

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

<p>IN RE: ZELIS REPRICING ANTITRUST LITIGATION</p> <p>This Document Relates To:</p> <p>All Associated Cases</p>	<p>Lead Action Case No.: 1:25-cv-10734-BEM</p> <p><i>Consolidated with Case Nos.:</i> <i>1:25-CV-11092-BEM</i> <i>1:25-CV-11167-BEM</i> <i>1:25-CV-11537-BEM</i></p>
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**PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE OF  
DEPARTMENT OF JUSTICE AND PRIVATE CIVIL SETTLEMENT  
DOCUMENTS CONCERNING REALPAGE**

## I. Introduction

Plaintiffs request that this Court take judicial notice of certain documents filed in two other Federal District Court matters concerning another third-party AI / algorithmic pricing entity, which have been attached as exhibits to the Declaration of Jason S. Hartley in Support of Plaintiffs' Request for Judicial Notice of Department of Justice and Private Civil Settlement Documents Concerning RealPage ("Hartley Decl."), filed herewith. Pursuant to Local Rules of the United States District Court for the District of Massachusetts, L.R. 7.1(a)(2), counsel to the parties met and conferred on December 4, 5, and 9, 2025. Hartley Decl. at 2 (¶ 7). On December 9, 2025, Defendants informed Plaintiffs that they "oppose the request for judicial notice on the basis that the materials at issue in the request are irrelevant to the matters pending before the Court in this case." *Id.* at 2 (¶ 7).

Plaintiffs respectfully request that the Court, as part of its consideration and determination of Defendants' multiple motions to dismiss Plaintiffs' Amended and Consolidated Class Action Complaint, incorporate and take judicial notice of the following documents, which have been filed within the government and private civil cases concerning RealPage, Inc., which is another third-party pricing algorithm company facing continuing litigation in the Middle District of Tennessee for antitrust violations:

- **Exhibit 1** to the Hartley Decl. is a true and correct copy of the parties' Stipulation and Order, filed in *United States of America v. RealPage, Inc.*, Case No. 1:24-cv-00710 (M.D.N.C.) at ECF No. 159;
- **Exhibit 2** to the Hartley Decl. is a true and correct copy of the parties' Proposed Final Judgment, filed in *United States of America v. RealPage, Inc.*, Case No. 1:24-cv-00710 (M.D.N.C.) at ECF No. 159-1;

- **Exhibit 3** to the Hartley Decl. is a true and correct copy of the Order on Preliminary Approval of Settlements, filed in *In re RealPage, Inc. Rental Software Antitrust Litig. (No. II)*, Case No. 3:24-cv-01196 (M.D. Tenn.) at ECF No. 244; and
- **Exhibit 4** to the Hartley Decl. is a true and correct copy of the Joint Declaration of Interim Co-Lead Counsel in Support of Plaintiffs’ Motion for Preliminary Approval of Class Settlements and for Appointment of Settlement Class Representatives, Settlement Class counsel, and Settlement Administrator, filed in *In re RealPage, Inc. Rental Software Antitrust Litig. (No. II)*, Case No. 3:24-cv-01196 (M.D. Tenn.) at ECF No. 208.

Filed along with this Request for Judicial Notice is a Proposed Order granting Plaintiffs’ request for judicial notice as to some or all of Exhibits 1-4, attached to the Hartley Decl.

## **II. Applicable Standards for Taking Judicial Notice of Settlement-Related Documents**

Under the Federal Rules of Evidence, “[t]he court may judicially notice a fact that is not subject to reasonable dispute because it . . . (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed.R.Evid. Rule 201(b)(2). Moreover “[t]he Court may take judicial notice of matters of public record, including duly recorded documents, and court records available to the public through the PACER system via the internet.” *C.B. v. Sonora School Dist.*, 691 F. Supp. 2d 1123, 1138 (E.D. Cal. 2009) (citing Fed.R.Evid. Rule 201(b)); *United States v. Howard*, 381 F. 3d 873, 876, n.1 (9<sup>th</sup> Cir. 2004)). *See also Lydon v. Loc. 103, Int’l Brotherhood of Elec. Workers*, 770 F. 3d 48, 53 (1<sup>st</sup> Cir. 2014) (“On a motion to dismiss . . . , a judge can mull over ‘. . . matters of public record, and other matters susceptible to judicial notice’”)) (internal citations and footnote omitted). Accordingly, courts may take, and this Court specifically has taken, judicial notice of “settlement agreements” entered into the “public record”

where “their authenticity is not in dispute,” and may “consider them in light of defendant’s motion to dismiss.” *United States v. Raytheon Co.*, 334 F. Supp. 3d 519, 523-524 (D. Mass. 2018).

When considering facts to be judicially noticed, the focus is not on "relevance," *per se*, but on the *use* of the facts to be judicially noticed. Rule 201 applies to “adjudicative” facts, and does not explicitly require relevance. *See* Fed.R.Evid. Rule 201(a) (“This rule governs judicial notice of an adjudicative fact only”). *See also United States v. Bello*, 194 F.3d 18, 22-23 (1<sup>st</sup> Cir. 1999) (“Whether a fact is adjudicative or legislative depends not on the nature of the fact . . . but rather on the use made of it . . . .”). As determined and decided by the First Circuit, “[a]lthough *irrelevant* to either the merits of this case or to the evidentiary question, we take judicial notice that the Federal Circuit eventually dismissed the appeal for want of jurisdiction because the underlying arbitral decision . . . was not subject to judicial review.” *Kassel v. Gannett Co., Inc.*, 875 F.2d 935, 951 n.16 (1st Cir. 1989) (citing *Kassel v. VA*, No. 87-3472 (Fed.Cir. Aug. 3, 1988) (unpublished order)) (emphasis added). *See also Total Petroleum Puerto Rico Corp. v. Torres-Caraballo*, 672 F. Supp. 2d 252, 253 (D.P.R. 2009) (District Court adopting Magistrate Judge's Report and Recommendation), stating at 254 (“Defendants have cited no authority for the proposition that relevance is a prerequisite for judicial notice. Rule 201(b) provides no such requirement, and the First Circuit has taken judicial notice of facts 'although irrelevant to . . . the merits of th[e] case.’ *Kassel v. Gannett Co.*, 875 F.2d 935, 951 n.16 (1st Cir. 1989).”).

The Court may consider judicially noticed material when considering whether to dismiss a complaint. *See R.G. Fin. Corp. v. Vergara-Nunez*, 446 F.3d 178, 182 (1<sup>st</sup> Cir. 2006) (In both the Fed.R.Civ.Proc. Rule 12(c) and Rule 12(b)(6) contexts, “[t]he court may supplement the facts contained in the pleadings by considering documents fairly incorporated therein and facts

susceptible to judicial notice”) (citing *In re Colonial Mortg. Bankers Corp.*, 324 F. 3d 12, 15-16 (1st Cir. 2003) concerning 12(b)(6)).

Here, the “Stipulation and Order,” filed on November 24, 2025 in *United States of America v. RealPage, Inc.*, Case No. 1:24-cv-00710 (M.D.N.C.) at ECF No. 159, concerns a settlement agreement entered into the public record by the defendant, RealPage, Inc. -- a third party pricing algorithm service provider -- used by landlords to collectively set prices for tenants, and the United States in a governmental civil proceeding (the “DOJ Settlement”). The DOJ Settlement was filed as docket entry number 159, and thus was placed in the “public record” and is properly the subject of judicial notice. *See Sonora School Dist.*, 692 F. Supp. 2d at 1138. Moreover, the “authenticity” of this settlement-related Stipulation and Order, docketed at ECF No. 159, does not appear to be in “dispute.” *See Raytheon*, 334 F. Supp. 3d at 523-524. This Court can take judicial notice of ECF No. 159 under Fed.R.Evid. Rule 201(b)(2).

The “Proposed Final Judgment,” filed on November 24, 2025 in *United States v. RealPage, Inc.*, Case No. 1:24-cv-00710 (M.D.N.C.) at ECF 159-1, between the United States of America, through the Department of Justice, and Defendant RealPage, Inc., concerns the parties’ “consent[] to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law[.]” ECF 159-1 at 1. The Proposed Final Judgment reflects a settlement between the parties, which can be judicially noticed. *Raytheon*, 334 F. Supp. 3d at 523-524. The Proposed Final Judgment at ECF 159-1 is also the proper subject of judicial notice because (1) it was entered in the public record and (2) there is no legitimate challenge to its authenticity, as a document signed by both the government and the defendant, RealPage. *Sonora School Dist.*, 334 F. Supp. 2d at 1138; *Raytheon*, 334 F. Supp. 3d at 523-524.

With respect to the civil matter, *In re RealPage, Inc. Rental Software Antitrust Litig. (No. II)*, Case No. 3:25-cv-01196 (M.D. Tenn.), plaintiffs and certain defendants entered into a series of class settlements (“Private Civil Settlements”), which were preliminarily approved on or around November 21, 2025 by Judge Crenshaw at ECF No. 244. In that case, plaintiffs, “on behalf of themselves and the Settlement Class . . . have entered into 26 separate Settlement Agreements with the Defendants . . . .” *Id.* at 1 (footnote omitted). Dismissal and settlement-related materials can be proper subjects of judicial notice. *Raytheon*, 334 F. Supp. 3d at 523-524. Further, this document was placed in the “public record” by virtue of its filing in Case No. 3:25-cv-01196 (M.D. Tenn.), docket entry number 244. *See Sonora School Dist.*, 692 F. Supp. 2d at 1138. Rather than the subject of any “dispute” as to their “authenticity,” the underlying civil settlements were first agreed to by the involved parties and then preliminarily approved, via ECF No. 244, on a class basis by the court. *See* ECF No. 244 at 1-7; *Raytheon*, 334 F. Supp. 3d at 523-524. ECF No. 244 is a proper subject of judicial notice.

