

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

In re Great Expressions Data Security Incident
Litigation

Case No.: 2:23-cv-11185-JJCG-CI

Hon. Jonathan J.C. Grey

SETTLEMENT AGREEMENT

This Settlement Agreement, dated June 26, 2024, is made and entered into by and among: (1) Plaintiffs Vanessa Brito, Crystal Coffey, Jacqueline Williams, Aprill Denson, as next friend of C.D., a minor, and James Patterson (collectively, “Plaintiffs” or “Representative Plaintiffs”), individually and on behalf of the Settlement Class Members (as defined below); and (2) Defendants ADG, LLC d/b/a Great Expressions Dental Centers (“ADG”) and Great Expressions Dental Centers, P.C. (“GEDC”) (collectively, “Defendants,” and together with Plaintiffs, the “Parties”).

I. BACKGROUND

1. GEDC provides dental care at more than 300 locations in Connecticut, Florida, Georgia, Michigan, Massachusetts, New York, New Jersey, Ohio, and Texas.
2. ADG provides administrative and business support services and licenses the Great Expressions Dental Centers® brand name to independently owned and operated dental practices.
3. On or before February 22, 2023, Defendants learned of a data security incident (the “Data Security Incident”) that occurred between February 17, 2023 and February 22, 2023, in which an unauthorized, outside actor (the “Threat Actor”) accessed certain of Defendants’ information technology systems. Defendants’ investigation of the Data Security Incident

determined that the Threat Actor potentially accessed certain records containing personal information pertaining to current and former employees and patients of Defendants' customers/licensees, including (1) for employees: names, Social Security numbers, driver's license numbers, passport numbers, and/or bank account and routing number and (2) for patients: patient names, dates of birth, contact information, mailing addresses, Social Security numbers, driver's license numbers, financial account information, credit or debit card numbers, diagnosis and treatment information, medical and dental history, dental examination information, charting information, treatment plans, x-ray images, dates of service, provider names, GEDC office of treatment, billing records, costs of services, prescription information and/or health insurance information.

4. On May 12, 2023, Defendants began providing notice of the Data Security Incident to potentially impacted individuals.

5. On May 18, 2023, Plaintiff Brito filed a putative Class Action Complaint in the United States District Court for the Eastern District of Michigan. Plaintiffs Coffey, Denson, and Williams subsequently filed cases that were consolidated with Plaintiff Brito's case under the caption *In re Great Expressions Data Security Incident Litigation*.

6. On August 28, 2023, Plaintiffs filed a consolidated Class Action Complaint, bringing claims against Defendants for negligence, breach of implied contract, and declaratory judgment.

7. On October 9, 2023, Defendants moved to dismiss each of these claims, and the Parties completed briefing on Defendants' motion to dismiss.

8. On October 10, 2023, Plaintiff Patterson filed a putative Class Action Complaint in the United States District Court for the Eastern District of Michigan.

9. Prior to the Court ruling on the motion to dismiss, the Parties agreed to mediate their dispute and jointly requested a stay of the case pending mediation.

10. On March 21, 2024, the Parties participated in an in-person mediation session in Palm Beach, Florida, which was facilitated by an experienced mediator, Bennett G. Picker. After a full day of settlement negotiations, and upon the Parties' acceptance of the mediator's recommendation as to the monetary amount of the settlement, the Parties reached an agreement in principle.

11. On March 28, 2024, Plaintiff Patterson filed a notice of voluntary dismissal, and on April 9, 2024, the Court dismissed the case without prejudice.

12. On May 15, 2024, the Parties stipulated to the addition of Plaintiff Patterson as a plaintiff in the *In re Great Expressions Data Security Incident Litigation*, and Plaintiffs filed their First Amended Consolidated Complaint ("the Complaint").

13. After reaching an agreement in principle, the Parties continued negotiating the additional terms of the settlement. The Parties' agreement in principle and additional agreed-upon terms are now finalized in this Settlement Agreement and the attached exhibits.

14. Pursuant to the terms set out below, this Settlement Agreement provides for the full and final resolution, discharge and settlement of all claims and causes of action asserted, or that could have been asserted, against Defendants and the Released Persons (as defined below) arising out of or relating to the Data Security Incident, by and on behalf of the Representative Plaintiffs and Settlement Class Members (as defined below) and any other such actions by and on behalf of any other persons in the United States relating to the Data Security Incident. The settlement contemplated by this Settlement Agreement is subject to preliminary and final approval by the Court.

