Opportunities Fund, Inc. is preliminarily certified as the Class Representative for the Settlement Class. The law firms of Bernstein Litowitz Berger & Grossmann LLP and Morris Kandinov LLP (together, "Plaintiffs' Co-Lead Counsel") are preliminarily certified as Class Counsel for the Settlement Class.

4. Based on the record of the Action, for purposes of the Settlement only, the Court preliminarily finds that: (i) the Settlement Class is so numerous that joinder of all members is impracticable, satisfying Court of Chancery Rule 23(a)(1); (ii) there are questions of law and fact common to the Settlement Class, satisfying Court of Chancery Rule 23(a)(2); (iii) the claims of Lead Plaintiff are typical of the claims of absent Settlement Class Members in that they all arise from the same allegedly wrongful course of conduct and are based on the same legal theories, satisfying Court of Chancery Rule 23(a)(3); (iv) Lead Plaintiff and Plaintiffs' Co-Lead Counsel are fair and adequate representatives of the Settlement Class, satisfying Court of Chancery Rule 23(a)(4); (v) the prosecution of separate actions by individual Settlement Class Members would create a risk of inconsistent adjudications that would establish incompatible standards of conduct for Defendants, and, as a practical matter, the disposition of the Action as against Defendants would influence the disposition of any pending or future identical suits, actions, or proceedings brought by other Settlement Class Members, satisfying Court of Chancery Rule 23(b)(1); and (vi) Defendants are alleged to have acted or refused to act on grounds generally applicable to the Settlement Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Settlement Class as a whole, satisfying Court of Chancery Rule 23(b)(2).

5. <u>Settlement Hearing</u>: The Court will hold a hearing (the "Settlement Hearing") on December 20, 2023, at 9:15 a.m., at the Court of Chancery of the State of Delaware, New Castle County, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801, to, among other things: (i) determine whether to finally certify the Settlement Class for settlement purposes only, pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2); (ii) determine whether Lead Plaintiff and Plaintiffs' Co-Lead Counsel have adequately represented the Settlement Class, and whether Lead Plaintiff should be finally appointed as Class

Representative for the Settlement Class and Plaintiffs' Co-Lead Counsel should be finally appointed as Class Counsel for the Settlement Class; (iii) determine whether the proposed Settlement should be approved as fair, reasonable, and adequate to Plaintiffs and the other members of the Settlement Class and in their best interests; (iv) determine whether the proposed Order and Final Judgment approving the Settlement, dismissing the Action with prejudice, and granting the Releases provided under the Stipulation should be entered; (v) determine whether the proposed Plan of Allocation of the Net Settlement Fund is fair and reasonable, and should therefore be approved; (vi) determine whether and in what amount any award of attorneys' fees and payment of Litigation Expenses to Plaintiffs' Counsel ("Fee and Expense Award") should be paid out of the Settlement Fund, including any incentive awards to Plaintiffs ("Incentive Awards") to be paid solely from any Fee and Expense Award; (vii) hear and rule on any objections to the Settlement, the proposed Plan of Allocation, and/or Plaintiffs' Counsel's application for a Fee and Expense Award, including any Incentive Awards to Plaintiffs (the "Fee and Expense Application"); and (viii) consider any other matters that may properly be brought before the Court in connection with the Settlement.

6. The Court reserves the right to adjourn and reconvene the Settlement Hearing, including consideration of the proposed Plan of Allocation and Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for

Incentive Awards, without further notice to the Settlement Class other than by announcement at the Settlement Hearing or any adjournment thereof.

7. The Court reserves the right to approve the Settlement at or after the Settlement Hearing with such modifications as may be consented to by the Parties and without further notice to the Settlement Class.

8. The Court may decide to hold the Settlement Hearing by telephone, by video conference, or in person without further notice to the Settlement Class. Any Settlement Class Member (or his, her, or its counsel) who wishes to appear at the Settlement Hearing should consult the Court's docket and/or the Settlement website for any change in date, time, or format of the hearing.

#### 9. Retention of Settlement Administrator and Manner of Giving

**Notice:** Plaintiffs' Co-Lead Counsel are hereby authorized to retain JND Legal Administration as the settlement administrator (the "Settlement Administrator") to provide notice to potential Settlement Class Members and administer the Settlement, including the allocation and distribution of the Net Settlement Fund to eligible Settlement Class Members. Notice of the Settlement and the Settlement Hearing shall be given as follows:

(a) Not later than sixty (60) calendar days prior to the date of the Settlement Hearing (such date that is sixty (60) calendar days prior to the date of the Settlement Hearing, the "Notice Date"), the Settlement Administrator shall cause a

copy of the Notice, substantially in the form attached to the Stipulation as Exhibit B, to be mailed to potential Class Members identified in Registered Holder list provided by the Company, or who otherwise may be identified through further reasonable effort;

(b) Not later than the Notice Date, the Settlement Administrator shall post a copy of the Notice on the website established for the Settlement;

(c) Not later than ten (10) business days after the Notice Date, the Settlement Administrator shall cause the Summary Notice, substantially in the form attached to the Stipulation as Exhibit C, to be published once in *Investor's Business Daily* and to be transmitted once over the *PR Newswire*; and

(d) Not later than seven (7) calendar days prior to the Settlement Hearing, Plaintiffs' Co-Lead Counsel shall serve on Defendants' Counsel and file with the Court proof, by affidavit or declaration, of such mailing and publication.

10. <u>Approval of Form and Content of Notice</u>: The Court: (a) approves, as to form and content, the Notice, attached to the Stipulation as Exhibit B, and the Summary Notice, attached to the Stipulation as Exhibit C, and (b) finds that the mailing of the Notice and publication of the Summary Notice in the manner and form set forth in Paragraph 9 of this Order: (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action,

the effect of the proposed Settlement (including the Releases to be provided thereunder), the proposed Plan of Allocation, Plaintiffs' Counsel's Fee and Expense Application, and Settlement Class Members' rights to object to any aspect of the Settlement, the Plan of Allocation, and/or Plaintiffs' Counsel's Fee and Expense Application, and to appear at the Settlement Hearing; (iii) constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Court of Chancery Rule 23, the United States Constitution (including the Due Process Clause), and all other applicable law and rules.

11. <u>Nominees Procedures</u>: Brokers and other nominees that held FAST Class A Public Shares at the close of business on August 25, 2022, as record holders for the benefit of another person or entity shall be requested to either: (i) within seven (7) calendar days of receipt of the Notice, request from the Settlement Administrator sufficient copies of the Notice to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Notices forward them to all such beneficial owners; or (ii) within seven (7) calendar days of receipt of the Notice, provide a list of the names, addresses, and, if available, email addresses of all such beneficial owners to the Settlement Administrator, in which event the Settlement Administrator shall promptly mail the Notice to such beneficial owners. Upon full compliance with this Order, such nominees may seek reimbursement of their reasonable expenses actually incurred in complying with this Order by providing the Settlement Administrator with proper documentation supporting the expenses for which reimbursement is sought.

12. **Appearance at Settlement Hearing and Objections:** Unless the Court orders otherwise, any Settlement Class Member may enter an appearance in the Action, at his, her, or its own expense, individually or through counsel of his, her, or its own choice, by filing with the Register in Chancery and delivering a notice of appearance to Plaintiffs' Co-Lead Counsel and Defendants' Counsel, at the addresses set forth in Paragraph 13 below, such that it is received no later than fifteen (15) calendar days prior to the Settlement Hearing, or as the Court may otherwise direct. Any Settlement Class Member who does not enter an appearance will be represented by Plaintiffs' Co-Lead Counsel, and shall be deemed to have waived and forfeited any and all rights he, she, or it may otherwise have to appear separately at the Settlement Hearing.

13. Any Settlement Class Member may file a written objection to the proposed Settlement, Plan of Allocation, and/or Plaintiffs' Counsel's Fee and Expense Application ("Objector"), if he, she, or it has any cause why the proposed Settlement, Plan of Allocation, and/or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards, should not be approved; provided, however, that, unless otherwise directed by the Court for good

cause shown, no Objector shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, Plan of Allocation, and/or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards, unless that person or entity files a written objection with the Register in Chancery, Court of Chancery of the State of Delaware, New Castle County, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801 (electronically by File & Serve*Xpress*, by hand, by first-class U.S. mail, or by express service) and serves copies of the objection upon each of the following counsel at the following addresses such that they are received no later than fifteen (15) calendar days prior to the Settlement Hearing, with copies also emailed jeroen@blbglaw.com, aaron@moka.law, gkurtz@whitecase.com, to and gallagher@rlf.com:

*Plaintiffs' Co-Lead Counsel:* Jeroen van Kwawegen, Bernstein Litowitz Berger & Grossmann LLP, 1251 Avenue of the Americas, 44th Floor, New York, New York 10020; and Aaron T. Morris, Morris Kandinov LLP, 305 Broadway, 7th Floor, New York, New York 10007;

*Defendants' Counsel:* Glenn M. Kurtz, White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020; and Kevin M. Gallagher, Richards, Layton & Finger, P.A., One Rodney Square, 920 North King St., Wilmington, Delaware 19801.