In support of the plaintiffs’ motion for preliminary approval, Interim Co-Lead Counsel filed on October 1, 2025 a joint declaration in Case No. 3:24-cv-01196 (M.D. Tenn.) at ECF No. 208, which states, in part, that “Plaintiffs have reached Settlements with 26 Settling Defendants . . .,” having a “total monetary value of . . . \$141,800,000.” *Id.* at 7 (¶¶ 32-33). This document pertains to a series of class settlements reached in the private civil matter. *See Raytheon*, 334 F. Supp. 3d at 523-524. Further, this declaration was entered into the “public record” by virtue of its filing on ECF at Case No. 3:24-cv-01196 (M.D. Tenn.) at docket entry number 208, making it proper for judicial notice. *Sonora School Dist.*, 692 F. Supp. 2d at 1138. Similar to the above-discussed documents, there is no indication that either this joint declaration or the twenty-six

underlying Settlement Agreements are the subject to any “dispute” as to their “authenticity.” *Raytheon*, 334 F. Supp. 3d at 523-524. ECF No. 208 can be judicially noticed.

### III. Additional Bases for Taking Judicial Notice of Settlement-Related Documents

The parties to the DOJ Settlement agreed that it should be interpreted so as to “restore the competition” that the DOJ “allege[d] was harmed by [Defendant RealPage’s] conduct,” and that “[e]ntry of this Final Judgment is in the public interest.” ECF No. 159-1 at 33 (§ XIII.C.) and 35 (§ XVI.). Accordingly, this DOJ Settlement supports Plaintiffs’ position here that a third-party AI / algorithmic pricing service, like that provided by Zelis, can harm competition, and that competition can be restored through settlement or other judicial resolution. It is also clear that the DOJ believes that injunctive relief designed to curtail the improper exchange of competitively-sensitive information used to provide algorithmic or AI-based pricing is in the “public interest.” *Id.* at 11-30, 35-36 (§§ IV-X, XVI).

With respect to the private civil matter, *In re RealPage, Inc. Rental Software Antitrust Litig. (No. II)*, Case No. 3:24-cv-01196 (M.D. Tenn), Judge Crenshaw entered on or around November 21, 2025 the Order on Preliminary Approval of Settlements, indicating that plaintiffs, “on behalf of themselves and the Settlement Class . . . , have entered into 26 separate Settlement Agreements with the Defendants listed in Exhibit A to the Counsel Declaration . . . .” ECF No. 244 at 1 (footnote omitted). The Private Civil Settlements achieved within the *RealPage* private civil matter concern the impact caused by a third-party pricing algorithm service and its users, having a “total monetary value” of “\$141,800,000,” *per* ECF No. 208 at 7 (¶33), which the court determined was a “fair, reasonable, and adequate [amount], falling within the range of possible approval . . . .” ECF No. 244 at 3 (¶5). The Private Civil Settlements likewise further support Plaintiffs’ position here that a third-party algorithm pricing service, like Zelis, can harm

competition; that competition can be restored through settlement, and that private monetary and injunctive remedies of these antitrust violations can be approved by a federal court. Additionally, as alleged on a class action basis in *Zelis*, the preliminary approval of the 26 Settlement Agreements in *RealPage* show the propriety of applying class wide relief in third-party AI / algorithmic pricing matters.

#### **IV. Conclusion**

For the above reasons, Plaintiffs respectfully request that the Court take judicial notice of Exhibits 1 through 4 to the Hartley Decl. in connection with the Court's consideration of Defendants' motions to dismiss Plaintiffs' Amended and Consolidated Class Action Complaint and enter the Proposed Order, filed along with this Request for Judicial Notice.

Dated: December 12, 2025

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***Co-Lead Counsel for Plaintiffs and the Putative Class***

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of December, 2025, the foregoing Request for Judicial Notice, along with the attached Declaration of Jason Hartley and the Proposed Order, was filed with the Court's electronic filing system, which will send electronic notice of this filing to all counsel of record.

*s/Maureen Forsyth* \_\_\_\_\_

Maureen Forsyth

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

<p>IN RE: ZELIS REPRICING ANTITRUST LITIGATION</p> <p>This Document Relates To:</p> <p>All Associated Cases</p>	<p>Lead Action Case No.: 1:25-cv-10734-BEM</p> <p><i>Consolidated with Case Nos.:</i> <i>1:25-CV-11092-BEM</i> <i>1:25-CV-11167-BEM</i> <i>1:25-CV-11537-BEM</i></p>
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**DECLARATION OF JASON S. HARTLEY  
IN SUPPORT OF PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE OF  
DEPARTMENT OF JUSTICE AND PRIVATE CIVIL SETTLEMENT  
DOCUMENTS CONCERNING REALPAGE**

I, Jason S. Hartley, respectfully submit this Declaration in Support of Plaintiffs' Request for Judicial Notice of Department of Justice and Private Civil Settlement Documents Concerning RealPage, and hereby state, as follows:

1. I am duly admitted to practice law in the State of California, I am admitted to practice before this Court *pro hac vice*, and I am a partner at Hartley LLP, co-lead counsel for Plaintiffs and members of the putative class in this matter.

2. I respectfully submit this declaration in support of Plaintiffs' Request for Judicial Notice of Department of Justice and Private Civil Settlement Documents Concerning *RealPage*.

3. Attached hereto as **Exhibit 1** is a true and correct copy of the Stipulation and Order, filed in *United States of America v. RealPage, Inc.*, Case No. 1:25-cv-00710 (M.D.N.C.) at ECF No. 159.

4. Attached hereto as **Exhibit 2** is a true and correct copy of the Proposed Final Judgment, filed in *United States of America v. RealPage, Inc.*, Case No. 1:25-cv-00710 (M.D.N.C.) at ECF No. 159-1.

5. Attached hereto as **Exhibit 3** is a true and correct copy of the Order on Preliminary Approval of Settlements, entered on or around November 21, 2025 in *In re RealPage, Inc. Rental Software Antitrust Litig. (No. II)*, Case No. 3:24-cv-01196 (M.D. Tenn.), at ECF No. 244.

6. Attached hereto as **Exhibit 4** is a true and correct copy of the Joint Declaration of Interim Co-Lead Counsel in Support of Plaintiffs' Motion for Preliminary Approval of Class Settlements and for Appointment of Settlement Class Representatives, Settlement Class Counsel, and Settlement Administrator, filed in *In re RealPage, Inc. Rental Software Antitrust Litig. (No. II)*, Case No. 3:24-cv-01196 (M.D. Tenn.), at ECF No. 208.

7. In addition, Plaintiffs' counsel and defense counsel engaged in a series of meet-and-confers, occurring over email on December 4, 5, and 9, 2025, with respect to Plaintiffs' request for judicial notice. On December 9, 2025, Sandra H. Masselink of Ropes & Gray LLP informed Plaintiffs' counsel, in part, that "Defendants oppose the request for judicial notice on the basis that the materials at issue in the request are irrelevant to the matters pending before the Court in this case."

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 12<sup>th</sup> day of December, 2025, in San Diego, California.



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Jason S. Hartley

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

REALPAGE, INC.,

*Defendant.*

No. 1:24-cv-00710-WLO-JLW

**STIPULATION AND ORDER**

It is hereby stipulated by and between the undersigned parties, subject to approval and entry of this Order by the Court, as follows.

**I. JURISDICTION AND VENUE**

The Court has jurisdiction over the subject matter of this action and over the parties to it. Venue for this action is proper in the United States District Court for the Middle District of North Carolina.

**II. COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT**

A. The proposed Final Judgment filed with this Stipulation and Order, or any amended proposed Final Judgment agreed upon in writing by the United States and RealPage, Inc. ("Defendant"), may be filed with and entered by the Court as the

Final Judgment, upon the motion of the United States or upon the Court's own motion, after compliance with the requirements of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16, and without further notice to any party or any other proceeding, as long as the United States has not withdrawn its consent. The United States may withdraw its consent at any time before the entry of the Final Judgment by serving notice on Defendant and by filing that notice with the Court.

B. From the date of the signing of this Stipulation and Order by Defendant until the Final Judgment is entered by the Court, or until expiration of time for all appeals of any ruling declining entry of the proposed Final Judgment, Defendant will comply with all of the terms and provisions of the proposed Final Judgment.

C. From the date on which the Court enters this Stipulation and Order, the United States will have the full rights and enforcement powers set forth in the proposed Final Judgment as if the proposed Final Judgment were in full force and effect as a final order of the Court, and Section XIII of the proposed Final Judgment will also apply to violations of this Stipulation and Order.

D. Defendant agrees to arrange, at its expense, publication of the newspaper notice required by the APPA, which will be drafted by the United States in its sole discretion. The publication must be arranged as quickly as possible and, in any event, no later than three business days after Defendant's receipt of (1) the text of the notice from the United States and (2) the identity of the newspaper or newspapers within which the publication must be made. Defendant must promptly send to the United States (1) confirmation that publication of the newspaper notices has been arranged and (2) the certification of the publication prepared by the newspaper or newspapers within which the notice was published.

E. Any person who wishes to submit to the United States written comments regarding the proposed Final Judgment should do so within 60 calendar days beginning with the first day of the publication of the newspaper notice required by APPA or the publication of the proposed Final Judgment and the Competitive Impact Statement in the Federal Register as required by APPA, whichever is later.

F. This Stipulation and Order applies with equal force and effect to any amended proposed Final Judgment agreed upon in

writing by the United States and Defendant and filed with the Court.

G. Defendant represents that the actions it is required to perform pursuant to the proposed Final Judgment can and will be performed and that Defendant will not later raise a claim of mistake, hardship, or difficulty of compliance as grounds for asking the Court to modify any provision of the proposed Final Judgment or this Stipulation and Order.