II. REPRESENTATIVE PLAINTIFFS' CLAIMS AND BENEFITS OF SETTling

Representative Plaintiffs believe the claims asserted in the Litigation (as defined below), as set forth in the Complaint, have merit. Representative Plaintiffs, and their counsel who are proposed as Class Counsel (“Proposed Class Counsel”), recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Litigation against Defendants through motion practice, trial, and potential appeals. They have also taken into account the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation. Proposed Class Counsel are experienced in class action litigation and are very knowledgeable regarding the relevant claims, remedies, and issues generally in such litigation and in the privacy issues specific to this litigation. They have determined that the settlement set forth in this Settlement Agreement, which provides compensation for those individuals who are alleged to have suffered the consequences of the Data Security Incident, is fair, reasonable, and adequate, and in the best interest of Representative Plaintiffs and the Settlement Class.

III. DENIAL OF WRONGDOING AND LIABILITY

Defendants deny all of the material contentions and claims alleged against them in the Litigation, and all charges of wrongdoing or liability as alleged, or which could be alleged, in the Litigation. Defendants specifically deny that Representative Plaintiffs and the Settlement Class Members are entitled to any relief from Defendants. Defendants further assert that neither the Representative Plaintiffs nor the Settlement Class Members have suffered harm and that the complications of managing a potential trial in this matter among other reasons would preclude class certification in the absence of settlement. Nonetheless, without making any admission of wrongdoing whatsoever, Defendants have considered the uncertainty and risks inherent in any litigation, concluded that further conduct of the Litigation would be protracted and expensive, and

that it is desirable and beneficial that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

IV. SETTLEMENT TERMS

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is hereby agreed by and among Representative Plaintiffs, individually and on behalf of the Settlement Class Members, and Defendants that, subject to the approval of the Court, the Litigation be forever resolved, settled, compromised, and dismissed with prejudice on the following terms and conditions:

1. Definitions

As used in the Settlement Agreement, the following terms have the meanings specified below:

- 1.1. “Agreement” or “Settlement Agreement” means this agreement.
- 1.2. “Approved Claims” means Settlement Claims in an amount approved by the Claims Administrator or found to be valid through the Dispute Resolution process.
- 1.3. “CAFA Notice” means a notice of the proposed Settlement in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.* (“CAFA”), to be served upon the appropriate state official in each state where a Settlement Class Member resides and the appropriate federal official. Costs for preparation and issuance of the CAFA Notice will be paid from the Settlement Fund.
- 1.4. “Claims Administration” means the processing and payment of claims received from Settlement Class Members by the Claims Administrator.

1.5. “Claims Administrator” means Kroll Settlement Administration, LLC, a company experienced in administering class action claims generally and specifically those of the type provided for and made in data breach litigation, subject to approval by the Court.

1.6. “Claims Deadline” means the postmark deadline for valid claims pursuant to ¶ 2.8.2 which shall be 90 days after the Class Notice Date.

1.7. “Claim Form” means the form that the Settlement Class Members must complete and submit on or before the Claims Deadline in order to be eligible for the benefits described herein. The Claim Form shall require a sworn signature or electronic verification under penalty of perjury but shall not require a notarization. The Claim Form template is attached as **Exhibit A** to this Settlement Agreement.

1.8. “Class Notice Date” means thirty (30) days after entry by the Court of the Preliminary Approval Order.

1.9. “Costs of Claims Administration” means all actual costs associated with or arising from Claims Administration, including the costs of Notice and the CAFA Notice.

1.10. “Court” means the United States District Court for the Eastern District of Michigan.

1.11. “Data Security Incident” means the data security incident that occurred between February 17, 2023, and February 22, 2023, in which an unauthorized, outside actor accessed certain of Defendants’ information technology systems.

1.12. “Dispute Resolution” means the process for resolving disputed Settlement Claims as set forth in this Agreement.

1.13. “Effective Date” means the first date by which all of the events and conditions specified in ¶ 1.15 and ¶ 9.1 herein have occurred and been met.

1.14. “Non-SSN Subclass Members” means all Settlement Class Members whose Social Security numbers were not potentially accessed or acquired during the Data Security Incident. Defendants represent that there are approximately 1,902,862 Non-SSN Subclass Members.

1.15. “Final” means the occurrence of all of the following events: (i) the settlement pursuant to this Settlement Agreement is approved by the Court; (ii) the Court has entered a Judgment (as that term is defined herein); and (iii) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorney’s fee award or service award made in this case shall not affect whether the Judgment is “Final” as defined herein or any other aspect of the Judgment.

1.16. “Judgment” means a Final Approval Order and Judgment rendered by the Court and in a form substantially similar to the one attached hereto as **Exhibit E**.

1.17. “Litigation” means *In re Great Expressions Data Security Incident Litigation*, Case No. 2:23-cv-11185-JJCG-CI, pending in the United States District Court for the Eastern District of Michigan.