14. Any objections must: (i) identify the case name and civil action number, "In re Fast Acquisition Corp. Stockholders Litigation, C.A. No. 2022-0702-PAF"; (ii) state the name, address, and telephone number of the Objector and, if represented by counsel, the name, address, and telephone number of the Objector's counsel; (iii) be signed by the Objector; (iv) contain a specific, written statement of the objection(s) and the specific reason(s) for the objection(s), including any legal and evidentiary support the Objector wishes to bring to the Court's attention, and if the Objector has indicated that he, she, or it intends to appear at the Settlement Hearing, the identity of any witnesses the Objector may call to testify, and any exhibits the Objector intends to introduce into evidence at the hearing; and (v) include documentary evidence sufficient to prove that the Objector is a member of the Settlement Class. Plaintiffs' Co-Lead Counsel is authorized to request from any Objector additional information or documentation sufficient to prove that the Objector is a member of the Settlement Class.

15. Unless the Court orders otherwise, any Settlement Class Member who or which does not make his, her, or its objection in the manner provided herein shall: (i) be deemed to have waived and forfeited his, her, or its right to object to any aspect of the proposed Settlement, Plan of Allocation, or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards; (ii) be forever barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of the Settlement, the Judgment to be entered approving the Settlement, the Plan of Allocation, and Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards; and (iii) be deemed to have waived and to be forever barred and foreclosed from being heard, in this or any other proceeding, with respect to any matters concerning the Settlement, the Plan of Allocation, or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards.

16. <u>Stay and Temporary Injunction</u>: Until otherwise ordered by the Court, the Court stays all proceedings in the Action other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending final determination of whether the Settlement should be approved, the Court bars and enjoins Plaintiffs and each of the other Settlement Class Members from commencing, instigating, or prosecuting the Released Plaintiffs' Claims against the Released Defendants' Persons.

17. <u>Settlement Fund</u>: The contents of the Settlement Fund that will be held in the Escrow Account shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the exclusive jurisdiction of the Court, until such time as they shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

18. <u>Notice and Administration Costs</u>: All Notice and Administration Costs shall be paid in accordance with the terms of the Stipulation without further order of the Court.

19. <u>**Taxes</u>**: Plaintiffs' Co-Lead Counsel are authorized and directed to prepare any tax returns and any other tax reporting form for or in respect to the Settlement Fund, to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund, and to otherwise perform all obligations with respect to Taxes and any reporting or filings in respect thereof without further order of the Court in a manner consistent with the provisions of the Stipulation.</u>

20. <u>Termination of Settlement</u>: If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Order shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Stipulation; this Order shall be without prejudice to the rights of the Parties or the Settlement Class; and Plaintiffs and Defendants shall revert to their respective positions in the Action as of immediately prior to the execution of the Settlement Term Sheet on August 11, 2023, as provided under the Stipulation.

21. <u>Supporting Papers</u>: Plaintiffs' Counsel shall file and serve the opening papers in support of the proposed Settlement, Plan of Allocation, and Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application

for Incentive Awards, no later than thirty (30) calendar days prior to the Settlement Hearing. Any objections to the Settlement, the Plan of Allocation, and/or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards, shall be filed and served no later than fifteen (15) calendar days prior to the Settlement Hearing. If reply papers are necessary, they are to be filed and served no later than seven (7) calendar days prior to the Settlement Hearing.

22. <u>Retention of Jurisdiction</u>: The Court retains exclusive jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

23. <u>Extension of Deadlines</u>: The Court may, for good cause shown, extend any of the deadlines set forth in this Order without further notice to the Settlement Class.

Vice Chancellor Paul A. Fioravanti, Jr.

# IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE FAST ACQUISITION CORP. STOCKHOLDERS LITIGATION CONSOLIDATED C.A. No. 2022-0702-PAF

# NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF STOCKHOLDER CLASS ACTION, SETTLEMENT <u>HEARING, AND RIGHT TO APPEAR</u>

The Court of Chancery of the State of Delaware authorized this Notice. <u>This is not a solicitation from a lawyer.</u>

**NOTICE OF PENDENCY OF CLASS ACTION:**<sup>1</sup> Please be advised that your rights will be affected by the above-captioned consolidated stockholder class action (the "Action") pending in the Court of Chancery of the State of Delaware (the "Court") if you held public shares of FAST Acquisition Corp. ("FAST" or the "Company") Class A common stock ("FAST Class A Public Shares") at the close of business on August 25, 2022.

**NOTICE OF SETTLEMENT:** Please also be advised that (i) Plaintiffs Special Opportunities Fund, Inc. ("Lead Plaintiff" or "SPE"), ADAR1 Partners, L.P., Great Point Capital, LLC, Cladrius LTD, and George A. Spritzer (collectively, "Plaintiffs"), on behalf of themselves and the other members of the Settlement Class (as defined in paragraph 27 below); and (ii) Defendants Sandy Beall, William Douglas Jacob, Kevin Reddy, Michael Lastoria, Ramin Arani, Alice Elliot, Sanjay Chadda, and Steve Kassin (collectively, "Defendants") (Plaintiffs and Defendants together, the "Parties") have reached a proposed settlement of the Action (the "Settlement") for \$12,500,000.00 (United States Dollars) in cash (the "Settlement Amount"). The proposed Settlement, if approved by the Court, will resolve all claims in the Action.

<sup>&</sup>lt;sup>1</sup> Any capitalized terms not otherwise defined in this Notice shall have the meanings given to them in the Stipulation and Agreement of Settlement, Compromise, and Release entered into by the Parties on October 2, 2023 (the "Stipulation"). A copy of the Stipulation is available at www.FASTAcquisitionStockholdersLitigation.com.

Questions? Call 888-256-6155, email info@FASTAcquisitionStockholdersLitigation.com, or visit www.FASTAcquisitionStockholdersLitigation.com.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. This Notice explains how members of the Settlement Class (as defined in paragraph 27 below) ("Class Members," and each a "Class Member") will be affected by the Settlement. The following table provides a brief summary of the rights you have as a Class Member and the relevant deadlines, which are described in more detail later in this Notice.

| CLASS MEMBERS' LEG  | AL RIGHTS IN THE SETTLEMENT:  |
|---|---|
| RECEIVE A PAYMENT<br>FROM THE SETTLEMENT.<br>CLASS MEMBERS <u>DO NOT</u><br>NEED TO SUBMIT A CLAIM<br>FORM.   | If you are a member of the Settlement Class,<br>you <u>may</u> be eligible to receive a <i>pro rata</i><br>distribution from the Settlement proceeds.<br>Eligible Class Members <u>do not</u> need to submit<br>a claim form in order to receive a distribution<br>from the Settlement, if approved by the Court.<br>If you are eligible for a distribution from the<br>Settlement, it will be paid to you directly. <i>See</i><br>paragraphs 32-41 below for further discussion.                   |
| OBJECT TO THE<br>SETTLEMENT BY<br>SUBMITTING A WRITTEN<br>OBJECTION SO THAT IT IS<br><u>RECEIVED</u> NO LATER THAN<br>[], 2023.                                       | If you are a member of the Settlement Class<br>and would like to object to the proposed<br>Settlement, the proposed Plan of Allocation, or<br>Plaintiffs' Counsel's Fee and Expense<br>Application, including Plaintiffs' application<br>for Incentive Awards, you may write to the<br>Court and explain the reasons for your<br>objection.   |
| ATTEND A HEARING ON<br>DECEMBER 20, 2023, AT 9:15<br>A.M., AND FILE A NOTICE<br>OF INTENTION TO APPEAR<br>SO THAT IT IS <u>RECEIVED</u><br>NO LATER THAN<br>[], 2023. | Filing a written objection and notice of intention to appear that is received by [], 2023, allows you to speak in Court, at the discretion of the Court, about your objection. In the Court's discretion, the December 20, 2023 hearing may be conducted by telephone or videoconference ( <i>see</i> paragraphs 48-49 below). If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection. |

# WHAT THIS NOTICE CONTAINS

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| <ul><li>How Will Plaintiffs' Counsel Be Paid?</li></ul>   |
| When and Where Will The Settlement Hearing Be Held? Do I Have<br>To Attend The Hearing? May I Speak At The Hearing If                               |

# WHAT IS THE PURPOSE OF THIS NOTICE?

1. The purpose of this Notice is to notify Class Members of the existence of the Action and the terms of the proposed Settlement of the Action. The Notice is also being sent to inform Class Members of a hearing that the Court has scheduled to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation for the Settlement proceeds, and Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards, (the "Settlement Hearing"). *See* paragraphs 48-49 below for details about the Settlement Hearing, including the date and time of the hearing.

