

*Greg G. Allen*  
Greg G. Allen, Clerk  
Forsyth County, Georgia

IN THE SUPERIOR COURT OF FORSYTH COUNTY  
STATE OF GEORGIA

JOE VENTIMIGLIA,

Plaintiff,

v.

BEVERLY LOCKE VENTIMIGLIA,

Defendant.

CIVIL FILE ACTION NO.  
21CV-0427-3

SETTLEMENT AGREEMENT

THIS AGREEMENT, made and entered into, on this 15<sup>th</sup> day of August,  
20  , by and between BEVERLY LOCKE VENTIMIGLIA (hereinafter called "Wife"  
or "Mother") and JOE VENTIMIGLIA (hereinafter called "Husband" or "Father");

WITNESSETH:

WHEREAS, the parties to this Agreement were married on January 10, 2004 in  
Hartwell, Georgia; and,

WHEREAS, the parties separated on or about February of 2021 and since that date  
have been living in a bona fide state of separation, and acknowledge that there exists no  
chance of reconciliation; and,

WHEREAS, The parties have one (1) minor children as issue of this marriage, to  
wit: JOSEPH MICHAEL VENTIMIGLIA, born in the year 2009; and

WHEREAS, the parties desire to settle all matters of alimony, custody, child  
support, equitable division of property, attorney's fees, and all other claims each may have  
against the other arising from the marital relationship; and,

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**WHEREAS**, each party is acting freely and voluntarily, under no compulsion or duress, and in consideration of the present income, earning capacity, and financial circumstances of each of the parties;

**NOW THEREFORE**, in consideration of the premises and the mutual promises herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties do agree as follows:

**1. NON-INTERFERENCE:** The parties shall continue to live separate and apart, each being free to choose his or her place of residence and employment, and each shall be free from interference, molestation, authority and control, direct or indirect, by the other as fully as if sole and unmarried to each other.

**2. ALIMONY:**

**2.1.** The Husband shall pay no periodic alimony to the Wife and the Wife shall pay no periodic alimony to the Husband and both parties do hereby relinquish any and all claims which he or she may now or hereafter have to receive periodic alimony from the other. Both parties understand under the laws of the State of Georgia that they each have a right to seek a future modification of alimony payments either upward or downward. Both parties recognize that they may waive this future right. Wife recognizes that she could request a modification of alimony in the future. Husband recognizes that he could request a modification of alimony in the future. Despite being informed of these rights, the parties hereby waive their statutory right to future modifications, up or down, of the alimony payments provided for herein, including an award of no alimony, based upon a change in the income or financial status of either party. Varn v. Varn, 242 Ga. 309 (1978).

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### **3. CUSTODY AND PARENTING TIME**

The parties shall have share joint legal custody of the minor children with Wife receiving primary physical custody and Husband receiving parenting time. The parties have entered into a Parenting Plan resolving all issues of legal and physical custody of the minor children and the parties' respective parenting time with the children. The parties shall adhere to the terms of the *Permanent Parenting Plan Order*, entered by the Court in the above-referenced action. The terms of the *Permanent Parenting Plan Order* are incorporated herein by reference.

### **4. CHILD SUPPORT**

The parties have entered into a separately filed *Child Support Addendum* and accompanying *Child Support Worksheet*, which sets forth the parties' gross monthly incomes and financial obligations to the children as required by O.C.G.A. §19-6-15. The parties shall adhere to the terms of the *Child Support Addendum*. *The Child Support Addendum* and *Child Support Worksheet* are incorporated herein by reference.

### **5. REAL ESTATE**

**5.1. Marital Residence:** Husband and Wife do hereby acknowledge and agree that they have acquired an interest in real property with improvements thereon located at 6955 Full Harvest Court, Cumming, Forsyth County, Georgia (hereinafter the "Marital Residence"), which property was the marital residence of the parties. Wife shall have ten (10) days from the date of entry into this Agreement to remove her property from the Marital Residence. Thereafter, the Parties hereby agree that the Husband shall have the exclusive right to possession and use of such residence. Husband shall be responsible for timely paying the monthly payments for the existing

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mortgage(s) secured by said Marital Residence, taxes and insurance, along with all utilities, inclusive of gas, electric, water, sewer, sanitary bills, and all other costs or expenses related to the Marital Residence and shall indemnify Wife for same. Upon Wife's request, Husband shall provide proof to Wife of timely payment of the monthly mortgage payment due, including taxes and insurance. Husband shall also be responsible for any and all necessary upkeep and maintenance of the property. Husband shall have the interest deduction and property tax deduction related to the Marital Residence for the tax year 2021 and all subsequent years.