H. This Stipulation and Order, including the proposed Final Judgment filed with this Stipulation and Order or any amended proposed Final Judgment agreed upon in writing by the United States and Defendant, constitutes the final, complete, and exclusive agreement and understanding between the United States and Defendant with respect to the settlement of the claims expressly stated in the Complaint filed in this above-captioned case, and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein.

**III. DURATION OF OBLIGATIONS**

In the event that (1) the United States has withdrawn its consent, as provided in Paragraph II.A of this Stipulation and Order; (2) the United States voluntarily dismisses the Complaint

in this matter; or (3) the Court declines to enter the proposed Final Judgment, the time has expired for all appeals of any ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, Defendant is released from all further obligations under this Stipulation and Order, and the making of this Stipulation and Order will be without prejudice to any party in this or any other proceeding.

Dated: November 24, 2025

Respectfully submitted,

FOR DEFENDANT  
REALPAGE, INC.:

FOR PLAINTIFF  
UNITED STATES OF AMERICA:

/s/ Henry C. Su

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**ORDER**

IT IS SO ORDERED by the Court, this \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
United States District Judge

# **EXHIBIT 2**

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,

Plaintiff,

v.

RealPage, Inc.

Defendant.

No. 1:24-cv-00710-WLO-JLW

**PROPOSED FINAL JUDGMENT**

WHEREAS, Plaintiff, United States of America, filed its Complaint on August 23, 2024, as amended on January 7, 2025;

AND WHEREAS, the United States and Defendant RealPage, Inc., have consented to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

AND WHEREAS, Defendant agrees to undertake certain actions and refrain from certain conduct to remedy the loss of competition alleged in the Complaint;

AND WHEREAS, Defendant represents that the relief required by this Final Judgment can and will be made and that Defendant will not later raise a claim of hardship or difficulty as

grounds for asking the Court to modify any provision of this Final Judgment;

NOW THEREFORE, it is ORDERED, ADJUDGED, AND DECREED:

**I. JURISDICTION**

The Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states claims upon which relief may be granted against Defendant under Sections 1 and 2 of the Sherman Act (15 U.S.C. §§ 1, 2).

**II. DEFINITIONS.**

As used in this Final Judgment:

A. "RealPage" or "Defendant" means Defendant RealPage, Inc., a Delaware corporation with its headquarters in Richardson, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. "Active Lease(s)" means the lease agreement that is in effect for a unit on any given date. Whether a lease agreement is an Active Lease is based on its end date as entered by a Property Manager or Property Owner, provided, however, that leases reflected in a snapshot or backup of a database that has been aged at least 16 months prior to the date of implementation of a model will not be deemed Active Leases as defined here.

C. "AIRM" means AI Revenue Management, a RealPage Revenue Management Product.

D. "AI Demand Model" means the model used in AIRM to predict the likelihood that a prospective tenant will apply for a unit at a Subject Property.

E. "AI Supply I Model" means the model used in AIRM to predict the likelihood that an expiring lease at the Subject Property will be renewed, rather than terminated, before a renewal rent offer has been approved by the Property Manager or Property Owner.

F. "AI Supply II Model" means the model used in AIRM to predict the likelihood that an expiring lease at the Subject Property will be renewed, rather than terminated, after a renewal rent offer has been approved by the Property Manager or Property Owner.

G. "Auto Accept" means a feature or mechanism of a Revenue Management Product that, when enabled by a user or licensee of a Revenue Management Product, automatically accepts or implements the Revenue Management Product's recommended price if it satisfies a set of pricing parameters (including as to maximum increase or decrease in rent) for a Floor Plan.

H. "Competitively Sensitive Information" means property-specific data or information (whether past, present, or prospective) that: (i) individually or when aggregated with such

data or information from other properties, could be reasonably used to determine current or future rental supply, demand, or pricing for a property or a property's units, including executed rents, rental price concessions or discounts, guest traffic, guest applications, occupancy or vacancy, lease terms or lease expirations; (ii) relates to a Property Owner's or Property Manager's use of settings or user-specified parameters within Revenue Management Products with respect to the Property Owner's or Property Manager's property or properties; or (iii) relates to a Property Owner's or Property Manager's rental pricing amount, formula, or strategy, including rental price concessions or discounts with respect to the Property Owner's or Property Manager's property or properties.

I. "Cooperation Subject Matter" means the claims alleged in United States et al. v. RealPage et al. (currently docketed as No. 1:24-cv-00710 in the Middle District of North Carolina).

J. "Core-Based Statistical Area" or "CBSA" means a geographic area, as defined by the federal Office of Management and Budget, consisting of the counties or equivalent entities associated with at least one urban center (core) of at least 10,000 individuals, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties.

K. "Floor Plan" means a grouping of units for a Subject Property that share similar characteristics, such as square footage and the number of bedrooms and bathrooms.

L. "Governor Guardrail" means a feature or mechanism in the Runtime Operation of RealPage's Revenue Management Product that limits the RealPage Revenue Management Product's increase or decrease of the previous day's Floor Plan price recommendation by a certain percentage.

M. "Including" means including, but not limited to.

N. "Market Range Chart" means a chart or other visual representation that identifies, for a Subject Property's Floor Plan, a market minimum rent and a market maximum rent based on other properties' Floor Plan pricing.

O. "Market Rank" means a Subject Property variable that reflects that property's average rent level compared to distribution of rents in a market.

P. "Market Rent" means any variable that includes rent from Unaffiliated Properties.

Q. "Market Response Curve" means a curve that represents the price elasticity model for a Floor Plan.

R. "Market Surveys" means collections of Nonpublic Data compiled by RealPage including through call arounds, emails, texts, surveys, or similar communicative means from Property Managers or Property Owners.

S. "Model Training" means any process of analyzing data, including by machine learning or regression analysis, to create or adjust a model (including a Random Forest model) or algorithm used in Revenue Management Product(s) to improve the accuracy of the model's or algorithm's predictions. Model Training includes the training of a model or algorithm to predict supply or demand at a particular property, which is then used during Runtime Operation.

T. "Nonpublic Data" means any Competitively Sensitive Information that is not Public Data.

U. "Owner Inputted Data" means any data about an Unaffiliated Property that a licensee or user inputs into a RealPage Revenue Management Product.

V. "Person" means any natural person, corporate entity, partnership, association, joint venture, or trust.

W. "Pricing Advisor" means a RealPage employee, contractor, or agent who supports or otherwise works with licensees or users of Revenue Management Product(s) and who participates in any way, including by providing advice or guidance, in (i) a Property Manager or Property Owner's determination of price or desired occupancy for a Floor Plan or unit, (ii) review of or recommendations about the price for a Floor Plan or unit, or (iii) software settings or parameters of Revenue Management Product(s).

X. "Pricing Ceiling" means, for a Floor Plan, the top of the pricing range as shown on the Market Range Chart or the Market Response Curve.

Y. "Pricing Floor" means, for a Floor Plan, the bottom of the pricing range as shown in the Market Range Chart or the Market Response Curve.

Z. "Property Manager(s)" means any Person, or a Person's agent, who manages (but does not own) a multifamily rental property.

AA. "Property Owner(s)" means any Person, or a Person's agent (not including Property Managers), that (directly or indirectly) owns or controls a multifamily rental property regardless of whether they also manage that rental property; multifamily rental properties have the same Property Owner if they are (directly or indirectly) owned or controlled by the same Person.

BB. "Pseudocode" means any plain or natural language description of the steps taken by an algorithm or other software program.

CC. "Public Data" means information (including information on a rental unit's asking price, publicly offered concessions, amenities, and availability) that is readily accessible to the general public, such as on the property's website, at a physical building, in brochures, or on an internet listing service.

Public Data includes information on a rental unit's asking price, concessions, amenities, and availability provided by a Property Manager or a Property Owner to any natural person who reasonably presents himself as a prospective renter. Public Data does not include any Competitively Sensitive Information obtained through any communication between RealPage and one or more Property Managers or Property Owners or from any other Person, unless such information is also readily accessible to the general public.

DD. "RealPage RMS Meeting(s)" means RealPage steering committees, subcommittees, user groups, or Idea Exchange relating to Revenue Management Products, or variations of or communications related to such meetings, attended by more than one Property Owner or Property Manager that licenses or uses a RealPage Revenue Management Product. For avoidance of doubt, a RealPage RMS Meeting does not include any individualized communications between RealPage and a Property Manager or Property Owner to which RealPage provides products or services.

EE. "Revenue Management Product(s)" means any software or service, including software as a service, that generates rental prices or rental pricing recommendations for multifamily rental properties.

FF. "Runtime Operation" means any action taken by a Revenue Management Product while it runs, including generating

rental prices or rental pricing recommendations for any unit or set of units at a Subject Property. Runtime Operation does not include Model Training.

GG. "Settled Antitrust Claims" means any civil federal antitrust claim brought by the United States and arising from Defendant's conduct that occurred before the filing of the Complaint in this action and that relates to Revenue Management Products, including RealPage Revenue Management Products that use Competitively Sensitive Information.

HH. "Sold-out Guardrail" means the operation of RealPage's Revenue Management Product that increases the recommended rental price for a Floor Plan when the Floor Plan reaches its target occupancy.

II. "States" means the states, commonwealths, and territories of the United States of America, as well as the District of Columbia.

JJ. "Subject Property" means a property for which a Revenue Management Product provides price recommendations or prices.

KK. "Surrogate Data" means data from a property other than the Subject Property that is used by the Revenue Management Product to supplement the Transactional Data for a Floor Plan.

LL. "Synthetic Curve" means a demand or supply curve created by Defendant or Defendant's agents without the use of Transactional Data or Nonpublic Data of any kind.