2. The Court directed that this Notice be mailed to you because you may be a member of the Settlement Class. The Court has directed us to send you this Notice because, as a Class Member, you have a right to know about your options

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before the Court rules on the proposed Settlement. Additionally, you have the right to understand how the Action and the proposed Settlement generally affects your legal rights. <u>Please Note</u>: The Court may approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Settlement Class.

3. The issuance of this Notice is not an expression by the Court of any findings of fact or any opinion concerning the merits of any claim in the Action, and the Court has not yet decided whether to approve the Settlement. If the Court approves the Settlement, then payments to eligible Class Members will be made after any appeals are resolved.

<u>Please Note</u>: Receipt of this Notice does not mean that you are a Class Member or that you will be entitled to receive a payment from the Settlement.

# WHAT IS THIS CASE ABOUT?

THE FOLLOWING RECITATION DOES NOT CONSTITUTE FINDINGS OF THE COURT. THE COURT HAS MADE NO FINDINGS WITH RESPECT TO THE FOLLOWING MATTERS AND THESE RECITATIONS SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES RAISED BY ANY OF THE PARTIES.

4. On August 25, 2020, FAST, a special purpose acquisition corporation ("SPAC") incorporated in Delaware and formed by certain Defendants, consummated its IPO of 20,000,000 units, whereby each unit (1) consisted of one share of Class A common stock and one-half of one redeemable warrant, with each whole warrant entitling the holder thereof to purchase one share of Class A common stock for \$11.50 per share, and (2) was sold for \$10.00 per unit; as a SPAC, FAST's Amended and Restated Certificate of Incorporation required FAST to complete an initial business combination within 24 months of the IPO or otherwise redeem all of its outstanding Class A Common stock and dissolve.

5. Before FAST's IPO, certain Defendants had purchased 7,187,500 shares of Class B common stock in FAST (the "Founder Shares") in exchange for a capital contribution of \$25,000; subsequently, 2,187,500 Founder Shares were forfeited, resulting in 5,000,000 Founder Shares remaining.

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6. On February 1, 2021, FAST entered into an agreement and plan of merger (the "Merger Agreement," and the transaction contemplated therein, the "Merger") with Fertitta Entertainment, Inc. ("Fertitta").

7. On November 24, 2021, FAST issued its proxy statement asking FAST's stockholders to consider and vote upon (among other things) the Merger.

8. On December 1, 2021, the Company received a notice from Fertitta that purported to terminate the Merger Agreement.

9. On December 9, 2021, FAST and Fertitta entered into a Termination and Settlement Agreement (the "Merger Settlement Agreement"), pursuant to which the parties agreed to mutually terminate the Merger Agreement and Fertitta agreed to (1) pay \$6,000,000.00 to the Company within three business days, (2) loan \$1,000,000.00 to the Company within five business days, and (3) pay to FAST either (a) \$10,000,000.00 in the event that the Company consummated an initial business combination, or (b) \$26,000,000.00 if the Company did not consummate an initial business combination and determined to redeem its public shares and liquidate and dissolve (all amounts collectively, the "Termination Fee").

10. On August 9, 2022, SPE filed its Verified Class Action Complaint in *Special Opportunities Fund, Inc. v. FAST Acquisition Corp. et al.*, C.A. No. 2022-0702-PAF (the "*SPE* Action") for Declaratory, Injunctive, and Monetary Relief (the "SPE Complaint") on behalf of itself and similarly situated stockholders of FAST against Defendants asserting a claim for breach of fiduciary duty with respect to the termination of the Merger Agreement and the Termination Fee.

11. On August 11, 2022, Spritzer filed his Verified Stockholder Class Action Complaint (the "Spritzer Complaint") in *Spritzer v. Jacob et al.*, C.A. No. 2022-0706-PAF (the "*Spritzer* Action") asserting substantially similar claims as in the *SPE* Action.

12. On August 17, 2022, GPC filed its Verified Stockholder Class Action Complaint (the "GPC Complaint") in *Great Point Capital, LLC v. Jacob et al.*, C.A. No. 2022-0726-PAF (the "*GPC* Action") asserting substantially similar claims as the *SPE* Action.

13. On August 25, 2022, ADAR1 filed its Verified Stockholder Derivative and Direct Class Action Complaint (the "ADAR1 Complaint") in *ADAR1 Partners*,

*L.P. v. Fast Sponsor, LLC et al.*, C.A. No. 2022-0760-PAF (the "*ADAR1* Action") asserting substantially similar claims as in the *SPE* Action.

14. On August 26, 2022, FAST redeemed all of its outstanding shares of Class A common stock because FAST did not consummate an initial business combination within the time period required by its Amended and Restated Certificate of Incorporation.

15. On September 15, 2022, the Court entered an Order, which consolidated the *SPE*, *Spritzer*, *GPC*, and *ADAR1* Actions for all purposes into the Action and, among other things, (1) appointed SPE as Lead Plaintiff in the Action, (2) appointed the law firms Bernstein Litowitz Berger & Grossmann LLP and Morris Kandinov LLP as Lead Counsel (collectively, "Plaintiffs' Co-Lead Counsel"), and (3) formed an Executive Committee comprised of GPC, Spritzer, and ADAR1 and represented by Chimicles Schwartz Kriner & Donaldson-Smith LLP, Fields Kupka & Shukurov LLP, and AFN Law, PLLC.

16. On December 27, 2022, Lead Plaintiff filed the Amended Verified Class Action Complaint for Declaratory, Injunctive, and Monetary Relief (the "Amended Complaint").

17. On March 1, 2023, Defendants filed their Motion to Dismiss Counts I, III, and IV of the Amended Complaint.

18. On March 31, 2023, Lead Plaintiff filed the Notice of Voluntary Partial Dismissal Without Prejudice, dismissing Counts I, III, and IV of the Amended Complaint.

19. Between April 2023 and August 2023, the Parties engaged in document and other written discovery, including the following: (1) Lead Plaintiff served on Defendants 21 interrogatories, 10 requests for admission, and 21 requests for the production of documents, and (2) Defendants served (a) on Plaintiffs ADAR1, GPC, Cladrius, and Spritzer 15 interrogatories, (b) on Lead Plaintiff SPE 21 interrogatories, (c) on Plaintiffs ADAR1, GPC, Cladrius, and Spritzer 25 requests for the production of documents, and (d) on Lead Plaintiff SPE 34 requests for the production of documents.

20. On June 15, 2023, Plaintiffs' Co-Lead Counsel and Defendants' Counsel participated in a mediation session before Miles N. Ruthberg (the "Mediator"). In advance of that session, Lead Plaintiff and Defendants exchanged

mediation statements and exhibits to the Mediator, which addressed the issues of both liability and damages. The session ended without any agreement being reached.

21. On June 22, 2023, Defendants made an initial production of documents consisting of approximately 1,000 pages.

22. Following the in-person mediation session, Plaintiffs' Co-Lead Counsel and Defendants' Counsel engaged in additional negotiations under the supervision and guidance of the Mediator.

23. As a result of extensive, arm's-length negotiations at the mediation session, and following the mediation session, the Parties reached an agreement in principle to settle the Action that was memorialized in a Settlement Term Sheet executed on August 11, 2023 (the "Settlement Term Sheet"). The Settlement Term Sheet set forth, among other things, the Parties' agreement to settle and release all claims against Defendants in the Action in return for a cash payment of \$12,500,000.00 (United States Dollars), subject to certain terms and conditions and the execution of a customary "long form" stipulation and agreement of settlement and related papers.

24. On August 22, 2023, the Parties informed the Court of the agreement in principle to settle the Action and agreed to suspend all upcoming deadlines in the Action.

25. After additional negotiations regarding the specific terms of their agreement, the Parties entered into the Stipulation on October 2, 2023. The Stipulation, which reflects the final and binding agreement between the Parties on the terms and conditions of the Settlement and supersedes the Settlement Term Sheet, can be viewed at www.FastAcquisitionStockholdersLitigation.com.

26. On [\_\_\_\_\_], 2023, the Court entered a Scheduling Order directing that notice of the Settlement be provided to potential Class Members, and scheduling the Settlement Hearing to, among other things, consider whether to grant final approval to the Settlement.

# HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?

27. If you are a member of the Settlement Class, you are subject to the Settlement. The Settlement Class preliminarily certified by the Court solely for purposes of the Settlement consists of:

All holders of FAST Class A Public Shares at the close of business on August 25, 2022 (the "Settlement Class"). Excluded from the Settlement Class are (i) Defendants; (ii) any person who is, or was at the close of business on August 25, 2022, an officer or director of FAST; (iii) the immediate family members of any of the foregoing excluded persons; (iv) any trusts, estates, entities, or accounts that held Class A Public Shares for the benefit of any of the foregoing excluded persons; (v) any entity in which any of the foregoing excluded persons or entities has, or had at the close of business on August 25, 2022, a controlling interest; and (vi) the legal representatives, heirs, successorsin-interest, successors, transferees, and assigns of the foregoing excluded persons or entities (the "Excluded Stockholders").

**<u>Please Note:</u>** The Settlement Class is a non-"opt-out" class pursuant to Delaware Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2). Accordingly, Class Members do not have the right to exclude themselves from the Settlement Class.

# WHAT ARE THE TERMS OF THE SETTLEMENT?

28. In consideration of the settlement of the Plaintiffs' Released Claims (defined in paragraph 42 below) against Defendants and the other Released Defendants' Persons (defined in paragraph 42 below), Defendants will deposit or cause to be deposited the \$12,500,000.00 Settlement Amount into an interest-bearing escrow account for the benefit of the Settlement Class. *See* paragraphs 32-42 below for details about the distribution of the Net Settlement Fund (defined in paragraph 33 below) to Eligible Class Members (defined in paragraph 36 below).

## WHAT ARE THE PARTIES' REASONS FOR THE SETTLEMENT?

29. Plaintiffs, through Plaintiffs' Co-Lead Counsel, have conducted an investigation and pursued discovery relating to the claims and the underlying events alleged in the Action. Co-Lead Counsel have analyzed the evidence adduced during the investigation and fact discovery as described above and have also researched the applicable law with respect to the claims asserted in the Action and the potential defenses thereto. This investigation and the settlement negotiations between the Parties have provided Plaintiffs with a detailed basis upon which to assess the relative strengths and weaknesses of Plaintiffs' position and Defendants' positions in this litigation.

Based upon their investigation, prosecution, and mediation of the 30. Action, Plaintiffs and Plaintiffs' Co-Lead Counsel have concluded that the terms and conditions of the Settlement and the Stipulation are fair, reasonable, and adequate to Plaintiffs and the other members of the Settlement Class and in their best interests. Based on Plaintiffs' direct oversight of the prosecution of this matter, along with the input of Plaintiffs' Co-Lead Counsel, Plaintiffs have agreed to settle the claims raised in the Action pursuant to the terms and provisions of the Stipulation, after considering: (i) the substantial benefits that Plaintiffs and the other members of the Settlement Class will receive from the resolution of the Action, which amount to effectively all of the SPAC's surplus cash following the redemption of Class A shares and the return of Defendants' capital contributions; (ii) the attendant risks of litigation; and (iii) the desirability of permitting the Settlement to be consummated as provided by the terms of the Stipulation. The Settlement and the Stipulation shall in no event be construed as, or deemed to be, evidence of a concession by Plaintiffs of any infirmity in the claims asserted in this Action.

31. Defendants deny any and all allegations of wrongdoing, fault, liability, or damage to Plaintiffs or the Settlement Class, and further deny that Plaintiffs have asserted a valid claim as to any of them. Defendants further deny that they engaged in any wrongdoing or committed, or aided or abetted, any violation of law or breach of duty and believe that they acted properly, in good faith, and in a manner consistent with their legal duties and are entering into the Settlement and the Stipulation solely to avoid the substantial burden, expense, inconvenience, and distraction of continued litigation and to resolve each of Plaintiffs' claims against Defendants. The Settlement and the Stipulation shall in no event be construed as, or deemed to be, evidence of or an admission or concession on the part of any of the Defendants with respect to any claim or factual allegation or of any fault or liability or wrongdoing or damage whatsoever or any infirmity in the defenses that any of the Defendants have or could have asserted.

# WILL I RECEIVE A PAYMENT FROM THE SETTLEMENT? HOW MUCH WILL MY PAYMENT FROM THE SETTLEMENT, IF ANY, BE? HOW WOULD I RECEIVE MY PAYMENT?

32. <u>Please Note</u>: If you are eligible to receive a payment from the Net Settlement Fund, you do *not* have to submit a claim form in order to receive your payment.

33. As stated above, the \$12,500,000.00 Settlement Amount will be deposited into an interest-bearing escrow account for the benefit of the Settlement Questions? Call 888-256-6155, email info@FastAcquisitionStockholdersLitigation.com, or visit www.FastAcquisitionStockholdersLitigation.com.

Class. If the Settlement is approved by the Court and the Effective Date of the Settlement occurs, the "Net Settlement Fund" (that is, the Settlement Amount plus any and all interest earned thereon (the "Settlement Fund") less: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any attorneys' fees and/or Litigation Expenses awarded by the Court from the Settlement Fund, including any Incentive Awards to Plaintiffs, which shall be deducted solely from the Fee and Expense Award; and (iv) any other costs or fees approved by the Court) will be distributed in accordance with the proposed Plan of Allocation stated below or such other plan of allocation as the Court may approve.

34. The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and the Effective Date of the Settlement has occurred. Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

35. The Court may approve the Plan of Allocation as proposed or it may modify the Plan of Allocation without further notice to the Settlement Class. Any Orders regarding any modification of the Plan of Allocation will be posted on the Settlement website, www.FastAcquisitionStockholdersLitigation.com.

# PROPOSED PLAN OF ALLOCATION

36. The Net Settlement Fund will be distributed on a *pro rata* basis to Eligible Class Members. "Eligible Class Members" means Eligible Beneficial Holders (defined in paragraph 37 below) and Eligible Record Holders (defined in paragraph 38 below).

37. "Eligible Beneficial Holder" means the ultimate beneficial owner of any Eligible Shares (defined in paragraph 39 below) held of record by Cede & Co. ("Cede"), provided that no Excluded Stockholder (defined in paragraph 27 above) may be an Eligible Beneficial Holder.

38. "Eligible Record Holder" means the record holder of any Eligible Shares, other than Cede, provided that no Excluded Stockholder may be an Eligible Record Holder.

39. "Eligible Shares" means shares of FAST Class A Public Shares held at the close of business on August 25, 2022.

40. Each Eligible Class Member will be eligible to receive a *pro rata* payment from the Net Settlement Fund equal to the product of (i) the number of Eligible Shares held by the Eligible Class Member and (ii) the "Per-Share Recovery," which will be determined by dividing the total amount of the Net Settlement Fund by the total number of Eligible Shares held by all Eligible Class Members.

41. Subject to Court approval in the Class Distribution Order,<sup>2</sup> Lead Counsel will direct the Settlement Administrator to conduct the distribution of the Net Settlement Fund to Eligible Class Members as follows:

(i) With respect to Eligible Shares held of record by the Depository Trust & Clearing Corporation, including its subsidiary the Depository Trust Company (collectively, "DTC"), through its nominee Cede, the Settlement Administrator will obtain from DTC, and DTC shall provide to the Settlement Administrator, a copy of an allocation report, "chill" report, or such other report generated by DTC (the "DTC Allocation Report") setting forth each and every DTC participant ("DTC Participant") that held FAST Class A Public Shares at the close of business on August 25, 2022, which report will set forth the number of Eligible Shares held by each DTC Participant and additional information necessary to distribute the Net Settlement Fund to Eligible Class Members, including contact information used to communicate with the appropriate representatives of each DTC Participant that held Eligible Shares.

Using that information, the Settlement Administrator shall cause that portion of the Net Settlement Fund to be allocated to Eligible Class Members who held their Eligible Shares through DTC Participants to be paid to the DTC Participants by paying each the Per-Share Recovery times its respective Closing Security Position,<sup>3</sup> subject to payment suppression instructions with respect to Excluded Shares and any other shares ineligible for recovery from the Settlement. The DTC Participants and their respective customers, including any intermediaries, shall then ensure *pro rata* payment to each Eligible Class Member based on the number of Eligible Shares beneficially owned by such Eligible Class Member.

<sup>&</sup>lt;sup>2</sup> "Class Distribution Order" means any order entered by the Court permitting the distribution of the Net Settlement Fund to Eligible Class Members.

<sup>&</sup>lt;sup>3</sup> For each DTC Participant, the "Closing Security Position" is the number of Eligible Shares held by such DTC Participant, as reflected on the DTC Allocation Report.

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(ii) With respect to Eligible Shares held of record other than by Cede, as nominee for DTC (a "Closing Non-Cede Record Position"), the payment with respect to each such Closing Non-Cede Record Position shall be made by the Settlement Administrator from the Net Settlement Fund directly to the Eligible Record Holder of each Closing Non-Cede Record Position in an amount equal to the Per-Share Recovery times the number of Eligible Shares comprising such Closing Non-Cede Record Position.