1.18. “Notice” means the written notice to be sent or made available to the Settlement Class Members pursuant to the Preliminary Approval Order, including the Short Form Notice and the Long Form Notice.

1.19. “Notice Program” means the class notice program set forth in ¶ 3.2 herein.

1.20. “Objection Date” means the date by which objections to the settlement from Settlement Class Members must be filed with the Clerk of Court in order to be effective and timely and shall be sixty (60) days from the Class Notice Date.

1.21. “Opt-Out Date” means the date by which requests for exclusion from settlement must be postmarked in order to be effective and timely and shall be sixty (60) days after the Class Notice Date.

1.22. “Plaintiffs’ Counsel” and “Proposed Class Counsel” mean Patrick A. Barthle of Morgan & Morgan and Joseph M. Lyon of The Lyon Firm.

1.23. “Preliminary Approval Order” means the order preliminarily approving the settlement and directing mailed (and, where possible, emailed) notice to the Settlement Class of the pendency of the Litigation and of the settlement. The Preliminary Approval Order template is attached as **Exhibit D** to this Settlement Agreement.

1.24. “Related Entities” means Defendants’ past or present parent companies, subsidiaries, divisions, related or affiliated individuals and entities, including any and all independently owned and operated business entities (including any and all dental practices) to which ADG provides non-clinical support services, divisions, successors, predecessors (including companies they have acquired, purchased or absorbed), subcontractors, assigns and joint ventures, and each of their respective successors, predecessors, officers, partners, directors, owners, stockholders, servants, agents, shareholders, members, managers, principals, investment advisors, consultants, employees, representatives, attorneys, accountants, lenders, underwriters, benefits administrators, investors, funds, indemnities, insurers, and reinsurers, past, present, and future, and all persons acting under, by or through, or in concert with any of them, other than any individual who is found by a court of competent jurisdiction to be guilty under criminal law of initiating,

causing, aiding or abetting the criminal activity occurrence of the Data Security Incident or who pleads nolo contendere to any such charge.

1.25. “Released Claims” shall collectively mean any and all injuries, losses, damages, costs, expenses, compensation, claims, suits, rights, rights of set-off and recoupment, demands, actions, obligations, causes of action, and liabilities of any and every kind, nature, type, description, or character, whether known or unknown, contingent or vested, in law or in equity, based on direct or vicarious liability, and regardless of legal theory, of Representative Plaintiffs or any Settlement Class Member that were or could have been asserted (whether individually or on a class-wide basis) based on, relating to, concerning or arising out of the Data Security Incident, alleged theft or misuse of current and former employees’ and patients’ of Defendants’ customers/licensees or other individuals’ PII, or the allegations, facts, or circumstances related to the Data Security Incident as described in the Litigation including, without limitation, any causes of action for or under: state consumer protection statutes, including that of New York; the California Customer Records Act; the California Consumer Privacy Act; the California Unfair Competition Law; the California Consumer Legal Remedies Act; the Confidentiality of Medical Information Act; the New York General Business Law; negligence; negligence per se; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; any federal, state or local statutory or regulatory claims, including but not limited to, the consumer protection laws and unfair and deceptive trade practice laws or other common laws or statutes of all fifty (50) states, U.S. territories, and the United States; and further including, but not limited to, any and all claims for damages, injunctive relief, disgorgement,

declaratory relief, equitable relief, attorney's fees and litigation costs, expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, by Representative Plaintiffs or any Settlement Class Member against any of the Released Persons based on, relating to, concerning or arising out of the Data Security Incident, alleged theft or misuse of current and former employees' and patients' of Defendants' customers/licensees or other individuals' PII or the allegations, facts, or circumstances related to the Data Security Incident. Released Claims shall include Unknown Claims as defined in ¶ 1.33. Released Claims shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class. The Released Claims shall be accorded the broadest preclusive scope and effect permitted by law against the Representative Plaintiffs and Settlement Class Members and this definition of Released Claim is a material term of this Settlement Agreement.

1.26. "Released Persons" means Defendants, the Related Entities and each of their past or present parent companies, subsidiaries, divisions, related or affiliated individuals and entities, divisions, successors, predecessors (including companies they have acquired, purchased or absorbed), subcontractors, assigns and joint venturers, and each of their respective successors, predecessors, officers, partners, directors, owners, stockholders, servants, agents, shareholders, members, managers, principals, investment advisors, consultants, employees, representatives, attorneys, accountants, lenders, underwriters, benefits administrators, investors, funds, indemnities, insurers, and reinsurers, past, present, and future, and all persons acting under, by or through, or in concert with any of them.