MM. "Third Party" means any Person other than RealPage.

NN. "Transactional Data" means a Subject Property's current and historical data, including lease data (including lease term, final transacted lease price, and discounts) and tenant demand (including inquiries and applications by potential future tenants).

OO. "Unaffiliated Property" or "Unaffiliated Properties" means a property or multiple properties whose Property Owner(s) are different than the Property Owner of a Subject Property.

PP. "Unaffiliated Property Data" means Nonpublic Data (other than Owner Inputted Data) belonging to individual Property Owners of multiple Subject Properties that together constitute Unaffiliated Properties.

### **III. APPLICABILITY**

This Final Judgment applies to Defendant, as defined above, Defendant's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with Defendant who receive actual notice of this Final Judgment.

**IV. PROHIBITIONS REGARDING NONPUBLIC DATA**

A. Within 180 days after entry of the Stipulation and Order, Defendant must:

1. cease using current or historical Unaffiliated Property Data in the Runtime Operation of any Revenue Management Product, except as provided in Paragraph IV.C and E;

2. notify all Property Managers and Property Owners that license or use Defendant's Revenue Management Product(s) that Defendant may not seek Unaffiliated Property Data for use in Runtime Operation;

3. not use current, forward-looking, or historical Unaffiliated Property Data or Owner Inputted Data in Model Training for Revenue Management Products; *provided however*, that, Defendant may use historical or backward-looking Unaffiliated Property Data that is at least 12 months old and not from Active Leases;

4. limit any use in Revenue Management Products of Unaffiliated Property Data related to rental prices, subject to Paragraph IV.A.3 and except as provided in IV.C, to training solely of the AI Supply II Model, so that such Unaffiliated Property Data cannot be used in Revenue Management Products for any other purpose, including to calculate a Market Rent or Market Rank;

5. cease using any models in Revenue Management Products trained on Unaffiliated Property Data that restrict or filter Nonpublic Data by geography or that can identify geographic effects at a granularity more specific than nationwide; *provided however*, that Defendant may identify geographic effects at a granularity no more specific than statewide in training the AI Demand Model, AI Supply I Model and AI Supply II Model; and

6. retrain applicable models in its Revenue Management Products so that data used to train all models is restricted to data that complies with Paragraph IV.A.3-5.

B. Within 180 days after entry of the Stipulation and Order, Defendant must not share, publish, disclose, or otherwise provide or make accessible in a Revenue Management Product (including in Runtime Operation) to any licensee of a Revenue Management Product any Unaffiliated Property Data or Owner Inputted Data inputted by another Property Owner, or a Property Manager acting on the Property Owner's behalf, regardless of form, aggregation, anonymization, or age of the Unaffiliated Property Data or Owner Inputted Data except as permitted in Paragraph IV.E.

C. Within 180 days after entry of the Stipulation and Order, Defendant must not use the same Synthetic Curve within the same CBSA for Unaffiliated Properties or use Unaffiliated

Property Data to supplement Floor Plan data in Revenue Management Product(s). Provided, however, that Defendant may use Unaffiliated Property Data to supplement a Floor Plan's Transactional Data if, and only if, there is no comparable Surrogate Data available from the same reasonably identifiable Property Owner, and only until the Subject Property has achieved two years of its own Transactional Data. Defendant must obtain the Unaffiliated Property Data used pursuant to this Paragraph IV.C from a property outside of the CBSA of the Subject Property, and Defendant cannot use such data for different Unaffiliated Properties in the same CBSA as the Subject Property. Defendant must not disclose the location or the identity of the Property Owner, Property Manager, or any Unaffiliated Property whose Nonpublic Data is used to supplement a Floor Plan's Transactional Data.

D. Defendant must not conduct, commission, solicit, or otherwise knowingly accept Nonpublic Data through Market Surveys (i) for use in Revenue Management Product(s) or (ii) otherwise for purposes of recommending a Subject Property's Floor Plan pricing, unit level pricing, or occupancy levels.

E. Defendant must not use, share, publish, disclose or otherwise provide to Unaffiliated Properties, (i) in Revenue Management Product(s) or (ii) otherwise for purposes of recommending a Subject Property's Floor Plan pricing, unit level

pricing, or occupancy levels, data or information on rental occupancy, availability, or prices collected through Market Surveys conducted, commissioned, or otherwise obtained by Defendant after September 30, 2024.

F. Nothing in this Final Judgment prohibits or limits Defendant's collection of data or information from a Property Owner, or a Property Manager on behalf of the Property Owner, for use that is consistent with the terms of this Final Judgment.

**V. PROHIBITIONS REGARDING REVENUE MANAGEMENT PRODUCT FEATURES**

A. Within 180 days after entry of the Stipulation and Order, Defendant must not offer any Revenue Management Product that:

1. includes any Auto Accept feature that does not require a licensee or user to individually set parameters (including as to a maximum increase or decrease in rent);

2. includes any Governor Guardrail that does not have symmetrical upper and lower bounds for the recommended change in rental price, by a percentage to be determined and adjusted by the licensee or user;

3. reduces the target number of leases, except to round up or down to the nearest whole number of leases when calculating expected revenue;

4. generates rental price recommendations under the Sold-out Guardrail using anything other than the Subject

Property's own information, including historical position; or

5. prohibits, disincentivizes, or impedes in any way a user's or licensee's ability to reject or override any price recommendation; *provided*, however, that nothing in this Final Judgment prohibits a Property Owner or a Property Manager from maintaining records within Defendant's Revenue Management Product(s) regarding decisions for rejecting or overriding any price recommendation.

B. Beginning 180 days after entry of the Stipulation and Order, any Revenue Management Product Defendant offers must allow the licensee or user to set parameters that permit pricing recommendations to go below the Pricing Floor to the same extent such pricing recommendations exceed the Pricing Ceiling.

C. Upon entry of the Stipulation and Order, Defendant may not require or provide any incentives, including economic incentives, to any licensee or user of RealPage's Revenue Management Products to accept any recommended rental prices or range of prices or incentivize any RealPage employee or agent to solicit, request, or get a licensee or user to accept any recommended rental prices or range of prices.

D. Upon entry of the Stipulation and Order, Defendant may not implement any Revenue Management Product feature that uses

or relies on Unaffiliated Property Data in a manner inconsistent with this Final Judgment.

**VI. ADDITIONAL PROHIBITIONS**

A. Within 60 days of the entry of the Stipulation and Order, Pricing Advisors must not disclose, share with, or otherwise disseminate Unaffiliated Property Data or Owner Inputted Data (i) in Revenue Management Product(s) or (ii) otherwise for purposes of recommending a Subject Property's Floor Plan pricing, unit level pricing, or occupancy levels.

B. Defendant must not through RealPage RMS Meetings discuss or facilitate discussions about market analysis or trends based on Nonpublic Data or Owner Inputted Data or pricing strategies. Provided, however, and for avoidance of doubt, this Paragraph VI.B does not prohibit (i) RealPage from discussing its products' functionality or software-related technical issues, or (ii) Pricing Advisors from having individualized discussions with individual licensees or users of RealPage Revenue Management Products about setting rental prices and software settings if those discussions are based solely on Public Data or that licensee's or user's Nonpublic Data.

**VII. APPOINTMENT OF A MONITOR**

A. Upon application of the United States, which Defendant may not oppose, the Court will appoint a Monitor selected by the United States in its sole discretion and approved by the Court.

Defendant may propose a pool of three candidates for the Monitor appointment to the United States and the United States may consider Defendant's perspectives on the proposed candidates or any other candidates identified by the United States. The United States will retain the right, in its sole discretion, either to select the Monitor from among the three candidates proposed by Defendant or to select a different candidate. Once approved, the court-appointed Monitor should be considered by the United States and Defendant to be an arm and representative of the Court.

B. The Monitor will have the power and authority to monitor Defendant's compliance with the terms of this Final Judgment and the Stipulation and Order entered by the Court and will have other powers as the Court deems appropriate. The Monitor will have no responsibility or obligation for the operation of Defendant's business. No attorney-client relationship will be formed between Defendant and the Monitor.

C. The Monitor will have the authority to take such steps as, in the judgment of the Monitor and the United States, may be necessary to accomplish the Monitor's responsibilities. The Monitor may seek information from Defendant's personnel, including in-house counsel, compliance personnel, and internal auditors. Defendant must establish a policy, annually communicated to all employees, that employees may disclose any

information to the Monitor without reprisal for such disclosure. Defendant must not retaliate against any employee or Third Party for disclosing information to the Monitor.

D. Defendant may not object to actions taken by the Monitor in fulfillment of the Monitor's responsibilities under any Order of the Court on any ground other than malfeasance by the Monitor. Disagreements between the Monitor and Defendant related to the scope of the Monitor's responsibilities do not constitute malfeasance. Objections by Defendant must be conveyed in writing to the United States and the Monitor within 20 calendar days of the Monitor's action that gives rise to Defendant's objection, or the objection is waived.

E. The Monitor will serve at the cost and expense of Defendant pursuant to a written agreement, on terms and conditions, including confidentiality requirements and conflict of interest certifications, approved by the United States in its sole discretion. If the Monitor and Defendant are unable to reach such a written agreement within 14 calendar days of the Court's appointment of the Monitor, or if the United States, in its sole discretion, declines to approve the proposed written agreement, the United States, in its sole discretion, may take appropriate action, including making a recommendation to the Court, which may set the terms and conditions for the Monitor's work, including compensation, costs, and expenses.

F. The Monitor may hire, at the cost and expense of Defendant, any agents and consultants that are reasonably necessary in the Monitor's judgment to assist with the Monitor's duties. These agents or consultants will be directed by, and solely accountable to, the Monitor and will serve on terms and conditions, including confidentiality requirements and conflict-of-interest certifications, approved by the United States in its sole discretion. Within three business days of hiring any agents or consultants, the Monitor must provide written notice of the hiring and the rate of compensation to Defendant and the United States.

