

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between Plaintiff, the CITY OF JACKSONVILLE ("COJ"), and Defendant, OTIS ELEVATOR COMPANY, ("Otis") (the above-named parties shall be individually referred to as a "Party" or collectively as the "Parties").

BACKGROUND

WHEREAS, COJ asserted claims against Otis related to alleged breach of contracts and damages arising out of elevator service and elevator maintenance at several buildings owned by COJ (the "Claims"); and

WHEREAS, the Claims are more fully described in a lawsuit filed by COJ in the Florida Fourth Judicial Circuit, Duval County, Florida, styled *City of Jacksonville v. Otis Elevator Company*, Case No. 16-2024-CA-000270 and Case No. 2024-CA-000270, arising out of the Claims (the "Lawsuit"); and

WHEREAS, in recognition of the Parties' mutual desire to fully resolve the Claims and the Lawsuit, and to avoid the uncertainty and expense of continued litigation, the Parties desire to settle and compromise the Claims and the Lawsuit, including any and all claims the Parties have or may have against each other related to the Claims or the Lawsuit.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties hereby agree as follows:

AGREED TERMS

1. **APPROVAL BY LEGISLATION:** This Agreement will not become effective until the settlement described herein, for the amount specified in Paragraph 2 below, and on the terms stated herein, is approved by Ordinance of the Jacksonville City Council.
2. **PAYMENT:** Otis will pay to COJ the sum of ONE HUNDRED THOUSAND DOLLARS and zero cents (\$100,000.00), in full and final settlement of the Claims and the Lawsuit. Payment from Otis to COJ shall be due thirty (30) days from the date of receipt by Otis' counsel of a fully executed copy of this Agreement and W9 from COJ, following approval of the settlement by the Jacksonville City Council. The settlement funds shall be made payable to the "City of Jacksonville."

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3. **DISMISSAL OF CLAIMS:** Upon payment to COJ of the amounts specified in Paragraph 2 above, COJ will file a Notice of Dismissal of the Lawsuit, with Prejudice. Each Party will bear its own attorneys' fees and costs.
4. **MUTUAL RELEASE:** The Parties, for and in consideration of the mutual promises, covenants, and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, have remised, released, and by these presents do forever discharge each other, and their respective parent entities, subsidiaries, affiliate entities, successors, assigns, predecessors, agents, employees, representatives, attorneys, assigns and insurers, indemnitors, and any other person or entity claiming by or through them, whether named or unnamed from and against any and all past, present or future known and unknown charges, complaints, claims, cross-claims, grievances, liabilities, obligations, promises, agreements, controversies, demands, damages, actions, causes of action (including claims of others), suits, costs (including court costs), rights, losses, debts, penalties, fees, wages, pain and suffering, mental anguish, emotional distress, expenses (including attorneys' fees and costs actually incurred), judgments, liens, and punitive damages, of any kind or nature whatsoever, in contract or in tort by reason of, relating to, growing out of, resulting from or in connection with the Claims and the Lawsuit.

This Agreement resolves any claim for relief that could have been alleged, no matter how characterized, including without limitation, compensatory damages, damages for breach of contract, bad faith damages, reliance, liquidated damages for humiliation and embarrassment, punitive damages, costs and attorney's fees related to the Claims and the Lawsuit.

Nothing contained in this Agreement shall be construed to release or relieve any Party from its obligations set forth in this Agreement.

5. **NO ADMISSION OF LIABILITY:** It is understood and agreed by the Parties that this Agreement is entered into as a compromise of a disputed Claims, and is not intended to, nor shall it be construed as, an admission of any negligence, breach of contract, culpability, liability, wrongdoing, or breach on the part of any Party or person of any kind whatsoever by any of the Parties.
6. **COMPLETE SETTLEMENT:** It is further understood and agreed that this Agreement constitutes a full, final and complete compromise, settlement and satisfaction of all Claims, which relate in any manner whatsoever to the Claims or the Lawsuit.