1.27. “Representative Plaintiffs” means Plaintiffs Vanessa Brito, Crystal Coffey, Jacqueline Williams, and Aprill Denson, as next friend of C.D., a minor, and James Patterson.

1.28. “Settlement Claim” means a claim for settlement benefits made under the terms of this Settlement Agreement.

1.29. “Settlement Class” means all individual U.S. residents to whom Defendants sent notice that their personal information was potentially impacted in the Data Security Incident. Excluded from the Settlement Class are: (1) the Judge and Magistrate Judge presiding over the Lawsuits, any members of the Judges’ respective staffs, and immediate members of the Judges’ respective families; (2) officers, directors, members and shareholders of Defendants; (3) persons who timely and validly request exclusion from and/or opt-out of the Settlement Class and the successors and assigns of any such excluded persons; and (4) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity or occurrence of the Data Security Incident or who pleads nolo contendere to any such charge. Defendants represent that the Settlement Class contains approximately 1,945,788 individuals.

1.30. “Settlement Class Member(s)” means an individual (or individuals) who falls within the definition of the Settlement Class.

1.31. “Settling Parties” means, collectively, Defendants and Representative Plaintiffs, individually and on behalf of the Settlement Class.

1.32. “SSN Subclass Members” means all Settlement Class Members whose Social Security numbers were potentially accessed or acquired during the Data Security Incident. Defendants represent that there are approximately 42,926 SSN Subclass Members.

1.33. “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including any Representative Plaintiffs, does not know or suspect to exist as of the date of the entry of the Preliminary Approval Order that, if known by any of them, might have affected their settlement with, and release of, the Released Persons, or might have affected their decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, Representative Plaintiffs expressly shall have, and each of the other Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Settlement Class Members, including Representative Plaintiffs, and any of them, may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but Representative Plaintiffs expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims. The Settling Parties acknowledge, and

Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

1.34. “United States” as used in this Settlement Agreement includes the District of Columbia and all territories of the United States.

2. Settlement Benefits

2.1. Settlement Fund. Within thirty (30) days of an order directing class notice, Defendants will fund a non-reversionary cash settlement fund in the amount of \$2,700,000.00 for the benefit of Settlement Class Members (the “Settlement Fund”). As set forth below, the Settlement Fund will be used to pay for: (1) reimbursement for Ordinary Out-of-Pocket Losses and Ordinary Attested Time for SSN Subclass Members; (2) reimbursement for Extraordinary Out-of-Pocket Losses for SSN Subclass Members; (3) Cash Payments for SSN Subclass Members; (4) Attested Time for Non-SSN Subclass Members; (5) Costs of Claims Administration; (6) service award payments approved by the Court; and (7) attorneys’ fees and expenses awarded by the Court.

2.2. Reimbursement for Ordinary Out-of-Pocket Losses and Ordinary Attested Time for SSN Subclass Members. SSN Subclass Members may submit a claim for Ordinary Out-of-Pocket Losses and Ordinary Attested Time up to \$500 per individual. For the avoidance of doubt, regardless of whether an SSN Subclass Member submits a claim for Ordinary Out-of-Pocket Losses, Ordinary Attested Time, or both, the total amount of such a claim may not exceed \$500. The Settlement Fund will be used to pay valid and timely submitted claims for each of the following categories:

2.2.1. “Ordinary Out-of-Pocket Losses” are unreimbursed costs, losses, or expenditures incurred by a Class member in responding to notice of the Data Security Incident that were incurred between February 17, 2023 and the Claims Deadline. Ordinary Out-of-Pocket Losses may include, without limitation, the following: (1) costs associated with accessing or freezing/unfreezing credit reports with any credit-reporting agency; (2) other miscellaneous expenses incurred related to any Ordinary Out-of-Pocket Loss such as notary, fax, postage, copying, mileage, and long-distance telephone charges; and (3) credit monitoring or other mitigative costs.

2.2.2. SSN Subclass Members who elect to submit a claim for reimbursement of Ordinary Out-of-Pocket Losses must provide to the Claims Administrator the information required to evaluate the claim, including: (1) the SSN Subclass Member’s name and current address; (2) documentation supporting the unreimbursed cost, loss, or expenditure; and (3) a brief description of the documentation describing the nature of the cost, loss, or expenditure, if the nature of the cost, loss, or expenditure is not apparent from the documentation alone. Documentation supporting Ordinary Out-of-Pocket Losses can include receipts or other documentation not “self-prepared” by the SSN Subclass Member that documents the costs incurred. “Self-prepared” documents, such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support to other submitted documentation.