(iii) A person or entity who purchased Eligible Shares but had not settled those Eligible Shares by the close of business on August 25, 2022 ("Non-Settled Shares"), *shall be* treated as an Eligible Class Member with respect to those Non-Settled Shares, and a person or entity who sold those Non-Settled Shares on or before the close of business on August 25, 2022, *shall not be* treated as an Eligible Class Member with respect to those Non-Settled Shares.

(iv) In the event that any payment from the Net Settlement Fund is undeliverable or in the event a check is not cashed by the stale date (*i.e.*, more than six months from the check's issue date), the DTC Participants or the holder of a Closing Non-Cede Record Position shall follow their respective policies with respect to further attempted distribution.

# WHAT WILL HAPPEN IF THE SETTLEMENT IS APPROVED? WHAT CLAIMS WILL THE SETTLEMENT RELEASE?

42. If the Settlement is approved, the Court will enter an Order and Final Judgment (the "Judgment"). Pursuant to the Judgment, all claims asserted against Defendants in the Action will be dismissed with prejudice and the following Releases will occur:

(i) Upon the Effective Date of the Settlement, Plaintiffs and all other members of the Settlement Class, on behalf of themselves and their respective heirs, executors, administrators, predecessors, successors, representatives, trustees, estates, transferees, and assigns, in their capacities as such, and any other person or entity purporting to claim through or on behalf of them in such capacity, by operation of the Judgment and to the fullest extent permitted by law, shall completely, fully, finally, and forever release, relinquish, settle, and discharge the Released Plaintiffs' Claims (defined below) as against the Released Defendants' Persons, and shall forever be barred and enjoined from commencing, instigating, or prosecuting the

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Released Plaintiffs' Claims against the Released Defendants' Persons (defined below).

(ii) Upon the Effective Date of the Settlement, Defendants, on behalf of themselves and their respective heirs, executors, administrators, predecessors, successors, representatives, trustees, estates, transferees, and assigns, in their capacities as such, and any other person or entity purporting to claim through or on behalf of them in such capacity, by operation of the Judgment and to the fullest extent permitted by law, shall completely, fully, finally, and forever release, relinquish, settle, and discharge the Released Defendants' Claims (defined below) as against the Released Plaintiffs' Persons (defined below), and shall forever be barred and enjoined from commencing, instigating, or prosecuting the Released Defendants' Claims against the Released Plaintiffs' Persons.

43. The following capitalized terms used in paragraph 42 above shall have the meanings specified below:

"Released Claims" means, collectively, the Released Plaintiffs' Claims and the Released Defendants' Claims.

"Released Defendants' Claims" means any claims, demands, rights, actions, causes of action, liabilities, damages, losses, obligations, judgments, duties, suits, costs, expenses, matters, and issues, whether contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, including known claims and Unknown Claims, that arise out of or relate to the institution, prosecution, or settlement of the claims asserted in the Action; provided, however, that the Released Defendants' Claims shall not include any claims to enforce the Settlement.

"Released Defendants' Persons" means Defendants, FAST, FAST Acquisition Corp. II, FAST Sponsor, LLC, or any of their family members, spouses, parent entities, controlling persons, associates, affiliates, or subsidiaries, and each and all of their respective past or present officers, directors, stockholders, principals, representatives, employees, fiduciaries, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, entities providing fairness opinions, advisors or agents, heirs, executors, trusts, trustees, general or limited partners or partnerships, limited liability companies, members, managers, joint

ventures, personal or legal representatives, estates, administrators, beneficiaries, predecessors, successors, and assigns.

"Released Plaintiffs' Claims" means any claims, demands, rights, actions, causes of action, liabilities, damages, losses, obligations, judgments, duties, suits, costs, expenses, matters, and issues, whether contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, including known claims and Unknown Claims, that have been asserted in the Complaints or could have been asserted in any other court, tribunal, or proceeding by or on behalf of Plaintiffs or any other member of the Settlement Class that arise out of or relate to (i) the acts, events, facts, transactions. occurrences. statements. representations, matters. misrepresentations, or omissions, or any other matter set forth in, any of the Complaints, including without limitation, any such claims concerning the Merger Agreement between Fertitta and FAST, and any amendments thereto, the Sponsor Agreement, the Merger Settlement Agreement, the decision of FAST to redeem the Class A Shares, the decision to liquidate FAST, or disclosures made in connection therewith (including the adequacy and completeness of such disclosures) and (ii) the ownership of FAST Class A Public Shares at the close of business on August 25, 2022; provided, however, that the Released Plaintiffs' Claims shall not include any claims to enforce the Settlement.

"Released Plaintiffs' Persons" means Plaintiffs, any other Settlement Class Member, Plaintiffs' Counsel, or any of their respective family members, spouses, parent entities, controlling persons, associates, affiliates or subsidiaries and each and all of their respective past or present officers, directors, stockholders, principals, representatives, employees, fiduciaries, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, entities providing fairness opinions, advisors or agents, heirs, executors, trusts, trustees, general or limited partners or partnerships, limited liability companies, members, managers, joint ventures, personal or legal representatives, estates, administrators, beneficiaries, predecessors, successors, and assigns.

"Unknown Claims" means any Released Plaintiffs' Claims which Plaintiffs or any other Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, and any Released

Defendants' Claims which any Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Plaintiffs and Defendants shall expressly waive, and each of the other Settlement Class Members shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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.

Plaintiffs and Defendants acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

44. By Order of the Court, (i) all proceedings in the Action, other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation, have been stayed, and (ii) pending final determination of whether the Settlement should be approved, Plaintiffs and each of the other Settlement Class Members are barred and enjoined from commencing, instigating, or prosecuting the Released Plaintiffs' Claims against the Released Defendants' Persons.

#### HOW WILL PLAINTIFFS' COUNSEL BE PAID?

45. Plaintiffs' Counsel<sup>4</sup> have not received any payment for their services in pursuing claims asserted in the Action, nor have Plaintiffs' Counsel been paid for

<sup>&</sup>lt;sup>4</sup> "Plaintiffs' Counsel" means Plaintiffs' Co-Lead Counsel (Bernstein Litowitz Berger & Grossmann LLP and Morris Kandinov LLP), Chimicles Schwartz Kriner & Donaldson-Smith LLP, Fields Kupka & Shukurov LLP, AFN Law, PLLC, and all other legal counsel

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their Litigation Expenses incurred in connection with the Action. Before final approval of the Settlement, Plaintiffs' Counsel will apply to the Court for an award of attorneys' fees in an amount not to exceed 16% of the Settlement Fund and, separately, payment of all Litigation Expenses incurred in an amount not to exceed \$50,000.00 ("Fee and Expense Application"). In connection with Plaintiffs' Counsel's Fee and Expense Application, each Plaintiff may petition the Court for an incentive award not to exceed \$10,000.00 to be paid solely from any award of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel (the "Incentive Awards").

46. The Court will determine the amount of any attorneys' fees and expenses awarded to Plaintiffs' Counsel (the "Fee and Expense Award") and any Incentive Awards to Plaintiffs. Any Fee and Expense Award will be paid out of the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

# WHEN AND WHERE WILL THE SETTLEMENT HEARING BE HELD? DO I HAVE TO ATTEND THE HEARING? MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?

47. Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Class Member does not attend the Settlement Hearing. Class Members can recover from the Settlement without attending the Settlement Hearing.

48. Please Note: The date and time of the Settlement Hearing may change without further written notice to Class Members. In addition, the Court may decide to conduct the Settlement Hearing remotely by telephone or videoconference, or otherwise allow Class Members to appear at the hearing remotely by phone or video, without further written notice to Class Members. In order to determine whether the date and time of the Settlement Hearing have changed, or whether Class Members must or may participate remotely by phone or video, it is important that you monitor Court's docket and Settlement the the website. www.FastAcquisitionStockholdersLitigation.com, before making any plans to attend the Settlement Hearing. Any updates regarding the Settlement Hearing,

who, at the direction and under the supervision of Plaintiffs' Co-Lead Counsel, performed services on behalf of the Settlement Class in the Action.

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including any changes to the date or time of the hearing, or updates regarding inperson or remote appearances at the hearing, will be posted to the Settlement website, www.FastAcquisitionStockholdersLitigation.com. Also, if the Court requires or allows Class Members to participate in the Settlement Hearing remotely by telephone or videoconference, the information needed to access the conference will be posted to the Settlement website, www.FastAcquisitionStockholdersLitigation.com.