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7. **REPRESENTATIONS AND WARRANTIES:** The Parties each represent and warrant the following:
 - a. The person executing this Agreement on behalf of a Party is authorized to do so;
 - b. The Parties each have an interest in and ownership of the claims being released sufficient to grant the releases of those claims contemplated hereby, and that they have not assigned, or in any conveyed, transferred or encumbered all or any portion of the Claims discharged by this Agreement, and that they have the exclusive right, capacity and authority to execute this Agreement;
 - c. This Agreement is executed without duress, and without reliance upon any statement, inducement, or representation of any of the Parties or their respective representatives concerning the nature and extent of any damages or injuries and/or legal liability therefore;
 - d. The payment described in Paragraph 2 is a fair and reasonable settlement and fully and finally resolves all disagreements and matters relating to the Claims and the Lawsuit;
 - e. The Parties have each received the advice of their own attorneys with respect to the matters set forth in this Agreement, that they have completely read and fully understood all the terms and conditions in this Agreement, and fully agree to each and every provision thereof, and hereby acknowledges receipt of a copy hereof.
8. **AMENDMENTS:** This Agreement may be modified or amended only in writing signed by all Parties to be bound. A waiver by either Party of any provision of this Agreement shall not waive any other provision of this Agreement.
9. **ENTIRE AGREEMENT:** This Agreement constitutes the entire understanding among the Parties hereto with respect to the subject matter hereof and supersedes any prior agreements, written or oral, with respect thereto. No covenants, agreements, representations or warranties of any kind whatsoever have been made by any Party, except as specifically set forth in this Agreement. All prior discussions and negotiations with respect to the settlement have been and are merged and integrated into, and are superseded by, this Agreement.

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10. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
11. **SEVERABILITY:** Except for and subject to the requirements of Paragraph 1 above, in the event of any provision of this Agreement shall be held to be void, voidable, or unenforceable in a particular instance and such provision does not affect the basis of the bargain of the Parties hereunder, such provision shall be severed in such instance and the remaining portions hereof shall remain in full force and effect. Furthermore, in lieu of such severed provision, there shall be added automatically in any such instance as part of this Agreement, a provision as similar to the severed provision as may be possible and be legal, binding and enforceable.
12. **GOVERNING LAW AND CHOICE OF FORUM:** This Agreement shall be construed and controlled by the laws of the State of Florida as construed and applied by courts having jurisdiction therein. In the event that any conflict of law or choice of law principle would otherwise in anyway cause the laws of another state to apply to any issue, such conflict of law or choice of law principle shall not apply. The venue for any action brought relating to or arising out of this Agreement shall be in Duval County, Florida.
13. **WAIVER OF JURY TRIAL:** EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE, IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT.

EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT:

(I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THIS JURY TRIAL WAIVER; (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF WAIVING ITS RIGHT TO A JURY TRIAL, AND (III) IT MAKES SUCH WAIVER OF ITS RIGHT TO A JURY TRIAL VOLUNTARILY.

14. **EXECUTION IN COUNTERPARTS:** This Agreement may be executed by any of the Parties by signing any one of the multiple copies of this Agreement. Any copy of

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this Agreement, when signed by any of the Parties, shall be deemed an original. All of the signed copies shall together constitute one Agreement. A facsimile copy and/or email /scan/Adobe PDF of any Party's signature shall be deemed as legally binding as an original signature

15. **PARAGRAPH HEADINGS, INTERPRETATION:** Paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. No provision of this Settlement Agreement is to be interpreted for or against any Party because that Party or its legal representative drafted such provision.

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[Signatures on Following Pages]

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SIGNATURES:

The undersigned representative of the City of Jacksonville is authorized pursuant to Chapter 112, Part 1, City of Jacksonville Ordinance Code, to settle on terms described in this document.

FOR CITY OF JACKSONVILLE:

By: _____

Title: _____

Date: _____

FOR OTIS ELEVATOR COMPANY:

By: _____

Title: _____

Date: _____