5.2. Contemporaneously with the execution of this Agreement, the parties shall execute a *Marital Side Agreement* (hereinafter the "Side Agreement") containing additional terms for the equitable division of the Marital Residence. The Side Agreement shall be executed with the same formalities as this *Settlement Agreement*. The parties specifically agree that the Side Agreement is incorporated by reference herein but shall not be filed with the Clerk of the Court in any subsequent action for divorce and shall not otherwise be made a public record.

5.3. Rented Property of Wife: Wife currently resides at 4180 Pilgrim Point Road, Cumming, Georgia 30041 which is a rental property and neither Husband nor Wife owns any interest in said real property with improvements thereon. The Parties hereby agree that the Wife shall have the exclusive right to possession and use of such residence. Wife agrees that she will be responsible for all payments and other expenses associated with said residence and shall indemnify Husband for same.

**6. PERSONAL PROPERTY:**

6.1. The Parties have previously divided all personal property, with the exception of the items listed elsewhere in this Agreement. All items in the possession of each party shall be the property of said party at the time of the execution of this Agreement unless herein specified otherwise. The opposite party shall make no claims on said property.

**7. AUTOMOBILES:**

Wife shall have the 2016 Honda CRV currently in WIFE's possession free and clear of any further interest by Husband. The parties acknowledge that the 2016 Honda CRV is subject to a purchase loan in the name of Wife alone. Wife shall be responsible for any and all expenses associated with the aforesaid vehicle(s), including but not limited to the debt service, insurance, maintenance, repairs, tags, gas, and all other expenses associated therewith, and she shall fully indemnify and hold Husband harmless with regard thereto.

Husband shall have the 2012 Nissan NV 2500 Van currently in Husband's possession free and clear of any further interest by Wife. The parties acknowledge that the 2012 Nissan NV2500 is subject to a purchase loan in the name of Husband alone. Husband shall additionally have all rights, title, and interest in and to the 7 1/2 x 16 foot enclosed utility trailer and 10 foot garden trailer, Husband shall be responsible for any and all expenses associated with his aforesaid vehicles and trailers, including but not limited to the debt service, insurance, maintenance, repairs, tags, gas, and all other expenses associated therewith, and he shall fully indemnify and hold Wife harmless with regard thereto.

**8. BANK ACCOUNTS, STOCKS, BONDS, PENSIONS AND OTHER ASSETS:**

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- 8.1. Except as provided in this AGREEMENT, the Parties agree that the checking, savings accounts, stocks, bonds, retirement accounts, pensions and other assets and income acquired during the time of the marriage have been previously divided between the Parties to their mutual satisfaction, and no claim is being made by either or against the other for any monies due in any such amount or for any other outstanding debts not addressed in this Agreement.
- 8.2. Regarding the RBC account ending \*2671, which is a custodial savings account maintained by Wife as custodian for the minor child, Wife shall not utilize any funds in the said account except towards the purchase of a vehicle for the minor child or towards the minor child's post-high school education, or upon agreement of both parties. Any proceeds remaining in the RBC account ending \*2671 when the minor child reaches the age of twenty-one (21) shall be given to the child outright.
- 8.3. Wife has retirement assets in the Automatic Data Processing, Inc. Retirement and Savings Plan 401(k) (hereinafter "Wife's Plan), with an approximate value of \$84,734.19 as of June 30, 2022, and Husband has a retirement account with the Plumbers and Steamfitters Local 72 with an approximate current value of \$27,014.54 as of June 30, 2022 and a Roth IRA with LPL Financial with approximate current value of \$1,201.14. It is the intent of the Parties that these retirement assets be equalized between the Parties. Thus, Husband shall receive thirty-three percent (31%) of Wife's Plan through a Qualified Domestic Relations Order (QDRO) as described below, plus or minus market gains or losses. The valuation date shall be June 30, 2022.