The Settlement Hearing will be held on December 20, 2023, at 9:15 49. a.m., before the Honorable Paul A. Fioravanti, Jr., Vice Chancellor, at the Court of Chancery of the State of Delaware, New Castle County, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801, to, among other things: (i) determine whether to finally certify the Settlement Class for settlement purposes only, pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2); (ii) determine whether Lead Plaintiff and Plaintiffs' Co-Lead Counsel have adequately represented the Settlement Class, and whether Lead Plaintiff should be finally appointed as Class Representative for the Settlement Class and Plaintiffs' Co-Lead Counsel should be finally appointed as Class Counsel for the Settlement Class; (iii) determine whether the proposed Settlement should be approved as fair, reasonable, and adequate to Plaintiffs and the other members of the Settlement Class and in their best interests; (iv) determine whether the proposed Order and Final Judgment approving the Settlement, dismissing the Action with prejudice, and granting the Releases provided under the Stipulation should be entered; (v) determine whether the proposed Plan of Allocation of the Net Settlement Fund is fair and reasonable, and should therefore be approved; (vi) determine whether and in what amount any Fee and Expense Award to Plaintiffs' Counsel should be paid out of the Settlement Fund, including any Incentive Awards to Plaintiffs to be paid solely from any Fee and Expense Award; (vii) hear and rule on any objections to the Settlement, the proposed Plan of Allocation, and/or Plaintiffs' Counsel's application for a Fee and Expense Award, including any Incentive Awards to Plaintiffs; and (viii) consider any other matters that may properly be brought before the Court in connection with the Settlement.

50. Any Class Member may object to the Settlement, the proposed Plan of Allocation, and/or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards ("Objector"); *provided, however*, that no Objector shall be heard or entitled to object unless, **on or before** [\_\_\_\_\_], 2023, such person: (1) files his, her, or its written objection, together with copies of all other papers and briefs supporting the objection, with the

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Register in Chancery at the address set forth below; (2) serves such papers (electronically by File & Serve*Xpress*, by hand, by first-class U.S. mail, or by express service) on Plaintiffs' Co-Lead Counsel and Defendants' Counsel at the addresses set forth below; and (3) emails a copy of the written objection to jeroen@blbglaw.com, aaron@moka.law, gkurtz@whitecase.com and gallagher@rlf.com.

# **REGISTER IN CHANCERY**

Register in Chancery Court of Chancery of the State of Delaware, New Castle County Leonard L. Williams Justice Center 500 North King Street Wilmington, Delaware 19801

## PLAINTIFFS' CO-LEAD COUNSEL

Jeroen van Kwawegen Bernstein Litowitz Berger & Grossmann LLP 1251 Avenue of the Americas, 44th Floor New York, New York 10020 Aaron T. Morris Morris Kandinov LLP 305 Broadway, 7th Floor New York, New York 10007

# **DEFENDANTS' COUNSEL**

Glenn M. Kurtz White & Case LLP 1221 Avenue of the Americas New York, New York 10020 Kevin M. Gallagher Richards, Layton & Finger, P.A. One Rodney Square 920 North King St. Wilmington, Delaware 19801

51. Any objections must: (i) identify the case name and civil action number, "*In re Fast Acquisition Corp. Stockholders Litigation*, C.A. No. 2022-0702-PAF"; (ii) state the name, address, and telephone number of the Objector and, if represented by counsel, the name, address, and telephone number of the Objector's counsel; (iii) be signed by the Objector; (iv) contain a specific, written statement of the objection(s) and the specific reason(s) for the objection(s), including any legal and

evidentiary support the Objector wishes to bring to the Court's attention, and if the Objector has indicated that he, she, or it intends to appear at the Settlement Hearing, the identity of any witnesses the Objector may call to testify, and any exhibits the Objector intends to introduce into evidence at the hearing; and (v) include documentary evidence sufficient to prove that the Objector is a member of the Settlement Class. Lead Counsel may request that the Objector submit additional information or documentation sufficient to prove that the objector is a Class Member.

52. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file and serve a written objection in accordance with the procedures described above, unless the Court orders otherwise.

53. If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation, or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards (assuming you timely file and serve a written objection as described above), you must also file a notice of appearance with the Register in Chancery and serve it on Plaintiffs' Co-Lead Counsel and Defendants Counsel at the mailing and email addresses set forth in paragraph 50 above so that the notice is *received* on or before [\_\_\_\_\_], 2023. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Such persons may be heard orally at the discretion of the Court.

54. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Plaintiffs' Co-Lead Counsel and Defendants' Counsel at the mailing and email addresses set forth in paragraph 50 above so that the notice is *received* on or before [\_\_\_\_], 2023.

55. The Settlement Hearing may be adjourned by the Court without further written notice to Class Members. If you intend to attend the Settlement Hearing, you should confirm the date, time, and location with Plaintiffs' Co-Lead Counsel.

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56. Unless the Court orders otherwise, any Class Member who does not object in the manner described above will be deemed to have waived any objection (including the right to appeal) and shall be forever foreclosed from making any objection to the Settlement, the Plan of Allocation, or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards, or any other matter related to the Settlement or the Action, and will otherwise be bound by the Judgment to be entered and the Releases to be given. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

# CAN I SEE THE COURT FILE? WHO SHOULD I CONTACT IF I HAVE QUESTIONS?

57. This Notice contains only a summary of the terms of the proposed Settlement. For more detailed information about the matters involved in the Action, you are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular business hours at the Office of the Register in Chancery, Court of Chancery of the State of Delaware, New Castle County, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801. Additionally, copies of the Stipulation and any related orders entered by the will Court be posted on the Settlement website, www.FastAcquisitionStockholdersLitigation.com. If you have questions regarding the Settlement, you may contact the Settlement Administrator by mail at FAST Acquisition Stockholders Litigation, c/o JND Legal Administration, PO Box 91466, Seattle, Washington 98111; by telephone at 888-256-6155; or by email at info@FastAcquisitionStockholdersLitigation.com. You may also contact Plaintiffs' Co-Lead Counsel: Jeroen van Kwawegen, Bernstein Litowitz Berger & Grossmann LLP, 1251 Avenue of the Americas, 44th Floor, New York, New York 10020, 800-380-8496 (telephone), and settlements@blbglaw.com (email); and Aaron T. Morris, Morris Kandinov LLP, 305 Broadway, 7th Floor, New York, New York 10007, (212) 431-7473 (telephone), and aaron@moka.law (email).

# WHAT IF I HELD SHARES ON SOMEONE ELSE'S BEHALF?

58. If you are a broker or other nominee that held FAST Class A Public Shares at the close of business on August 25, 2022, for the beneficial interest of persons or entities other than yourself, you are requested to either: (i) within seven (7) calendar days of receipt of this Notice, request from the Settlement Administrator

sufficient copies of this Notice to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Notices, forward them to all such beneficial owners; or (ii) within seven (7) calendar days of receipt of this Notice, provide a list of the names, addresses, and, if available, email addresses of all such beneficial owners to FAST Acquisition Stockholders Litigation, c/o JND Legal Administration, PO Box 91466, Seattle, Washington 98111. If you choose the second option, the Settlement Administrator will send a copy of the Notice to the beneficial owners. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred by providing the Settlement Administrator with proper documentation supporting the expenses for which reimbursement is sought. A copy of this Notice may also be obtained from the Settlement Administrator toll free at 888-256-6155, or by emailing the Settlement Administrator at info@FastAcquisitionStockholdersLitigation.com.

# DO NOT CALL OR WRITE THE COURT OR THE OFFICE OF THE REGISTER IN CHANCERY REGARDING THIS NOTICE.

Dated: [\_\_\_\_\_], 2023

BY ORDER OF THE COURT OF CHANCERY OF THE STATE OF DELAWARE

#### IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

## IN RE FAST ACQUISITION CORP. STOCKHOLDERS LITIGATION

CONSOLIDATED C.A. No. 2022-0702-PAF

# SUMMARY NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF STOCKHOLDER CLASS ACTION, SETTLEMENT HEARING, AND <u>RIGHT TO APPEAR</u>

TO: All holders of public shares of FAST Acquisition Corp. ("FAST") Class A common stock ("FAST Class A Public Shares") at the close of business on August 25, 2022 (the "Settlement Class").

Certain persons and entities are excluded from the Settlement Class by definition, as set forth in the full Notice of Pendency and Proposed Settlement of Stockholder Class Action, Settlement Hearing, and Right to Appear (the "Notice"), available at www.FastAcquisitionStockholdersLitigation.com. Any capitalized terms used in this Summary Notice that are not otherwise defined in this Summary Notice shall have the meanings given to them in the Notice or in the Stipulation and Agreement of Settlement, Compromise, and Release dated October 2, 2023 (the "Stipulation"), which is also available at www.FastAcquisitionStockholdersLitigation.com.