2.2.3. Whether or not they incurred Ordinary Out-of-Pocket Losses, SSN Subclass Members may also submit a claim for up to 2 hours of time spent responding to receiving notice of the Data Security Incident at a rate of \$20 per hour by providing an attestation and a brief description of: (1) the actions taken in response to receiving notice of the Data Security Incident; and (2) the time associated with each action (“Ordinary Attested Time”).

2.3. Reimbursement for Extraordinary Losses for SSN Subclass Members. In addition to submitting a claim for Ordinary Out-of-Pocket Losses, SSN Subclass Members who believe they have suffered identity theft, fraud, or other extraordinary losses may submit a claim for Extraordinary Losses up to \$5,000 per individual.

2.3.1. “Extraordinary Losses” are unreimbursed costs, losses, or expenditures incurred by a SSN Subclass Member that are fairly traceable to the Data Security Incident, and are costs, losses, or expenditures that are not reimbursable as Ordinary Out-of-Pocket Losses. Extraordinary Losses may include, without limitation, the unreimbursed costs, losses, or expenditures incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of the SSN Subclass Member’s personal information.

2.3.2. SSN Subclass Members who elect to submit a claim for reimbursement of Extraordinary Losses must provide to the Claims Administrator the information required to evaluate the claim, including: (1) the SSN Subclass Member’s name and current address; (2) documentation supporting the unreimbursed cost, loss, or expenditure; and (3) a brief description of the documentation describing the nature of the cost, loss, or expenditure, if the nature of the cost, loss, or expenditure is not apparent from the documentation alone. Documentation supporting Extraordinary Losses can include receipts or other documentation not “self-prepared” by the SSN Subclass Member that documents the unreimbursed cost, loss, or expenditure incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support to other submitted documentation.

2.3.3. Extraordinary Losses will be deemed “fairly traceable” if (1) the timing of the unreimbursed cost, loss, or expenditure occurred on or after February 17, 2023; and (2) the

personal information used to commit identity theft or fraud consisted of the same type of personal information that was potentially impacted in the Data Security Incident.

2.4. Aggregate Cap and Potential *Pro Rata* Decrease of Claims for Ordinary Out-of-Pocket Losses and Ordinary Attested Time and Extraordinary Losses for SSN Subclass Members. Approved Claims for Ordinary Out-of-Pocket Losses and Ordinary Attested Time and Extraordinary Losses for SSN Subclass Members will be subject to an aggregate cap of \$150,000. If the aggregate amount of Approved Claims for Ordinary Out-of-Pocket Losses and Ordinary Attested Time and Extraordinary Losses for SSN Subclass Members exceeds \$150,000, such claims will be decreased *pro rata* to total of \$150,000. If the aggregate amount of Approved Claims for Ordinary Out-of-Pocket Losses and for Ordinary Attested Time and Extraordinary Losses SSN Subclass Members is less than \$150,000, the remainder will be used to pay the claims for attested time by the Non-SSN Subclass Members.

2.5. SSN Subclass Members seeking Ordinary Out-of-Pocket Losses, Ordinary Attested Time, or Extraordinary Losses must complete and submit either a hard copy or online Claim Form to the Claims Administrator, postmarked or electronically submitted on or before the Claims Deadline. The Claim Form must be verified by the Settlement Class Member with an attestation that the claimant believes that the unreimbursed costs, losses, or expenditures claimed were incurred as a result of the Data Security Incident.

2.6. Cash Payments for SSN Subclass Members. In addition to, or in the alternative to, making claims for Ordinary Out-of-Pocket Losses and Ordinary Attested Time and/or claims for Extraordinary Losses, SSN Subclass Members may elect to receive a cash payment of up to \$500 on a claims-made basis. The notice and claim forms will include the \$500 cap on Cash Payments. Plaintiffs' counsel may select the font, size, and emphasis for the \$500 cap on Cash Payments and

their placement within the notice and claim forms, subject to approval from Defendants' counsel, which shall not be unreasonably withheld.

Cash Payments for SSN Subclass Members will be subject to an aggregate cap of \$300,000. If the aggregate amount of Cash Payments for SSN Subclass Members exceeds \$300,000, such payments will be decreased *pro rata* to total of \$300,000. If the aggregate amount of Cash Payments to SSN Subclass Members is less than \$300,000, the remainder will be used to pay the claims for attested time by the Non-SSN Subclass Members.

2.7. Claims for Attested Time by Non-SSN Subclass Members. Non-SSN Subclass Members may submit a claim for up to 2 hours of time spent remedying issues related to the Data Security Incident at a rate of \$20 per hour by providing an attestation and a brief description of: (1) the actions taken in response to the Data Security Incident; and (2) the time associated with each action ("Non-SSN Attested Time").