**8.3.1.** The parties agree that Attorney Brad McDonald, or Attorney Matthew Lundy, in the event that Brad McDonald is unavailable, shall be retained for purposes of drafting and submitting the Qualified Domestic Relations Order (QDRO) for approval and implementing the QDRO. The parties agree that they shall be equally responsible for all costs associated with the QDRO and other documentation, if needed. Said QDRO and other documentation, if needed, shall be prepared in a timely fashion and submitted to the Court for approval. The Parties agree to cooperate in execution of the QDRO. Husband shall receive his portion without regard to the death of Wife.

**8.3.2.** If any order submitted to the Plan Administrator is held or construed not to be a QDRO within the meaning of the 29 U.S.C. §414(p), the parties stipulate and agree that the Superior Court of Cherokee County, Georgia shall retain jurisdiction to modify the order and any such modifications made be made *nunc pro tunc*.

**9. HUSBAND'S BUSINESS:**

**9.1.** Wife hereby relinquishes, waives and releases all rights and interest in the business known as VIP Plumbing, Inc. (hereinafter "Husband's business"), including but not limited to any and all funds currently in the business accounts, vehicles, equipment, inventory, accounts receivables, furniture, goodwill, and all other assets of the business. Husband shall retain as his sole property, free and clear of any claim or interest of Wife, all interest and rights in Husband's business, including but not

limited to any and all funds currently in the business accounts, all vehicles, equipment, inventory, account receivables, furniture, goodwill and all other assets of the business. Husband shall be solely (100%) responsible for all valid and enforceable debts or obligations of the business. Husband shall hold Wife free, harmless and indemnify Wife for any such debts or obligations.

Husband shall indemnify Wife and hold her harmless for any liability whatsoever arising from the operation of Husband's business and any debts and obligations of any nature, which debts and obligations were incurred or may be incurred in connection with the operation or financing of Husband's business. Husband agrees to indemnify Wife and hold her harmless from any claims, assessments, and liability of any nature arising from or relating to any taxes assessed in connection with Husband's business. Husband agrees to pay promptly any and all deficiencies, penalties, interest and assessments due any taxing authority in connection with any and all of the returns said business. Husband shall defend at his sole cost and expense all attempts to impose any assessments and collect the same against or from Wife and any property of Wife including that property transferred to her under this Agreement. Should Husband fail to perform his obligations hereunder, Wife shall be entitled to recover from Husband all losses and assessments together with all costs and expenses, including attorney's fees and accountant's fees which she may owe, incur or pay as a result of Husband's failure to comply with this paragraph. To the extent there may be any taxes due, claims, assessments, and liability of any nature arising from or relating to any taxes assessed in connection with Husband's business, Husband shall pay and be

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responsible for any amounts due in connection with said returns and hold Wife harmless thereon.

**10. MARITAL DEBTS:**

**10.1.** The parties acknowledge that the following marital debts in Wife's name alone have been incurred:

<b><u>Creditor Name</u></b>	<b><u>Account (last 4 digits)</u></b>	<b><u>Balance Due</u></b>
American Express	4009	\$ 16,910.19
Master Card - Ulta	9609	\$ 12,154.34
Master Card - Sears	5242	\$ 5,584.07
RBC Personal LOC		\$ 2,947.38
Unify Loan		\$ 27,252.40
Loan from Wife's Mother for Air Conditioner		\$ 6,322.50

**TOTAL: \$ 71,170.88**

The said debts shall be equitably divided per the Marital Side Agreement entered into by the parties simultaneously with this Agreement.

**10.2** The parties acknowledge and affirm that there are no joint credit card accounts or other joint debts.

**10.3 Husband To Wife:** Except as otherwise provided in this Agreement, Husband shall pay and hold Wife harmless for any claims, debts, liabilities and obligations of any nature whatsoever, contingent or otherwise, which Husband has incurred individually or jointly with any third person or persons. Husband promises to defend Wife against any attempts by any of his creditors to collect the same from Wife and further promises to indemnify Wife fully from any liability and expenses, including legal expenses, which may result from his obligations. In the event that any creditor of Husband obtains or attempts to apply a lien against any real or personal property in which Wife

has an interest, Husband shall promptly undertake to satisfy that obligation giving rise to the lien.