G. The compensation of the Monitor and agents or consultants retained by the Monitor must be on reasonable and customary terms commensurate with the individuals' experience and responsibilities.

H. The Monitor must account for all costs and expenses incurred.

I. Defendant's failure to promptly pay the Monitor's accounted-for costs and expenses, including for agents and consultants, will constitute a violation of this Final Judgment and may result in sanctions ordered by the Court. If Defendant makes a timely objection in writing to the United States to any part of the Monitor's accounted-for costs and expenses, Defendant must establish an escrow account into which Defendant

must pay the disputed costs and expenses until the dispute is resolved.

J. Defendant must use best efforts to cooperate fully with the Monitor and to assist the Monitor to monitor Defendant's compliance with its obligations under this Final Judgment and the Stipulation and Order. Subject to reasonable protection for trade secrets, other confidential research, development, or commercial information, or any applicable privileges, Defendant must provide the Monitor and agents or consultants retained by the Monitor with full and complete access to all personnel (current and former), agents, consultants, books, records, and facilities. Defendant may not take any action to interfere with or to impede accomplishment of the Monitor's responsibilities.

K. The Monitor must investigate and report on Defendant's compliance with this Final Judgment and the Stipulation and Order, including as follows, and will have other powers as the Court deems appropriate: (i) to obtain and review Defendant's books, records, and documents relating to Defendant's compliance with the Final Judgment; (ii) to interview Defendant's officers, employees, and agents; (iii) to obtain, or inspect at a location chosen by the United States in its sole discretion, the code and Pseudocode for RealPage's Revenue Management Products; (iv) to obtain documents showing how the models for RealPage's Revenue

Management Products are trained; (v) to obtain documents showing how RealPage's Revenue Management Products determine prices for multifamily rental property units during its Runtime Operation; (vi) to obtain documents showing whether Nonpublic Data is being used or shared, including compliance with Paragraph IV.A ; and (vii) to make annual written reports to the United States, with the first report due six months after the Monitor's work plan is approved under Paragraph VII.L, which process will include such monitoring and verification throughout the monitorship period as necessary to establish that Defendant has complied with the obligations in this Final Judgment.

L. Within 30 calendar days after appointment of the Monitor by the Court, and on a yearly basis thereafter, the Monitor must provide to the United States and Defendant a proposed written work plan. Defendant may provide comments on the proposed written work plan to the United States and the Monitor within 14 calendar days after receipt of the proposed written work plan, after which the Monitor must produce a final work plan to the United States and Defendant, for approval by the United States in its sole discretion. Any disputes between Defendant and the Monitor with respect to any written work plan will be decided by the United States in its sole discretion. The United States retains the right, in its sole discretion, to require changes or additions to a work plan at any time.

M. The Monitor may communicate *ex parte* with the Court when, in the Monitor's judgment, such communication is reasonably necessary to the Monitor's duties under this Final Judgment, including if Defendant fails to pay the Monitor's costs and expenses in a timely manner or otherwise violate this Final Judgment.

N. The Monitor will serve for a term of three years beginning on the date that the Monitor's written work plan is finalized pursuant to Paragraph VII.L, unless the United States, in its sole discretion, determines a different period—not to exceed an additional 18 months (which need not be consecutive to the original three-year monitor term)—is appropriate.

O. If the United States determines that the Monitor is not acting diligently or in a reasonably cost-effective manner, or if the Monitor resigns or becomes unable to accomplish the Monitor's duties, the United States may recommend that the Court appoint a substitute.

P. To the extent there are multiple monitors in related Final Judgments against other defendants in United States v. RealPage et al. (currently docketed as 1:24-cv-00710 in the Middle District of North Carolina), the United States, in its sole discretion, will consider whether it is appropriate for efficiency purposes to appoint the same monitor in related Final Judgments.

**VIII. ANTITRUST COMPLIANCE PROGRAM**

A. Within 30 days of entry of the Stipulation and Order, Defendant must submit a written antitrust compliance policy for approval by the United States in its sole discretion that complies with the obligations set forth in this Final Judgment. Defendant must annually train all employees with responsibility for developing, implementing, maintaining, selling, advising on, or otherwise involved in Revenue Management Product(s) or features in the United States, including Pricing Advisors, on this written policy.

B. Within 30 days of entry of the Stipulation and Order, Defendant must designate an antitrust compliance officer. Defendant must identify to the United States the antitrust compliance officer's name, business address, telephone number, and email address. Within forty-five (45) days of a vacancy in Defendant's antitrust compliance officer position, Defendant must appoint a replacement and must identify to the United States the replacement's name, business address, telephone number, and email address. Defendant's initial and replacement appointments of an antitrust compliance officer are subject to the approval of the United States in its sole discretion. Defendant is responsible for all costs and expenses related to the antitrust compliance officer. The antitrust compliance officer will be responsible for:

1. auditing on a bi-annual basis compliance with Paragraph V.A-B;

2. attending and monitoring, or arranging for the attendance or monitoring by another individual trained in antitrust law, any RealPage RMS Meeting;

3. performing bi-annual audits to ensure that Surrogate Data has been eliminated from a Subject Property's database if the Subject Property has achieved at least two years of historical Transactional Data, pursuant to Paragraph IV.C;

4. implementing and enforcing Defendant's antitrust compliance policy and annual training required by Paragraph VIII.A; and

5. reporting any communication regarding RealPage RMS Meetings pursuant to Paragraph VIII.D.

C. On an annual basis beginning 180 calendar days after entry of the Stipulation and Order, Defendant must:

1. submit to the United States a certification from Defendant's General Counsel attesting under penalty of perjury that (i) Defendant has established and maintained the antitrust compliance policy and annual training required by Paragraph VIII.A; (ii) Defendant has complied with the attestation requirement in Paragraph VIII.C.3; (iii) Defendant has complied with the requirements in Sections IV and V;

2. submit to the United States a certification from the antitrust compliance officer attesting under penalty of perjury that (i) Defendant has taken reasonable steps to comply with Paragraph IV.A.3; (ii) the antitrust compliance officer has attended, or arranged the attendance of another individual trained in antitrust law at, all RealPage RMS Meetings; (iii) RealPage RMS Meetings have complied with the restrictions described in Paragraph VI.B; (iv) the antitrust compliance officer has reported all communications pursuant to Paragraph VIII.D; and (v) the antitrust compliance officer has performed bi-annual audits to ensure compliance with Paragraphs VIII.B; and

3. require all Pricing Advisors to attest under penalty of perjury that they have complied with the requirements in Paragraph VI.A.

D. If any participant in a RealPage RMS Meeting discusses or facilitates discussions regarding topics prohibited by Section VI.B, the antitrust compliance officer, designated pursuant to Paragraph VIII.B, must provide to the United States and to the Monitor the following information about the RealPage RMS Meeting within 30 days:

1. the date, time, location, and a description of the meeting's content;

2. all participants, including denoting all participants who discussed or facilitated discussion of present or future market conditions, pricing, discounts, occupancy, renewal rates, or use of concessions;

3. a description of any document shown at the meeting, which Defendant must also produce to the United States;

4. a description of all documents received or provided by Defendant during the meeting, which Defendant must also produce to the United States; and

5. a description of all chats, recordings, or documents associated with the meeting, including agendas and meeting minutes, which Defendant must also produce to the United States.

#### **IX. COMPLIANCE INSPECTION**

A. For the purposes of determining or securing compliance with this Final Judgment or related orders such as the Stipulation and Order or determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division and reasonable notice to Defendant, Defendant must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States:

1. to have access during Defendant's business hours to inspect and copy, or at the option of the United States, to require Defendant to provide electronic copies of all books, ledgers, accounts, records, data, and documents wherever located, in the possession, custody, or control of Defendant relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Defendant's officers, employees, or agents, wherever located, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendant;

3. to obtain documents sufficient to show how RealPage's Revenue Management Product is trained and how it determines prices for multifamily rental property units during its Runtime Operation; and

4. to obtain, or inspect at a location at the Division's discretion and subject to necessary safeguards to protect confidentiality, the code and Pseudocode of RealPage's Revenue Management Product.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, Defendant must submit written reports or

respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

**X. COOPERATION**

A. Subject to reaching a settlement with all States that, as of the entry of the Stipulation and Order, are plaintiffs in United States et al. v. RealPage et al. (currently docketed as No. 1:24-cv-00710 in the Middle District of North Carolina), Defendant must cooperate fully and truthfully with the United States in any civil investigation or civil litigation the United States brings or has brought relating to the Cooperation Subject Matter. Defendant must use its best efforts to ensure that all current and former officers, directors, employees, and agents also fully and promptly cooperate with the United States. Defendant's cooperation must include:

1. making up to 25 employees available for voluntary interviews for up to 100 hours total at the request of the United States relating to the Cooperation Subject Matter and considering reasonable requests for interviews of additional employees;

2. providing full and truthful written or oral testimony in deposition, trial, or other proceeding relating to the Cooperation Subject Matter and making witnesses available to the United States upon reasonable notice before any such testimony;

3. providing proffers, which may be made by counsel for Defendant, describing Defendant's knowledge of, and evidence relating to, the Cooperation Subject Matter;

4. within 30 days of receiving a written request (whether formal or informal) from the United States for documents, information, or other material relating to the Cooperation Subject Matter (or whatever additional time the Division grants in its sole discretion), produce to the United States all responsive documents, information, and other materials, wherever located, not protected under the attorney-client privilege or the work-product doctrine, in the possession, custody, or control of Defendant or its agents, as well as a log of any responsive documents, information, or other materials that were not provided, including an explanation of the basis for withholding such materials, and authenticating or otherwise assisting with establishing the evidentiary foundation of any documents Defendant produced or produces to the United States; and

5. taking all steps necessary to preserve all documents, information, and other materials relating to the Cooperation Subject Matter until the United States provides written notice to Defendant that its obligation to do so has expired.