If the aggregate amount of Approved Claims for Non-SSN Attested Time by Non-SSN Subclass Members exceeds the remaining amount of the Settlement Fund (after payment of Approved Claims for Ordinary Out-of-Pocket Losses and Ordinary Attested Time, Approved Claims for Extraordinary Losses, Cash Payments, notice and administration costs, service award payments approved by the Court, and attorneys' fees and expenses awarded by the Court), such claims will be decreased *pro rata* to consume the remaining amount of the Settlement Fund. If the aggregate amount of Approved Claims for Non-SSN Attested Time by Non-SSN Subclass Members is less the remaining amount of the Settlement Fund, such claims will be increased *pro rata* to consume the remaining amount of the Settlement Fund or up to \$80 per claim, whichever occurs first. Any remainder will be used to increase the Cash Payments for SSN Subclass Members *pro rata*.

2.8. The Claim Form.

2.8.1. The Claim Form must be verified by the Settlement Class Member with a statement that his or her claim is true and correct to the best of his or her knowledge and belief and is being made under penalty of perjury. Notarization shall not be required. The Settlement Class Member must reasonably attest that the out-of-pocket expenses and charges claimed were actually incurred, plausibly arose from the Data Security Incident, and, for claims for Extraordinary Losses, are fairly traceable to the Data Security Incident. Failure to provide supporting attestation and documentation as requested on the Claim Form and required under ¶¶ 2.5 or 2.7 shall result in denial of a claim. Disputes as to claims submitted under this paragraph are to be resolved pursuant to the provisions stated in ¶ 2.10.

2.8.2. To be valid, claims must be complete and submitted to the Claims Administrator on or before the Claims Deadline.

2.8.3. Settlement Class Members who submit a Claim Form must designate the method for payment of their claim on the Claim Form, which will include the receipt of payment via check by mail, or via PayPal, Zelle, Venmo, or such other electronic payment platform deemed efficient and appropriate by the Claims Administrator. Claim Forms failing to clearly make a single designation will receive a check by mail to the last known address on file with the Claims Administrator. In the event an electronic payment platform returns a payment to the Claims Administrator, no later than fourteen (14) days after being notified of the return of such payment, the Claims Administrator will mail a check to the Settlement Class Member's last known address on file with the Claims Administrator.

2.9. Data Security Practice Commitments. For a period of 3 years following the execution of a formal settlement agreement, Defendants commit to pay for, implement and

continue the following data security practices: (1) implement and maintain use of a multi-factor authentication solution to gain access to Defendants' network via a virtual private network; (2) maintain a "whitelist" of jurisdictions for which IP address connectivity is permitted to Defendants' network; (3) maintain and update a set of centralized information security protocols, including policies for the retention and destruction of patient information; (4) centralize storage of vendor contracts and conduct periodic audits of those contracts and the information security terms therein; (5) conduct periodic internal audits and assessments of Defendants' policies related to the Health Insurance Portability and Accountability Act, and ensure that each section of these policies is updated accordingly; (6) implement and utilize a comprehensive vulnerability management tool to conduct vulnerability scans and facilitate enterprise-wide patching; (7) continue integration of encryption management solution to ensure all workstations are properly encrypted; (8) maintain role-based access controls for Defendants' patient management application; (9) integrate records stored on non-centralized servers into Defendants' patient management application, bringing legacy repositories under a central location; (10) implement and utilize endpoint detection response tool to facilitate endpoint protections and detection of malware; and (11) maintain annual cybersecurity awareness training requirements for employees.

Defendants retain the right to supersede the above-identified data security practices with measures that are as protective or more protective of the personal information within their custody and control.

Prior to the filing of a motion for preliminary settlement approval, Defendants will provide Plaintiffs' Counsel a good-faith estimate of the known, quantifiable costs of implementing and maintaining the above-identified data security practices during the 3-year period.

2.10. Dispute Resolution for Claims.

2.10.1. The Claims Administrator will determine whether: (1) the claimant is a Settlement Class Member based on information to be provided to the Claims Administrator by Defendants' counsel; (2) the claimant has provided all information needed to complete the Claim Form, including any documentation that may be necessary to support the claimant's class membership and the expenses described in ¶¶ 2.2 and 2.3; and (3) the information submitted could lead a reasonable person to conclude that more likely than not the claimant has suffered the claimed unreimbursed cost, loss, or expenditure as a result of the Data Security Incident (collectively, "Facially Valid"). The Claims Administrator may, at any time, request from the claimant, in writing, additional information ("Claim Supplementation") as the Claims Administrator may reasonably require in order to evaluate the claim, *e.g.*, documentation requested on the Claim Form, information regarding the claimed unreimbursed costs, losses, or expenditures, available insurance and the status of any claims made for insurance benefits, and claims previously made for identity theft and the resolution thereof.