**10.4 Wife To Husband:** Except as otherwise provided in this Agreement, Wife shall pay and hold Husband harmless for any claims, debts, liabilities and obligations of any nature whatsoever, contingent or otherwise, which Wife has incurred individually or jointly with any third person or persons. Wife promises to defend Husband against any attempts by any of her creditors to collect the same from Husband and further promises to indemnify Husband fully from any liability and expenses, including legal expenses, which may result from her obligations. In the event that any creditor of Wife obtains or attempts to apply a lien against any real or personal property in which Husband has an interest, Wife shall promptly undertake to satisfy that obligation giving rise to the lien.

**11. HEALTH INSURANCE:**

**11.1.** Each party shall be responsible for their own health insurance.

**12. INCOME TAXES:**

**12.1.** The parties represent and confirm to each other that there are no outstanding income taxes due nor any deficiency assessments, late fees, penalties or interest charges that are due to any state revenue agencies or to the Internal Revenue Service for any tax year prior to 2022.

**12.2.** The parties will file separate tax returns for the year 2022.

**12.3.** The parties agree that, in the event either or both of them is audited by the federal or state government for a year during which they filed a joint return as a married couple, each will cooperate with the other, their respective accountants and counsel

in such audit and shall timely provide records, documentation and appearances as required by the Internal Revenue Service or State Revenue Department. In the event the liability is directly attributable to the fault of one party, that party shall pay any resulting income taxes, penalties and interest assessments, together with the costs of reasonable attorney's fees, accountant's fees, or other expert fees incurred by the innocent party and the at-fault party shall indemnify and hold the other party harmless with respect to such liability.

12.4. In the event it is determined there is a tax liability that is not directly attributable to the fault of either party, the parties will cooperate and work together to minimize their tax liability and resolve the issue. Any such tax liability will be split between the parties in direct proportion to the percentage of each party's income to the parties' total household income for that tax year.

12.5. Any and all refunds that may be derived from an audit will be split between the parties in direct proportion to the percentage of each party's income to the parties' total household income for that tax year.

12.6. Should Husband or Wife fail to perform any obligation hereunder, the other shall be entitled to recover any and all losses as assessments together with all expenses, including reasonable attorney's fees.

13. **ATTORNEYS FEES:**

13.1. Attorneys Fees. The parties understand and agree that each shall be responsible to pay their respective attorney's fees and costs incurred as a result of the instant proceeding. Each party further agrees to defend, indemnify and hold the other harmless from any and all claims by any person, be it an accountant, attorney,

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appraiser, investigator or otherwise, who rendered or claims to have rendered service to him or her in connection with the proceeding or negotiation of this Agreement and the obtaining of a final judgment in the instant proceeding.

**13.2. Fees for Guardian Ad Litem.** The parties understand and agree that each shall be responsible for fifty percent (50%) of the fees and costs associated with the services rendered by the Guardian Ad Litem, Ashley Wine, appointed in the instant proceeding. In the event that either party fails to timely pay their portion of the Guardian Ad Litem's fee, the Guardian Ad Litem has the right to request a compliance hearing.

**14. SUBSEQUENT DEBTS:**

**14.1.** Each party represents and warrants that he or she, as the case may be, has not incurred or contracted any debts or obligations for which the other or any property of the other may be liable, either individually or jointly. Each party agrees that he or she shall be solely responsible for the payment and performance of all debts and obligations presently in his or her respective name and he or she hereafter shall not incur any debts or obligations for which the other may be liable. Each party shall indemnify and hold the other harmless from and against any costs and expenses resulting from a breach or violation by such party of any representation, warranty or covenant contained in this paragraph.

**15. MUTUAL RELEASE OF CLAIMS:**

**15.1.** Except for those rights and claims for which this Agreement provides, each party hereby waives and releases any and all marital rights and claims, including but not

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limited to alimony, division of property (including, but not limited to, real and personal property, cash, bank accounts, stocks, bonds, other securities, options, investment accounts, and retirement funds), dower, curtesy, year's support and any rights of inheritance pursuant to the laws of intestacy, which rights and claims each party may now have against the other or the estate of the other by reason of the marriage of the parties. Both parties waive any legal right he or she may have to be appointed executor or administrator of the estate of the other except as the deceased party may have designated in his or her Will. All property received or retained by either party under this Agreement, whether or not such property is specifically mentioned herein, shall be and remains the separate property of the party receiving or retaining that property and that property shall be free from any claim by the other or his or her estate.

