

## SETTLEMENT AGREEMENT

### PARTIES:

(1) Jonathan Del Arroz (herein referred to as “Del Arroz”);

(2) San Francisco Science Fiction Conventions, Inc., (“SFSFC”).

[Collectively as “the Parties.”]

### RECITALS:

A. Del Arroz is the plaintiff in an action currently pending in the Superior Court of the County of Santa Clara, styled Jonathan Del Arroz v. San Francisco Science Fiction Conventions, Inc., Case Number 18-CV-334547 (hereinafter “the Legal Action”). SFSFC is the defendant in the Legal Action.

B. The Legal Action is presently set for trial on the remaining Fifth Cause of Action for defamation. Del Arroz’s defamation claim arises out of statements made by SFSFC on social media sites it maintained with respect to WorldCon 76.

C. The Parties now desire to reach a full and final settlement of all claims between them and therefore agree to the terms set forth below in this agreement (“Agreement”).

### AGREEMENT:

In consideration of the mutual promises and releases set forth herein, the Parties agree as follows:

#### **1. SFSFC STATEMENT.**

- a. SFSFC will provide Del Arroz with a signed statement in the form attached hereto as Exhibit A.
- b. SFSFC will publish the statement on its website and Facebook page.
- c. SFSFC will email a copy of the statement to its email list of WorldCon 76 attendees.
- d. Mr. Del Arroz may publish the statement in the publications he chooses and post it on Plaintiff’s various social media accounts and blogs.

#### **2. SFSFC PAYMENT.**

- a. SFSFC will pay Del Arroz \$4,000 by check made out to Jonathan Del Arroz or his designee as directed, and mailed to Jonathan Del Arroz at P.O. Box 3601, Danville, CA 94526.
- b. Jonathan Del Arroz will provide a W-9 in the form attached as Exhibit B.

### 3. DISMISSAL.

Upon full compliance with sections 1 and 2 above, SFSFC will be authorized to file a signed Request for Dismissal in the form attached as Exhibit C.

### 4. MUTUAL RELEASE AND FINAL SETTLEMENT.

**4.1.** Except to the extent of warranties, representations and obligations created in this Agreement, each of the Parties, on behalf of himself/itself and his/its respective agents and representatives (individually as "Releasor," collectively as "Releasors"), hereby releases and forever discharges all the other Parties, as well as their agents, representatives, employees, volunteers, principals, officers, directors, members, shareholders, heirs, executors, administrators, trustors, trustees, beneficiaries, predecessors, successors, assigns, insurers, sureties, attorneys, advisors, partners, partnerships, parents, subsidiaries, affiliated and related entities (individually as "Releasee," collectively as "Releasees"), who are or may ever become liable to them, of and from any and all past and present disputes, claims, demands, causes of action, obligations, damages, incidental, consequential, ensuing or resulting damages, losses, costs, attorneys' fees and expenses of every kind and nature whatsoever, known or unknown, fixed or contingent, including any and all rights to subrogation therefor, which any Releasor may now have against any Releasee by reason of the circumstances giving rise to the Legal Action.

**4.2. Waiver of Civil Code Section 1542.** Each of the Parties fully understands the statutory language of Section 1542 of the Civil Code of the State of California and, having been so apprised, agrees nevertheless to waive any and all rights or benefits which he/it may now have, or in the future may have, under the terms of Section 1542 of the California Civil Code, which provides as follows:

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

Each of the Parties fully understands that if the facts upon which this Agreement is given are found hereafter to be other than or different from the facts now believed to be true, he/it expressly accepts and assumes the risk of such possible difference in facts and agrees that this Agreement shall be and remain effective notwithstanding any such differences in facts.

**5. VOLUNTARY SETTLEMENT.** Each Party enters into this Agreement knowingly and voluntarily, in the total absence of any fraud, mistake, duress, coercion, or undue influence, upon consultation with and advice of legal counsel, and after careful thought and reflection concerning this Agreement; and accordingly, by signing this Agreement, each Party signifies full understanding, agreement, and acceptance thereof. Except as provided herein, nothing in this Agreement constitutes any admission or acknowledgment of liability or wrongdoing by any Party.

**6. COSTS AND EXPENSES.** Except to such extent as may be provided for pursuant to the terms of this Agreement, the Parties shall pay their own attorney fees and legal costs concerning the Legal Action, and the negotiation and execution of this Agreement.

**7. MODIFICATION AND WAIVER.** This Agreement may not be amended, modified or supplemented except by written agreement signed by the party against which the enforcement of such amendment, modification or supplement is sought. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision. No waiver shall be binding unless executed in writing by the party making the waiver.

**8. ATTORNEY FEES.** If any legal action or other proceeding is brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and other costs incurred in the action or proceeding, in addition to any other relief to which the prevailing party may be entitled.

**9. HEADINGS.** All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.

**10. COUNTERPARTS.** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one counterpart has been signed by each party and delivered to the other party to this Agreement.

**11. SEVERABILITY.** If all or any part of any term or condition of this Agreement, or the application of any term or condition of this Agreement, is determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of the terms and conditions of this Agreement (other than those determined to be invalid or unenforceable) shall not be affected, and the remaining terms and conditions (or portions of terms or conditions) shall be valid and enforceable to the fullest extent permitted by law. If a judicial determination prevents the accomplishment of the purpose of this Agreement, the invalid term or condition (or portions of terms or conditions) shall be restated to conform with applicable law and to reflect as nearly as possible the original intention of the Parties.

**12. RULES OF CONSTRUCTION.** Each of the Parties acknowledges, represents and warrants that he/it has had sufficient opportunity to seek independent legal counsel with respect to this Agreement and the subject matters covered by this Agreement. Counsel for the respective parties have reviewed and participated in the drafting of this Agreement. Consequently, the normal rule of construction that ambiguities shall be resolved against the drafter shall not be used or applied in the interpretation of this Agreement.

**13. ENTIRE AGREEMENT.** This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto are

hereby merged herein. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party hereto. Other than this Agreement, no other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto.

**14. COURT JURISDICTION.** The court shall retain jurisdiction over this action to enforce this Agreement.

**Jonathan Del Arroz**

**San Francisco Science Fiction Conventions, Inc.**

Signature: Jon Del Arroz

Signature: \_\_\_\_\_

Dated: 6/4/21

By: \_\_\_\_\_

Dated: \_\_\_\_\_

**APPROVED AS TO FORM.**

**Attorney for Plaintiff**

**Attorney for Defendant**

Signature: Peter Sean Bradley Signature: \_\_\_\_\_

Peter Sean Bradley, Esq.

By: Ann A.P. Nguyen

Messner Reeves LLP

Dated: 6/4/21

Dated: \_\_\_\_\_

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**14. COURT JURISDICTION.** The court shall retain jurisdiction over this action to enforce this Agreement.

**Jonathan Del Arroz**

**San Francisco Science Fiction Conventions, Inc.**

Signature: \_\_\_\_\_

Signature: 

Dated: \_\_\_\_\_

By: Kevin P Roche

Dated: 4 June 2021

**APPROVED AS TO FORM.**

**Attorney for Plaintiff**

**Attorney for Defendant**

Signature: \_\_\_\_\_

Signature: 

Peter Sean Bradley, Esq.

By: Ann A.P. Nguyen

Messner Reeves LLP

Dated: \_\_\_\_\_

Dated: 6/4/21