2.10.2. Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the claim is Facially Valid, the Claims Administrator shall request Claim Supplementation and give the claimant thirty (30) days to cure the defect before rejecting the claim. Requests for Claim Supplementation shall be made within thirty (30) days of receipt of such Claim Form or thirty (30) days from the Effective Date, whichever comes later. In the event of unusual circumstances interfering with compliance during the 30-day period, the claimant may request and, for good cause shown (illness, military service, out of the country, mail failures, lack of cooperation of third parties in possession of required information, etc.), shall be given a reasonable extension of the 30-day deadline in which to comply; however, in no event shall the deadline be extended to later than six months from the

Effective Date. If the defect is not cured, then the claim will be deemed invalid and there shall be no obligation to pay the claim.

2.10.3. Following receipt of additional information requested as Claim Supplementation, the Claims Administrator shall have thirty (30) days to accept, in whole or lesser amount, or reject each claim. If, after review of the claim and all documentation submitted by the claimant, the Claims Administrator determines that such a claim is Facially Valid, then the claim shall be paid. If the claim is not Facially Valid because the claimant has not provided all information needed to complete the Claim Form and evaluate the claim, then the Claims Administrator shall reject the claim without any further action.

2.10.4. Settlement Class Members shall have thirty (30) days from receipt of the offer to accept or reject any offer of partial payment received from the Claims Administrator. If a Settlement Class Member rejects an offer from the Claims Administrator, the Claims Administrator shall have fifteen (15) days to reconsider its initial adjustment amount and make a final determination.

2.10.5. Within thirty (30) days of the Claims Deadline, the Claims Administrator shall provide the Settling Parties' counsel with a summary of Facially Valid Claims, stating the types of claims, the total approved claim amounts by claim type, and a description of the support provided for claims for reimbursement for Ordinary Out-of-Pocket Losses and/or Extraordinary Losses and Attested Time. Within fifteen (15) days after receiving such summary, one or more of the Settling Parties may object to any claim and instruct the Claims Administrator to withhold approval of said Facially Valid Claim so that the objecting party may seek review of said claim by a third-party Settlement Referee agreed upon by the Parties or appointed by the Court if no such agreement is reached and paid for by the objecting party.

2.11. Settlement Class Certification. The Settling Parties agree, for purposes of this settlement only, to the certification of the Settlement Class. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to any Settling Party's position on the issue of class certification or any other issue. The Settling Parties' agreement to the certification of the Settlement Class is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

2.12. Confidentiality of Information Submitted by Settlement Class Members. Information submitted by Settlement Class Members pursuant to this Settlement Agreement shall be deemed confidential and protected as such by the Parties and the Claims Administrator.

3. Order of Preliminary Approval and Publishing of Notice of Final Fairness Hearing

3.1. As soon as practicable after the execution of the Settlement Agreement, Proposed Class Counsel shall submit this Settlement Agreement to the Court as part of an unopposed motion for preliminary approval of the Settlement Agreement. The motion for preliminary approval shall request entry of a Preliminary Approval Order in the form attached hereto as **Exhibit D** or an order substantially similar, requesting, *inter alia*:

- a) conditional certification of the Settlement Class for settlement purposes only pursuant to ¶ 2.11;
- b) preliminary approval of this Settlement Agreement as set forth herein;
- c) the scheduling of a Final Fairness Hearing and briefing schedule for a Motion for Final Approval and for a Motion for Attorneys' Fees and Expenses and Service Award;

- d) appointment of Proposed Class Counsel as Class Counsel;
- e) appointment of Representative Plaintiffs as Class Representatives;
- f) approval of a customary form of short notice to be mailed (and, where possible, emailed) to Settlement Class Members with an attached “tear off” claim form with prepaid postage for those who wish to make claims that do not require documentation, *e.g.*, Claims for Cash Payments (“Short Form Notice”), in a form substantially similar to the one attached hereto as **Exhibit B** and a customary long-form notice (“Long Form Notice”) in a form substantially similar to the one attached hereto as **Exhibit C**, which together shall include a fair summary of the Parties’ respective litigation positions, the general terms of the settlement set forth in this Settlement Agreement, instructions for how to object to or opt out of the settlement, the process and instructions for making claims to the extent contemplated herein, and the date, time and place of the Final Fairness Hearing;
- g) appointment of Kroll Settlement Administration, LLC as Claims Administrator; and
- h) approval of a Claim Form substantially similar to that attached hereto as **Exhibit A**.

The Notice and Claim Form shall be reviewed by the Claims Administrator and may be revised as agreed upon by the Settling Parties prior to such submission to the Court for approval.