B. Subject to Defendant's full, truthful, and continuing cooperation, as required under Paragraph X.A, Defendant is fully and finally discharged and released from the Settled Antitrust Claims.

C. Nothing in this Section affects Defendant's obligation to respond to any formal discovery requests in litigation or a civil investigative demand issued by the United States.

**XI. PUBLIC DISCLOSURE**

A. No information or documents obtained pursuant to any provision in this Final Judgment, including reports the Monitor provides to the United States pursuant to Paragraph VII.K, may be divulged by the United States or the Monitor to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand-jury proceedings, or as otherwise required by law.

B. In the event that the Monitor receives a subpoena, court order, or other court process seeking production of information or documents obtained pursuant to any provision in this Final Judgment, including reports the Monitor provides to the United States pursuant to Paragraph VII.K, the Monitor must notify the United States and Defendant immediately and prior to any disclosure, so that Defendant may address such potential disclosure and, if necessary, pursue alternative legal remedies,

including if deemed appropriate by Defendant, intervention in the related proceedings.

C. In the event of a request by a Third Party, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, for disclosure of information obtained pursuant to any provision of this Final Judgment, the United States will act in accordance with that statute and the Department of Justice regulations at 28 C.F.R. part 16, including the provision on confidential commercial information, at 28 C.F.R. § 16.7. Defendant, when submitting information to the Antitrust Division, should designate the confidential commercial information portions of all applicable documents and information under 28 C.F.R. § 16.7. Designations of confidentiality expire 10 years after submission, "unless the submitter requests and provides justification for a longer designation period." See 28 C.F.R. § 16.7(b).

D. If at the time that Defendant furnishes information or documents to the United States pursuant to any provision of this Final Judgment, Defendant represents and identifies in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendant marks each pertinent page of such material "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," the United States must

give Defendant 10 calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

### **XII. RETENTION OF JURISDICTION**

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

### **XIII. ENFORCEMENT OF FINAL JUDGMENT**

A. If at any time during the five-year period following entry of this Final Judgment, the United States determines in its sole discretion that the Final Judgment has failed to fully redress the violations alleged in the Complaint, then the United States may re-open this proceeding to seek additional relief. Such additional relief may be ordered by this Court upon a finding by a preponderance of the evidence that there is a reasonable probability that the proposed Final Judgment did not fully redress the violations alleged in the Complaint.

B. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. In a civil contempt action, a motion to show cause, or a similar action

brought by the United States relating to an alleged violation of this Final Judgment, the United States may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Defendant waives any argument that a different standard of proof should apply.

C. This Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore the competition the United States alleges was harmed by the challenged conduct. Defendant may be held in contempt of, and the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

D. In an enforcement proceeding in which the Court finds that Defendant has violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States to enforce this Final Judgment against Defendant, whether litigated or resolved before litigation, Defendant must reimburse the

United States for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

E. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that Defendant violated this Final Judgment before it expired, the United States may file an action against Defendant in this Court requesting that the Court order: (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section.

#### **XIV. EXPIRATION OF FINAL JUDGMENT**

Unless the Court grants an extension, this Final Judgment will expire seven years from the date of its entry, except that after four years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendant that continuation of this Final Judgment is no longer necessary or in the public interest.

**XV. RESERVATION OF RIGHTS**

This Final Judgment terminates only the claims stated in the Complaint against Defendant and does not affect other charges or claims the United States may file. The United States retains all rights to investigate or prosecute, under all applicable laws, any other claims against the Defendant that may be brought in the future. The entry of this Final Judgment does not limit the ability of any non-settling attorney general of any State to bring or maintain any action under federal or state law against Defendant.

Nothing in this Final Judgment impairs or limits any authority of a State or local government to impose different or additional requirements on the use of Nonpublic Data by statute, regulation, or ordinance, or affects Defendant's obligations under state or local law.

**XVI. PUBLIC INTEREST DETERMINATION**

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to

comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: \_\_\_\_\_

[Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16]

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United States District Judge

# **EXHIBIT 3**



NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure and for the purposes of settlement only, the Action is hereby preliminarily certified as a class action on behalf of a Class ( “Settlement Class”) consisting of:

All persons and entities in the United States and its territories who paid rent on at least one multifamily residential real estate lease directly to any Owner, Managing Defendants, and/or Owner-Operator participating in RealPage’s Revenue Management Solutions,<sup>2</sup> including its pricing software and/or lease renewal staggering software programs, or to a division, subsidiary, predecessor, principal, agent, or affiliate of any such Owner, Managing Defendant, and/or Owner-Operator, at any time during the Class Period.<sup>3</sup> Specifically excluded from this Class are Opt-Outs; Defendants; the officers, directors, or employees of any Defendant; any entity in which any Defendant has a controlling interest; any affiliate, legal representative, heir or assign of any Defendant; any federal, state, or local governmental entities; instrumentalities of the federal government; states and their subdivisions, agencies, and instrumentalities; any judicial officer presiding over this Action and the members of his/her immediate family and judicial staff; and any juror assigned to this Action.

2. This Court finds, preliminarily and for purposes of settlement only, that the prerequisites for class certification under Fed. R. Civ. P. Rule 23(a) have been satisfied in that: (a) the number of Settlement Class Members is so numerous that joinder of all members of the Settlement Class is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) Plaintiffs’ claims are typical of the claims of the Settlement Class they seeks to represent; and (d) Plaintiffs and Interim Co-Lead Counsel have, and will continue to fairly

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<sup>2</sup> “Owner,” “Managing Defendants,” and “Owner Operator” are defined in the Consolidated Complaint (Doc. No. 728 at 2-3) and include the Defendants other than RealPage, Thoma Bravo Fund XIII, L.P., Thoma Bravo Fund XIV, L.P., and Thoma Bravo. “RealPage’s Revenue Management Products” are synonymous with “RealPage’s Revenue Management Solutions,” which are defined in the Consolidated Complaint.

<sup>3</sup> For all Settling Defendants except for Apartment Income REIT LLC (“AIR”) and Pinnacle Property Management Services, LLC (“Pinnacle”), the Class Period is October 18, 2018 through the date of entry of this Order Preliminarily Approving Settlement. For AIR, the Class Period is October 18, 2018 through August 12, 2024. For Pinnacle, the Class Period is October 18, 2018 through August 13, 2024.

and adequately protect the interests of the Settlement Class.

3. In addition, the Court finds, preliminarily and for purposes of settlement only, that this Action satisfies the requirements for class certification under Fed. R. Civ. P. Rule 23(b)(3) in that common questions of law and fact predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy among the Settling Parties.

4. Pursuant to Fed. R. Civ. P. Rules 23(c)(1) and 23(g), preliminarily and for purposes of the Settlement only, Plaintiffs are certified as class representatives (“Class Representatives”) of the Settlement Class and Patrick Coughlin of Scott+Scott Attorneys at Law, LLP; Stacey Slaughter of Robins Kaplan LLP; and Swathi Bojedla of Hausfeld, LLP appointed as Class Counsel for the Settlement Class.

5. The Court preliminarily finds that: (a) the Settlement Agreements resulted from good faith, arm’s length negotiations during which the Settling Parties were represented by experienced counsel; and (b) the terms of the Settlement Agreements are fair, reasonable, and adequate, falling within the range of possible approval and warranting preliminary approval pursuant to Fed. R. Civ. P. 23(e)(2).

6. The Court finds that Class Counsel have the authority to act on behalf of the Settlement Class as to all acts or consents that are required by or may be given pursuant to the Settlement Agreements, or that are reasonably necessary to consummate the settlements.

7. The contents of the Settlement Funds held by the Escrow Agent shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as they shall be distributed pursuant to the Settlement Agreements and/or further order(s) of the Court.

8. Angeion Group, LLC is appointed as the Settlement Administrator to carry out the duties and responsibilities set forth in the Settlement Agreements.

9. The Settlement Administrator is hereby authorized and directed to establish and maintain a dedicated website for these settlements that shall: (a) provide information about the settlements, including but not limited to case background, settlement terms, and important dates and deadlines; (b) make available for download copies of this Order, the Settlement Agreements, and other relevant court documents; (c) include a portal allowing Class Members to preregister to receive future updates and communications regarding the settlements; (d) include contact information for the Settlement Administrator and Class Counsel; and (e) remain accessible and regularly updated throughout the notice period and claims administration process, and for such additional time as the Court may direct.

10. Notice and Administration Expenses up to \$100,000.00 shall be paid from the Settlement Funds. Any such expenses exceeding \$100,000.00 require prior Court approval before payment from the Settlement Funds. If the settlements are not finally approved or otherwise fail to become effective, neither Plaintiffs nor Class Counsel shall be obligated to repay any Notice and Administration Expenses to the Settling Defendants, and such Notice and Administration Expenses shall be allocated on a *pro rata* basis against each Settling Defendant's respective Settlement Fund.

11. Class Counsel and the Settlement Administrator are authorized and directed to prepare any tax returns and any other tax reporting form for or in respect to the Settlement Funds, to pay from the Settlement Funds any taxes owed with respect to the Settlement Funds, 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 Settlement

Agreements.