# PLEASE READ THIS SUMMARY NOTICE CAREFULLY. YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

YOU ARE HEREBY NOTIFIED, the above-captioned consolidated stockholder class action (the "Action") is pending in the Court of Chancery of the State of Delaware (the "Court").

YOU ARE ALSO NOTIFIED that (i) Plaintiffs Special Opportunities Fund, Inc. ("Lead Plaintiff" or "SPE"), ADAR1 Partners, L.P., Great Point Capital, LLC, Cladrius LTD, and George A. Spritzer (collectively, "Plaintiffs"), on behalf of themselves and the other members of the Settlement Class; and (ii) Defendants Sandy Beall, William Douglas Jacob, Kevin Reddy, Michael Lastoria, Ramin Arani, Alice Elliot, Sanjay Chadda, and Steve Kassin (collectively, "Defendants") (Plaintiffs and Defendants together, the "Parties") have reached a proposed settlement of the Action (the "Settlement") for \$12,500,000.00 (United States Dollars) in cash (the "Settlement Amount"). The terms of the Settlement are stated in the Stipulation. If approved by the Court, the Settlement will resolve all claims in the Action.

A hearing (the "Settlement Hearing") will be held on December 20, 2023, at 9:15 a.m., before the Honorable Paul A. Fioravanti, Jr., Vice Chancellor, at the Court of Chancery of the State of Delaware, New Castle County, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801, to, among other things: (i) determine whether to finally certify the Settlement Class for settlement purposes only, pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2); (ii) determine whether Lead Plaintiff and Plaintiffs' Co-Lead Counsel have adequately represented the Settlement Class, and whether Lead Plaintiff should be finally appointed as Class Representative for the Settlement Class and Plaintiffs' Co-Lead Counsel should be finally appointed as Class Counsel for the Settlement Class; (iii) determine whether the proposed Settlement should be approved as fair, reasonable, and adequate to Plaintiffs and the other members of the Settlement Class and in their best interests; (iv) determine whether the proposed Order and Final Judgment approving the Settlement, dismissing the Action with prejudice, and granting the Releases provided under the Stipulation should be entered; (v) determine whether the proposed Plan of Allocation of the Net Settlement Fund is fair and reasonable, and should therefore be approved; (vi) determine whether and in what amount any award of attorneys' fees and payment of Litigation Expenses to Plaintiffs' Counsel ("Fee and Expense Award") should be paid out of the Settlement Fund, including any incentive awards to Plaintiffs ("Incentive Awards") to be paid solely from any Fee and Expense Award; (vii) hear and rule on any objections to the Settlement, the proposed Plan of Allocation, and/or Plaintiffs' Counsel's application for a Fee and Expense Award, including any Incentive Awards to Plaintiffs (the "Fee and Expense Application"); and (viii) consider any other matters that may properly be brought before the Court in connection with the Settlement.

Any updates regarding the Settlement Hearing, including any changes to the date, time, or format of the hearing or updates regarding remote or in-person appearances at the hearing, will be posted to the Settlement website, www.FastAcquisitionStockholdersLitigation.com.

If you are a member of the Settlement Class, your rights will be affected by the pending Action and the Settlement, and you may be entitled to share in the Net Settlement Fund. If you have not yet received the Notice, you may obtain a copy of the Notice by contacting the Settlement Administrator by mail at FAST Acquisition Stockholders Litigation, c/o JND Legal Administration, PO Box 91466, Seattle, Washington 98111; by telephone at 888-256-6155; or by email at info@FastAcquisitionStockholdersLitigation.com. A copy of the Notice can also be downloaded from the Settlement website, www.FastAcquisitionStockholdersLitigation.com.

If the Settlement is approved by the Court and the Effective Date occurs, the Net Settlement Fund will be distributed on a *pro rata* basis to Eligible Class Members in accordance with the proposed Plan of Allocation stated in the Notice or such other plan of allocation as is approved by the Court. Pursuant to the proposed Plan of Allocation, each Eligible Class Member will be eligible to receive a *pro rata* payment from the Net Settlement Fund equal to the product of (i) the number of shares of FAST Class A Public Shares held at the close of business on August 25, 2022 ("Eligible Shares") and (ii) the "Per-Share Recovery" for the Settlement, which will be determined by dividing the total amount of the Net Settlement Fund by the total number of Eligible Shares held by all Eligible Class Members. As explained in further detail in the Notice, Eligible Class Members do *not* have to submit a claim form to receive a payment from the Net Settlement Fund.

Any objections to the proposed Settlement, the proposed Plan of Allocation, or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards, must be filed with the Register in Chancery in the Court of Chancery of the State of Delaware and delivered to Plaintiffs' Co-Lead Counsel and Defendants' Counsel such that they are *received* **no later than** [\_\_\_\_\_], 2023, in accordance with the instructions set forth in the Notice.

Please do not contact the Court or the Office of the Register in Chancery regarding this Summary Notice. All questions about this Summary Notice, the proposed Settlement, or your eligibility to participate in the Settlement should be directed to the Settlement Administrator or Plaintiffs' Co-Lead Counsel.

Requests for the Notice should be made to the Settlement Administrator:

FAST Acquisition Stockholders Litigation c/o JND Legal Administration PO Box 91466 Seattle, Washington 98111

888-256-6155 info@FastAcquisitionStockholdersLitigation.com www.FastAcquisitionStockholdersLitigation.com Inquiries, other than requests for the Long-Form Notice, should be made to Plaintiffs' Co-Lead Counsel:

Jeroen van Kwawegen Bernstein Litowitz Berger & Grossmann LLP 1251 Avenue of the Americas 44th Floor New York, New York 10020

(800) 380-8496 settlements@blbglaw.com Aaron T. Morris Morris Kandinov LLP 305 Broadway, 7th Floor New York, NY 10007 (212) 431-7473 aaron@moka.law

BY ORDER OF THE COURT OF CHANCERY OF THE STATE OF DELAWARE

#### **EXHIBIT D**

#### IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

## IN RE FAST ACQUISITION CORP. STOCKHOLDERS LITIGATION

CONSOLIDATED C.A. No. 2022-0702-PAF

#### [PROPOSED] ORDER AND FINAL JUDGMENT

WHEREAS, a consolidated stockholder class action is pending in this Court captioned *In re Fast Acquisition Corp. Stockholders Litigation*, C.A. No. 2022-0702-PAF (the "Action");

WHEREAS, (i) Plaintiffs Special Opportunities Fund, Inc. ("Lead Plaintiff"), ADAR1 Partners, L.P., Great Point Capital, LLC, Cladrius LTD, and George A. Spritzer (collectively, "Plaintiffs"), on behalf of themselves and the other members of the Settlement Class (as defined in Paragraph 3 below); and (ii) Defendants Sandy Beall, William Douglas Jacob, Kevin Reddy, Michael Lastoria, Ramin Arani, Alice Elliot, Sanjay Chadda, and Steve Kassin (collectively, "Defendants") (Plaintiffs and Defendants together, the "Parties") have entered into a Stipulation and Agreement of Settlement, Compromise, and Release dated October 2, 2023 (the "Stipulation"), that provides for a complete dismissal with prejudice of the claims asserted against Defendants in the Action

on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the "Settlement");

WHEREAS, by Order dated \_\_\_\_\_\_, 2023 (the "Scheduling Order"), this Court (i) ordered that notice of the proposed Settlement be provided to potential Settlement Class Members; (ii) provided Settlement Class Members with the opportunity to object to the proposed Settlement, the proposed Plan of Allocation, and/or Plaintiffs' Counsel's application for an award of attorneys' fees and Litigation Expenses ("Fee and Expense Application"); and (iii) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, the Court conducted a hearing on December 20, 2023 (the "Settlement Hearing") to consider, among other things: (i) whether the terms and conditions of the Settlement are fair, reasonable, and adequate to Plaintiffs and the other members of the Settlement Class, and should therefore be approved; (ii) whether a Judgment should be entered dismissing the Action with prejudice as against Defendants; and (iii) whether Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards, should be approved; and WHEREAS, due notice of the hearing has been given in accordance with the Scheduling Order; the Parties having appeared by their respective attorneys of record; the Court having heard and considered evidence in support of the proposed Settlement; the attorneys for the respective Parties having been heard; an opportunity to be heard having been given to all other persons or entities requesting to be heard in accordance with the Scheduling Order; the Court having determined that notice to members of the Settlement Class was adequate and sufficient; and the entire matter of the proposed Settlement having been heard and considered by the Court;

1. **Definitions:** Unless otherwise defined herein, capitalized terms used herein shall have the same meanings given to them in the Stipulation.