**15.2.** Nothing in this paragraph shall be deemed to prevent either party from enforcing the terms of this Agreement or from asserting any rights or claims expressly reserved to either party in this Agreement. Nothing herein shall impair or waive any cause of action which either party may have against the other for dissolution of the marriage or any defenses either may have to any such cause of action.

**15.3.** The parties, by execution of this Agreement, have provided for a fair and equitable distribution of all property belonging to the parties.

**16. SOLE AGREEMENT; NO OTHER REPRESENTATIONS:**

**16.1.** This Agreement constitutes the entire agreement between the parties and supersedes any and all Agreements previously made by them. No representations or warranties

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have been made by either party to the other except for those representations and warranties expressly set forth herein.

**16.2.** Before this Agreement was negotiated, each party was advised of his and her rights under the Georgia Civil Practice Act to conduct formal discovery, investigation, and analysis of the assets, liabilities, and income of the other party. Each party knowingly and voluntarily conducted said discovery to the extent they so desired and hereby accept the provisions of this Agreement on the basis of information acquired.

**16.3.** Both parties acknowledge that they have had ample opportunity to address and discuss with their respective counsel or such other advisors as they deemed appropriate any questions and issues that they may have respecting the standard of living established during their marriage. The parties agree that the disposition of alimony and other economic issues hereunder should enable each of them to live a lifestyle reasonably comparable to the marital standard of living, and they are satisfied that under the totality of the circumstances presented, the provisions of this Agreement, as a whole, are fair and equitable.

**17. TAX ADVICE:**

**17.1.** The parties acknowledge that neither Elyssa K. Williams or Debra Rickles hold themselves out as being an expert in tax related matters and have, therefore, recommended that the parties consult with the tax specialists regarding the potential tax consequences of this Agreement. By execution hereof, the parties hereby acknowledge such recommendation and confirm that they have sought and obtained

advice with regard to such tax matters, and each party is satisfied with the tax consequences which may affect him or her by the execution of this Agreement.

**18. SOCIAL SECURITY BENEFITS/ TEN YEAR RULE:**

**18.1.** The parties acknowledge that neither Elyssa K. Williams or Debra Rickles hold themselves out as being an expert in social security matters and has, therefore, recommended that the parties consult with social security advisor regarding the potential consequences of this Agreement on their rights to collect social security. By execution thereof, the parties hereby acknowledge such recommendation and confirm that they have had adequate opportunity to obtain said advice with regard to such matters, and each party is satisfied with the consequences which may affect him or her by the execution of this Agreement.

**19. GENERAL PROVISIONS:**

**19.1.** This Agreement shall be fully binding on the parties and their heirs, legatees, executors, administrators, and assigns. The parties further agree that this Agreement may be submitted to the Superior Court of the county holding proper venue, or in any other action for divorce filed by either party against the other, and that this Agreement, if approved by said Court, shall become a part of any interim order or final decree in said action, and shall constitute the sole agreement and decree relating to all matters to which this Agreement refers. This Agreement shall survive, and not be merged in, any judgment, decree or order, and the parties hereto shall remain bound to the performance of this Agreement in accordance with the terms hereof.

**19.2.** This Agreement is entire and complete and embodies all understandings and agreements between the parties. No representation, warranty, agreement or

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undertaking of any kind or nature has been made to either party to induce the making of this Agreement, except as is expressly set forth herein. The parties acknowledge that there is no other agreement, oral or written, existing between them. No oral statement or prior written matter outside of this Agreement shall have any force or effect.

**19.3.** This Agreement shall not be amended, modified, discharged or terminated except by a writing executed and acknowledged by the party sought to be bound. This Agreement shall not be terminated or otherwise affected by a reconciliation of the parties hereto or a resumption of marital relations, unless such termination or other modification of the terms of this Agreement shall be in writing and duly executed and acknowledged by the parties. This Agreement is effective and binding from the date of execution whether or not the parties are granted a final judgment or decree of divorce or dissolution of the marriage.