12. Neither this Order, the Settlement Agreements, nor any act performed or document executed pursuant to or in furtherance of the settlements:

(a) is or may be deemed to be, or may be used as an admission, concession, or evidence of, the validity or invalidity of any Released Claims, the truth or falsity of any fact alleged by Plaintiffs, the sufficiency or deficiency of any defense that has been or could have been asserted in the Action, or of any deception, wrongdoing, liability, negligence, or fault of Settling Defendants, or that any Plaintiff or Settlement Class Member was harmed or damaged by any conduct by any Settling Defendant;

(b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or misrepresentation or omission with respect to any statement or written document attributed to, approved or made by Settling Defendant in any arbitration proceeding or any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal;

(c) is or may be deemed to be or shall be used, offered or received against the Plaintiffs, Settling Defendants, or Settlement Class Members as an admission, concession, or evidence of the validity or invalidity of the Released Claims, the infirmity or strength of any claim raised in the Action, the truth or falsity of any fact alleged by Plaintiffs or Settlement Class Members, or the availability or lack of availability of meritorious defenses to the claims raised in the Action; and

(d) is or may be deemed to be or shall be construed as or received in evidence as an admission or concession against Plaintiffs, Settling Defendants, or Settlement Class Members that any of Plaintiffs' or Settlement Class Members' claims are with or

without merit, that a litigation class should or should not be certified, or that damages recoverable in the Action would have been greater or less than the Settlement Amounts agreed to in the Settlement Agreements.

13. In the event a settlement is terminated in accordance with its terms, then the applicable Settlement Agreement and this Order, solely to the extent applicable to that Settlement Agreement, shall be null and void, of no further force or effect, and without prejudice to any Party, and may not be introduced as evidence or used in any action or proceeding by any person against Settling Defendants, and each Plaintiff and Settling Defendant shall be restored to its respective litigation positions as of the date specified in the applicable Settlement Agreement. Notwithstanding the foregoing, any provisions of any Settlement Agreement that expressly or necessarily must survive termination of the Settlement Agreement shall remain in effect as to the parties to such Settlement Agreement and their counsel only, including any provisions concerning the return of the applicable Settlement Fund.

14. No later than fourteen (14) days before the Fairness Hearing (to be set by the Court by separate order at a later date), Settling Defendants shall file with the Court a notice of their compliance with the notice requirements of the Class Action Fairness Act, 28 U.S.C. §1715, et seq. (“CAFA”). As of the entry of this Order multiple Defendants have filed Notice of Compliance with the CAFA. (Doc. Nos. 1271, 1274, and 1278).


15. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of, or relating to, the Settlement Agreements including, by way of illustration and not limitation, any disputes arising under the Settlement Agreements and the enforcement of any Settlement Agreement.

16. Pending the Court’s final determination of whether to approve the Settlements,

Plaintiffs and Settlement Class Members are enjoined from prosecuting, pursuing, maintaining, or enforcing any Released Claims against Settling Defendants in any forum. This injunction will remain in force until the Court's final approval of the Settlements, or until such time as the Parties notify the Court that the Settlements have been terminated. This injunction is necessary to protect, effectuate, and aid the Settlements, this Order, and the Court's jurisdiction and judgments.

17. At a later date, Plaintiffs shall submit a proposed form of notice and plan of allocation. Plaintiffs shall update the Court on their progress in preparing for notice and formulating the plan of allocation in their regular monthly status reports to the Court.

IT IS SO ORDERED.

  
\_\_\_\_\_  
WAVERLY D. CRENSHAW, JR.  
UNITED STATES DISTRICT JUDGE

# **EXHIBIT 4**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**IN RE: REALPAGE, INC. RENTAL : NO. 3:23-MD-03071**  
**SOFTWARE ANTITRUST : MDL No. 3071**  
**LITIGATION (NO. II) :**  
: **Judge Waverly D. Crenshaw, Jr.**  
:  
: **THIS DOCUMENT RELATES TO:**  
: **ALL CASES**

**JOINT DECLARATION OF INTERIM CO-LEAD COUNSEL IN SUPPORT OF  
PLAINTIFFS’ MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENTS  
AND FOR APPOINTMENT OF SETTLEMENT CLASS REPRESENTATIVES,  
SETTLEMENT CLASS COUNSEL, AND SETTLEMENT ADMINISTRATOR**

We, Patrick Coughlin, Stacey Slaughter, and Swathi Bojedla, the undersigned Interim Co-Lead Counsel submit this Joint Declaration in Support of Plaintiffs’ Motion for Preliminary Approval of Class Settlements (“Motion”). Counsel hereby declare as follows:

1. The statements in this Declaration are made to the best of our knowledge, information, and belief. If called upon to testify, we could and would testify competently as to the truth of the matters stated herein.

2. The undersigned currently serve as Plaintiffs’ Court-appointed Interim Co-Lead Counsel in the above-captioned case. (Dkt. 1068.)

3. Because this declaration is submitted in support of the Settlements, it is inadmissible in any subsequent proceedings, other than in connection with the Settlements. In the event the Settlements are not approved by the Court, this declaration and the statements contained herein are without prejudice to Plaintiffs’ position on the merits of the Action.

4. Plaintiffs Jason Goldman, Jeffrey Weaver, Billie Jo White, Brandon Watters, Priscilla Parker, Patrick Parker, Barry Amar-Hoover, Joshua Kabisch, Meghan Cherry, and Maya

Haynes and 27 Defendants (collectively, “Settling Defendants”), have agreed to settle this class action litigation on a nationwide class basis.

5. Attached to this Declaration as Exhibit A is a chart summarizing the monetary and non-monetary cooperation terms of the Settlements by Settling Defendants. Exhibits A-1 through A-26 are true and correct copies of the Settlement Agreements between Plaintiffs and each Settling Defendant as follows:

<b>Ex.</b>	<b>Settling Defendant</b>	<b>Ex.</b>	<b>Settling Defendant</b>
A-1	Allied	A-14	Greystar
A-2	AIR	A-15	Kairoi
A-3	Avenue5	A-16	Knightvest
A-4	Bell Partners	A-17	Lantower
A-5	BH Mgmt.	A-18	Mission Rock
A-6	Bozzuto Mgmt.	A-19	Pinnacle
A-7	Brookfield	A-20	Prometheus
A-8	CH	A-21	Security Properties
A-9	CONAM	A-22	Sherman
A-10	CWS	A-23	Simpson
A-11	ECI	A-24	Thrive
A-12	FCM	A-25	Windsor
A-13	FPI	A-26	Winn <sup>1</sup>

## **I. LITIGATION HISTORY**

6. Plaintiffs’ claims have been vigorously prosecuted and contested at every stage of the litigation. Interim Co-Lead Counsel, Plaintiffs’ Liaison Counsel, and Plaintiffs’ Steering Committee have devoted thousands of hours to and invested significant sums in this litigation. (*See* Dkt. 1231-1.)

7. On October 18, 2022, Plaintiffs filed the first complaint in the litigation, alleging a conspiracy to share property owners’ and managers’ sensitive pricing and supply data, coordinated

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<sup>1</sup> The settlement with Winn included two named “Winn” Defendants: WinnCompanies LLC and WinnResidential Manager Corp.

by RealPage, Inc., to fix prices for multifamily housing rentals across numerous Metropolitan Statistical Areas. Settling Defendants are property owners and managers.

8. On April 10, 2023, the JPML consolidated and transferred 21 pending cases to this Court. (Dkt. 1.)

9. On June 13, 2023, this Court issued an Order appointing Patrick Coughlin of Scott+Scott Attorneys at Law, LLP, Stacey Slaughter of Robins Kaplan LLP, and Swathi Bojedla of Hausfeld, LLP as Plaintiff's Interim Co-Lead Counsel; Tricia Herzfeld of Herzfeld, Suetholz, Gastel, Leniski and Wall, PLLC as Plaintiff's Liaison Counsel. A Steering Committee was also appointed. (Dkt. 278.) This Court re-designated Interim Co-Lead Counsel and Plaintiffs' Steering Committee on February 7, 2025. (Dkt. 1068.) Interim Co-Lead Counsel now seek appointment as Settlement Class Counsel for the proposed Settlement Class.

10. Plaintiffs filed their Consolidated Amended Complaint on June 16, 2023, and their First Amended Consolidated Class Action Complaint on July 5, 2023. (Dkt. 291, 314.) The parties briefed an initial round of motions to dismiss in July 2023. On August 7, 2023, the Court vacated the briefing and ordered Plaintiffs to file their Second Amended Consolidated Class Action Complaint by September 7, 2023, which they did. (Dkt. 495, 530.) In the intervening time, Plaintiffs also dismissed several underlying actions and substituted and corrected certain Defendants. (Dkt. 528, 536.) Defendants again sought dismissal of the case, filing eight motions to dismiss on October 9, 2023. (Dkt. 568-594.) On December 28, 2023, the Court denied Defendants' *omnibus* motion to dismiss and several other motions, while granting in part Defendants' motion to enforce class action waivers. (Dkt. 691.)

11. One Defendant, Apartment Income REIT Corp. (“AIR”), had a separate motion to dismiss, premised on their unique contract. (Dkt. 595, 596.) Before the Court ruled on AIR’s motion, Plaintiffs settled with AIR. (Dkt. 711, 715.)

12. Thereafter, the parties proceeded with discovery, which is still ongoing.

13. Plaintiffs served their structured data requests on February 6, 2024. Initially, almost every Defendant proposed that Plaintiffs could accept data from RealPage to satisfy nearly all data production. Plaintiffs accordingly engaged in early and extensive discussions with RealPage. By July 2024, with the production of samples from multiple Defendants, Plaintiffs determined that, to fulfill their request for production, structured data would be required from all Defendants.

14. Plaintiffs found gaps in the structured data productions of several Defendants and engaged in cooperative negotiations with those Defendants to supplement their productions—which they have done. With all but two Defendants, Plaintiffs were able to resolve the issues without Court intervention through those negotiations which, in some cases, included in-person conferrals. Plaintiffs sought (and received) Court relief compelling additional data productions from those two Defendants, (*see* Dkt. 1076 & 1129) who produced supplemental data, concluding the structured data production process in June 2025.