2. <u>Jurisdiction</u>: The Court has jurisdiction over the subject matter of the Action and all matters relating to the Settlement, as well as personal jurisdiction over the Parties and each of the Settlement Class Members for purposes of the Action.

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Notice: The Court finds that the dissemination of the Notice and the 3. publication of the Summary Notice: (i) were implemented in accordance with the Scheduling Order; (ii) constituted the best notice practicable under the circumstances; (iii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of: the pendency of the Action; the effect of the proposed Settlement (including the Releases to be provided thereunder), the proposed Plan of Allocation, and Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards; their right to object to any aspect of the Settlement, the Plan of Allocation, and/or Plaintiffs' Counsel's Fee and Expense Application, including Plaintiffs' application for Incentive Awards; and their right to appear at the Settlement Hearing; (iv) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (v) satisfied the requirements of Court of Chancery Rule 23, the United States Constitution (including the Due Process Clause), and all other applicable law and rules.

4. <u>Class Certification</u>: The Action is finally certified as a non-opt-out class action, for settlement purposes only, pursuant to Court of Chancery Rules

23(a), 23(b)(1), and 23(b)(2), consisting of all holders of public shares of FAST Acquisition Corp. ("FAST" or the "Company") Class A common stock ("FAST Class A Public Shares") at the close of business on August 25, 2022 (the "Settlement Class"). Excluded from the Settlement Class are (i) Defendants; (ii) any person who is, or was at the close of business on August 25, 2022, an officer or director of FAST; (iii) the immediate family members of any of the foregoing excluded persons; (iv) any trusts, estates, entities, or accounts that held FAST Class A Public Shares for the benefit of any of the foregoing excluded persons; (v) any entity in which any of the foregoing excluded persons or entities has, or had at the close of business on August 25, 2022, a controlling interest; and (vi) the legal representatives, heirs, successors-in-interest, successors, transferees, and assigns of the foregoing excluded persons or entities (the "Excluded Stockholders"). Lead Plaintiff Special Opportunities Fund, Inc., is finally certified as the Class Representative for the Settlement Class. The law firms of Bernstein Litowitz Berger & Grossmann LLP and Morris Kandinov LLP ("Plaintiffs' Co-Lead Counsel") are finally certified as Class Counsel for the Settlement Class.

Based on the record of the Action, the Court expressly and 5. conclusively finds, solely for purposes of this Settlement, that: (i) the Settlement Class is so numerous that joinder of all members is impracticable, satisfying Court of Chancery Rule 23(a)(1); (ii) there are questions of law and fact common to the Settlement Class, satisfying Court of Chancery Rule 23(a)(2); (iii) the claims of Lead Plaintiff are typical of the claims of absent Settlement Class Members in that they all arise from the same allegedly wrongful course of conduct and are based on the same legal theories, satisfying Court of Chancery Rule 23(a)(3); (iv) Lead Plaintiff and Plaintiffs' Co-Lead Counsel are fair and adequate representatives of the Settlement Class, satisfying Court of Chancery Rule 23(a)(4); (v) the prosecution of separate actions by individual Settlement Class Members would create a risk of inconsistent adjudications that would establish incompatible standards of conduct for Defendants, and, as a practical matter, the disposition of the Action as against Defendants would influence the disposition of any pending or future identical suits, actions, or proceedings brought by other Settlement Class Members, satisfying Court of Chancery Rule 23(b)(1); and (vi) Defendants are alleged to have acted or refused to act on grounds generally applicable to the Settlement Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Settlement Class as a whole, satisfying Court of Chancery Rule 23(b)(2).

6. **Final Settlement Approval and Dismissal of Claims:** Pursuant to, and in accordance with, Court of Chancery Rule 23(e), this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the Settlement consideration; the Released Claims; class certification; and the dismissal with prejudice of the claims asserted against Defendants in the Action), and finds that the Settlement is, in all respects, fair, reasonable, and adequate to Plaintiffs and the other members of the Settlement Class and in their best interests. The Parties are directed to implement, perform, and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation, which this Judgment incorporates and makes a part hereof.

7. The Action and all of the claims asserted against Defendants in the Action are hereby dismissed with prejudice. The Parties shall bear their own fees, costs, and expenses, except as otherwise provided in the Stipulation and this Judgment.

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8. <u>Binding Effect</u>: The terms of the Stipulation and of this Judgment shall be forever binding on the Parties and all Settlement Class Members, as well as their respective successors and assigns.

9. <u>Releases</u>: The Releases set forth in the Stipulation, together with the definitions contained in Paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

Upon the Effective Date of the Settlement, Plaintiffs and all (i) other members of the Settlement Class, on behalf of themselves and their heirs. administrators, respective predecessors, executors. successors. representatives, trustees, estates, transferees, and assigns, in their capacities as such, and any other person or entity purporting to claim through or on behalf of them in such capacity, by operation of the Judgment and to the fullest extent permitted by law, shall completely, fully, finally, and forever release, relinquish, settle, and discharge the Released Plaintiffs' Claims as against the Released Defendants' Persons, and shall forever be barred and enjoined from commencing, instigating, or prosecuting the Released Plaintiffs' Claims against the Released Defendants' Persons.

(ii) Upon the Effective Date of the Settlement, Defendants, on behalf of themselves and their respective heirs, executors, administrators, predecessors, successors, representatives, trustees, estates, transferees, and assigns, in their capacities as such, and any other person or entity purporting to claim through or on behalf of them in such capacity, by operation of the Judgment and to the fullest extent permitted by law, shall completely, fully, finally, and forever release, relinquish, settle, and discharge the Released Defendants' Claims as against the Released Plaintiffs' Persons, and shall forever be barred and enjoined from commencing, instigating, or prosecuting the Released Defendants' Claims against the Released Plaintiffs' Persons.

10. Notwithstanding Paragraph 9 above, nothing in the Stipulation or in this Judgment shall in any way impair or restrict the rights of the Parties to enforce the terms of the Settlement pursuant to the Stipulation.

11. <u>Award of Attorneys' Fees and Expenses</u>: Plaintiffs' Counsel are hereby awarded attorneys' fees in the amount of \_\_\_\_% of the Settlement Fund and Litigation Expenses in the amount of \$\_\_\_\_\_ ("Fee and Expense Award"), which sums the Court finds to be fair and reasonable. The Fee and

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Expense Award shall be paid out of the Settlement Fund in accordance with the terms of the Stipulation.

12. Lead Plaintiff is hereby awarded an incentive award in the amount of \$\_\_\_\_\_ and each other Plaintiff is hereby awarded an incentive award in the amount of \$\_\_\_\_\_ (together, the "Incentive Awards"). The Incentive Awards shall be paid to Plaintiffs from the Fee and Expense Award awarded under Paragraph 11 above.

13. No proceedings or court order with respect to the Fee and Expense Award to Plaintiffs or Plaintiffs' Counsel shall in any way affect or delay the finality of this Judgment (or otherwise preclude this Judgment from being entitled to preclusive effect), and shall not affect or delay the Effective Date of the Settlement.

14. **Plan of Allocation of Net Settlement Fund:** The Court hereby finds and concludes that the formula for the calculation of payments from the Net Settlement Fund to eligible Settlement Class Members as set forth in the Plan of Allocation stated in the Notice provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund with due consideration having been given to administrative convenience and necessity. No proceedings or court order with respect to approval of the Plan of Allocation shall in any way affect or delay the finality of this Judgment (or otherwise preclude this Judgment from being entitled to preclusive effect), and shall not affect or delay the Effective Date of the Settlement.

15. <u>Modification of the Stipulation</u>: Without further approval from the Court, the Parties are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any Exhibits attached thereto to effectuate the Settlement that: (i) are not materially inconsistent with this Judgment; and (ii) do not materially limit the rights of Settlement Class Members in connection with the Settlement. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any provisions of the Settlement.

16. <u>Termination of Settlement</u>: If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Stipulation; this Judgment shall be without prejudice to the rights of the Parties or the Settlement Class; and Plaintiffs and Defendants shall revert to their respective positions in the Action as of immediately prior to the execution of the Settlement Term Sheet on August 11, 2023, as provided under the Stipulation.

17. <u>**Retention of Jurisdiction</u>**: Without affecting the finality of this Judgment in any way, this Court retains continuing and exclusive jurisdiction over the Parties and all Settlement Class Members for purposes of the administration, interpretation, implementation, and enforcement of the Settlement, and all other matters relating to the Action and the Settlement.</u>

18. <u>Entry of Final Judgment</u>: There is no just reason to delay the entry of this Judgment as a final judgment in the Action. Accordingly, the Register in Chancery is expressly directed to immediately enter this final Judgment in the Action.

Vice Chancellor Paul A. Fioravanti, Jr.