**19.4.** Any waiver by either party of any provision of this Agreement, or of any right or option hereby, shall not be deemed a continuing waiver and shall not prevent such party from thereafter insisting upon the strict performance or enforcement of such provision, right or option. The failure of either party to insist in any one or more instances upon the strict performance of any of the provisions of this Agreement by the other party shall not be construed as a waiver or relinquishment for the future of any such provision and the same shall continue in full force and effect.

**19.5.** No waiver of any breach hereof or default hereunder shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

19.6. The parties agree that each of them, upon request of the other party or the legal representatives of the other party, shall execute and deliver such other and further instruments as may be necessary or desirable for the purpose of giving full force and effect to the provisions of this Agreement, without charge therefore.

**20. GOVERNING LAW:**

20.1. This Agreement and all rights and obligations of the parties hereunder shall be construed according to the laws of the State of Georgia. If any provision of this Agreement should be held to be invalid or unenforceable under the laws of any state, country or other jurisdiction, the remainder of this Agreement shall continue in full force and effect. Each of the rights and obligations of the parties hereunder shall be deemed independent and may be enforced irrespective of any other rights and obligations herein.

**21. SEVERANCE:**

21.1. In the event any paragraph or paragraphs of this Agreement shall be declared invalid or void by any court, such declaration shall not invalidate the entire Agreement and all other paragraphs of the Agreement shall remain in full force and effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, executors, administrators, successors and assigns.

**22. LEGAL REPRESENTATION:**

22.1. It is expressly understood that this Settlement Agreement is being freely entered into and that each party has had an opportunity to have this Settlement Agreement reviewed by an attorney of his or her choosing. The Husband and Wife acknowledge that Elyssa K. Williams represents the Wife and Debra Rickles

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represents the Husband in the preparation of the documents in all matters respecting this Agreement.

22.2. Nothing herein shall be construed as a waiver or denial of the right of either party to secure payment of attorneys' fees as provided by law for any breach by the other of any provision of this Agreement. The parties agree that each shall be responsible for their own attorney's fees.

**23. UNDERSTANDING OF AGREEMENT:**

23.1. The parties acknowledge that they are entering into this Agreement freely and voluntarily and under no compulsion or duress; that each is mentally competent; that they have read each page of the Agreement carefully before signing same; that they have ascertained and weighed all the facts and circumstances likely to influence their judgment herein; that they have sought and obtained legal advice independently of each other; that they have been duly apprised of their respective legal rights; that all the provisions hereof, as well as all questions pertaining thereto, have been fully and satisfactorily explained to them; that they have given due consideration to such provisions and questions; and that they clearly understand and assent to all the provisions hereof.

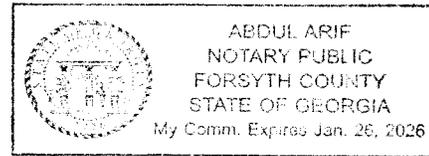
23.2. Each party acknowledges that all of the matters embodied in this Agreement, including all terms, covenants, conditions, waivers, releases and other provisions contained herein, are fully understood by him or her; that he or she is entering into this Agreement freely, voluntarily and after due consideration of the consequences of doing so; and that this Agreement is valid and binding upon him or her.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

*Beverly Locke Ventimiglia*  
WIFE, BEVERLY LOCKE VENTIMIGLIA

Sworn to and subscribed before me this 15 day of August, 2022.

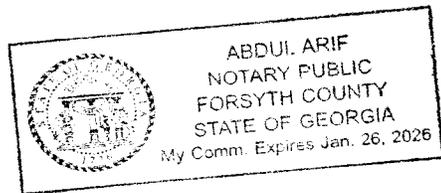
*Abdul Arif*  
Notary Public  
My commission expires: 01/26/26



*Joe Ventimiglia*  
HUSBAND, JOE VENTIMIGLIA

Sworn to and subscribed before me this 15 day of August, 2022.

*Abdul Arif*  
Notary Public  
My commission expires: 01/26/26



The UPS Store  
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Cumming GA 30040