15. To date, Defendants have produced 24 terabytes of structured data.

16. Plaintiffs began the document production process by holding conferences with Defendants in January 2024. Defendants required individual negotiations with each Defendant, which Plaintiffs protested but ultimately agreed to. Because Defendants insisted on individual negotiations, document production negotiations continued until the end of 2024.

17. Defendants began producing documents very near the completion deadline, with over half of productions received around or after the March 30, 2025 deadline.

18. To date, Defendants have produced 14,778,268 documents.

19. Plaintiffs have noticed over 140 depositions of non-settling Defendants for September and October, with additional depositions planned for November and beyond.

20. Additionally, thus far, Plaintiffs have negotiated for over 40 depositions collectively from Settling Defendants.

21. Depositions of the 10 Plaintiffs commenced in August and are expected to conclude in October based on the current schedule.

## **II. SETTLEMENT NEGOTIATIONS**

22. On July 28, 2023, the Court appointed the Honorable Layn R. Phillips as the mediator for the litigation, and on August 4, 2023, the Court appointed Clay Cogman as an additional mediator. (Dkt. 434 & 475).

23. In order to facilitate early resolution, the mediators held three, multi-party mediation sessions with certain Defendants, each of which lasted from 6 to 10 hours. These multi-party mediations occurred on October 24, 2023 (28 Defendants); March 15, 2024 (8 Defendants); and April 8, 2024 (20 Defendants).

24. Interim Co-Lead Counsel on behalf of Plaintiffs have engaged with Defendants in smaller, more focused mediation sessions as well, *i.e.*, with Defendant Simpson (January 29, 2025; Defendants Greystar, ECI, and Bell (April 30, 2025); and Defendant Windsor (July 23, 2025).

25. The mediators have also facilitated numerous additional communications between the parties, including hundreds of emails, calls, and extended discussions over monetary and non-monetary terms.

26. Interim Co-Lead Counsel on behalf of Plaintiffs engaged in direct settlement negotiations with certain Defendants, most of which occurred after the mediators arranged for

discussions to begin. These direct negotiations involved Defendants Pinnacle, Prometheus, Sherman, Lantower, FPI, and Avenue5, among others. These Settlements likewise required Interim Co-Lead Counsel to conduct extensive negotiations with those Defendants via numerous emails, phone calls, and digital meetings to reach agreeable monetary and non-monetary terms.

27. Throughout the direct settlement negotiations, the mediators remained informed of the negotiations and frequently served as intermediaries so the parties could reach closure on the settlements. Like the mediated negotiations, these discussions were conducted at arm's length with Interim Co-Lead Counsel's rigorous attention to class interests.

28. Notably, almost every Defendant that ultimately settled initially engaged through the Court-appointed mediators.

29. Throughout all negotiations, Interim Co-Lead Counsel relied extensively on economic analysis and comprehensive document review to thoroughly assess the strengths and weaknesses of their claims against each Settling Defendant, ensuring every settlement agreement was entered into with a well-founded, good faith basis for acceptance.

### **III. THE PROPOSED SETTLEMENTS**

30. The Settlement Agreements between Plaintiffs and Settling Defendants are the product of hard-fought, arm's length negotiations by counsel highly experienced in complex antitrust class actions. At all times, both sides vigorously negotiated their respective positions. The negotiations were conducted in good faith, resulting in fair, reasonable, and adequate Settlements.

31. Before agreeing to any settlement, Interim Co-Lead Counsel personally consulted with each Plaintiff, all of which provided authority to enter into all 26 Settlements now before the Court.

32. Plaintiffs have reached Settlements with 26 Settling Defendants for which they seek preliminary approval. A chart summarizing the significant monetary and non-monetary components of each Settlement Agreement is attached as Exhibit A.

33. The total monetary value of these Settlements is \$141,800,000.

34. With few exceptions, Settling Defendants are many of the smallest Defendants in the case, and many are property managers only. Generally, this means that the volume of commerce—the amount of rent revenue Defendants generated over the class period—impacted by these Settlements is small compared to the overall volume of commerce at issue in the case.

35. Although the precise cooperation terms vary somewhat across the Settlements, Plaintiffs have obtained agreements from Settling Defendants for: (1) document and data production (including in commitments for informal conferences on data issues from most Settling Defendants); (2) numerous 30(b)(1) and 30(b)(6) depositions, which will assist in continuing to develop evidence of a conspiracy as to the remaining defendants; (3) attorney proffers, which will, among other things, help prepare for those depositions; (4) assistance in authenticating documents for trial; (5) in-person trial witnesses; and (6) agreements to respond to limited interrogatories. These cooperation terms are valuable for the Settlement Class and will (among other things) facilitate Plaintiffs in pursuing their class claims against RealPage and the other remaining Defendants (which include some of the largest Defendants in the MDL).

36. In particular, Settling Defendants have agreed not to provide nonpublic data to RealPage for use in competitor pricing recommendations and to refrain from using RealPage's revenue management software that relies on non-public competitor data to make pricing

recommendations.<sup>2</sup> Additionally, Settling Defendants, with some exceptions, have agreed to waive any right to enforce arbitration clauses, class action waivers, and jury trial waivers as to the claims at issue. Plaintiffs and Interim Co-Lead Counsel believe these Settlements to be in the best interests of the Settlement Class. Not only do they secure a large amount of money relative to the market power of the Settling Defendants, they also secure valuable cooperation from the Settling Defendants for the remainder of the litigation. Most importantly, the Settling Defendants will cease their allegedly anticompetitive conduct, securing future benefits for the Settlement Class and other renters.

#### **IV. DEFERRAL OF NOTICE**

37. At an appropriate time before seeking final approval of the Settlements, Plaintiffs propose to submit to the Court for approval a proposed Notice Plan that complies with Federal Rule of Civil Procedure 23(c)(2)(B) by providing due process and the best practicable notice to all identifiable members of the proposed Settlement Class who would be bound by it.

38. Postponing notice and approval of a plan of allocation will realize three important efficiencies.

39. First, Plaintiffs' experts are still analyzing more than 24 terabytes of structured data produced by Defendants, which will enable them to calculate alleged overcharges and enable counsel to develop a fair, reasonable, and equitable allocation plan.

40. Second, the 24 terabytes of structured data produced by Defendants contain the names and contact information of Settlement Class members from RealPage RMS databases.

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<sup>2</sup> For certain Settling Defendants, the individual settlement obligates them to make efforts to alter contract terms with RealPage to achieve these limitations.

Deferring notice until Plaintiffs' experts have completed their analysis will eliminate duplicative efforts by the proposed settlement administrator, Angeion.

41. Third, Plaintiffs estimate that the Settlement Class includes millions of individuals in total. Providing notice to a class of this size is a significant expense, and, in Interim Co-Lead Counsel's experience, noticing multiple settlements in a single notice results in meaningful efficiencies and cost savings for the Settlement Class.

42. Plaintiffs propose to update the Court on their progress in preparing notice and formulating the allocation plan through their regular settlement reports to the Court.

#### **V. SELECTION OF SETTLEMENT ADMINISTRATOR**

43. As part of preparing to move for preliminary approval, Plaintiffs engaged in a competitive bidding process that was designed to ensure selection of the most qualified and cost-effective Settlement Administrator.

44. The bidding process began with soliciting proposals from six established claims administration companies. This broad initial field ensured competitive pricing and allowed evaluation of diverse administrative approaches and capabilities.

45. Following initial proposal review, Interim Co-Lead Counsel conducted virtual interviews with the four top bidders. Two companies advanced to a final evaluation round involving additional detailed questions and additional interviews, ensuring thorough vetting of the top candidates.

46. This multi-stage evaluation process, which took several months, reflects Interim Co-Lead Counsel's diligent stewardship of settlement funds and commitment to selecting the administrator best positioned to serve the Settlement Class's interests most effectively.

47. As a result of this comprehensive process, Interim Co-Lead Counsel propose that Angeion Group, LLC, act as the Settlement Administrator on behalf of the Settlement Class.

48. Several factors distinguished Angeion’s proposal during the competitive evaluation. Angeion’s team demonstrated exceptional expertise and deep experience in complex class action administration; Angeion employs comprehensive data security measures essential for protecting sensitive class member information throughout the administration process; and Angeion’s proposal also includes sophisticated fraud prevention measures protecting settlement fund integrity. Most significantly, Angeion emerged as the lowest-cost provider among all qualified bidders. This cost advantage persisted even after competing bidders made pricing concessions during negotiations.

We declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct to the best of our knowledge, information, and belief. Executed on the dates and in the locations set forth below:

Executed on October 1, 2025, in San Diego, CA.	<u>/s/ Patrick J. Coughlin</u> Patrick J. Coughlin <b>SCOTT+SCOTT ATTORNEYS AT LAW LLP</b> 600 West Broadway, Suite 3300 San Diego, CA 92101 Telephone: (619) 798-5325 Facsimile: (619) 233-0508 pcoughlin@scott-scott.com
Executed on October 1, 2025, in Minneapolis, MN.	<u>/s/ Stacey Slaughter</u> Stacey Slaughter <b>ROBINS KAPLAN LLP</b> 800 LaSalle Avenue, Suite 2800 Minneapolis, MN 55402 Telephone: (612) 349-8500 Facsimile: (612) 339-4181 sslaughter@robinskaplan.com
Executed on October 1, 2025, in Washington, D.C.	<u>/s/ Swathi Bojedla</u> <b>HAUSFELD LLP</b>

	1200 17th St NW, Suite 600 Washington, DC 20036 Telephone: (202) 540-7200 sbojedla@hausfeld.com
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