3.2. The Notice Program. Within 7 days of an order directing class notice, Defendants will provide to the Claims Administrator a class list that includes Settlement Class Members’ full names and last known addresses as reflected in Defendants’ records. Notice shall be provided to Settlement Class Members in accordance with the Notice Program set forth below at ¶¶ 3.2.1 – 3.2.4. The Notice Program shall be subject to approval by the Court as meeting constitutional due process requirements. Prior to the Final Fairness Hearing, Proposed Class Counsel and/or the Claims Administrator shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with the Notice Program.

3.2.1. *Short Form Notice*. On or before the Class Notice Date, the Claims Administrator shall mail (and, where possible, email) the Short Form Notice, with an attached

“tear off” claim form with prepaid postage for those who wish to make claims that do not require documentation, *e.g.*, claims for Cash Payments, substantially in the form of **Exhibit B** hereto. The Claims Administrator shall mail a copy of the Short Form Notice via United States Postal Services (“USPS”) first class mail to all Settlement Class Members for whom Defendants can ascertain a mailing address from their records with reasonable effort. For Settlement Class Members for whom Defendants are not able to ascertain a mailing address from their records with reasonable effort, the Claims Administrator shall use reasonable efforts to identify a mailing address and mail a copy of the Short Form Notice to such address. For any Short Form Notices that are returned undeliverable, the Claims Administrator shall use reasonable efforts to identify updated mailing addresses and resend the Short Form Notice to the extent updated addresses are identified. The Claims Administrator need make only one attempt to resend any Short Form Notices that are returned as undeliverable. The Claims Administrator shall email a copy of the Short Form Notice to all Settlement Class Members for whom Defendants can ascertain an email address from their records with reasonable effort.

3.2.2. *Long Form Notice.* On or before the Class Notice Date, the Claims Administrator shall post the Long Form Notice on the settlement website in the form agreed to by the Parties and approved by the Court.

3.2.3. *Settlement Website.* As soon as practicable following entry of the Preliminary Approval Order, but prior to the Class Notice Date, the Claims Administrator shall establish a dedicated settlement website and shall maintain and update the website throughout the Claims Period, and shall post on the website the Long Form Notice and Claim Form approved by the Court, as well as this Settlement Agreement, the Motion for Final Approval of Class Action Settlement, the Motion for Attorneys’ Fees and Expenses and Service Award, the Preliminary

Approval Order, and the Final Approval Order and Judgment. The URL of the settlement website shall be agreed upon by Class Counsel and Defendant. The settlement website shall remain operational until at least five (5) business days after the last payment or credit under this Settlement Agreement is terminated.

3.2.4. *Toll-Free Help Line.* From the Class Notice Date and thereafter until at least five (5) Business Days after the last payment under this Settlement Agreement is made or the settlement is terminated, the Claims Administrator shall establish and maintain a toll-free help line for Settlement Class Members to call with settlement-related inquiries, with the option to leave a message and request a call back, with such calls being returned within three (3) business days, and answering the questions of Settlement Class Members, to the extent possible, who call with or otherwise communicate such inquiries. The Claims Administrator also will provide copies of the forms of the Long Form Notice and Claim Form approved by the Court, as well as this Settlement Agreement, upon request.

3.3. The Long Form Notice, Short Form Notice and Claim Form approved by the Court may be adjusted by the Claims Administrator in consultation and agreement with the Settling Parties as may be reasonable and not inconsistent with such approval.

3.4. Within ten (10) days of the filing of the Motion for Preliminary Approval, the Claims Administrator shall provide the CAFA Notice as required by 28 U.S.C. § 1715(b). The cost of the CAFA Notice shall be paid from the Settlement Fund.

3.5. The Notice Program shall commence by the Class Notice Date and shall be completed within sixty (60) days after entry of the Preliminary Approval Order.

3.6. Proposed Class Counsel shall request that after notice is completed, the Court hold a hearing (the “Final Fairness Hearing”) and grant final approval of the settlement set forth herein.

4. Opt-Out Procedures

4.1. Each individual wishing to exclude themselves from the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator. Individuals wishing to opt out of the Settlement Class will only be able to submit an opt-out request on their own behalf; mass or class opt-outs will not be permitted. The written notice must clearly manifest an individual's intent to be excluded from the Settlement Class. To be effective, written notice must be postmarked by the Opt-Out Date. All opt-out requests sent to anyone other than the Claims Administrator, including requests previously sent to Proposed Class Counsel and/or Defendants' counsel, are ineffectual and shall be deemed null and void.

4.2. All individuals who submit valid and timely notices of their intent to be excluded from the Settlement Class, as set forth in ¶ 4.1 above, referred to herein as "Opt-Outs," shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All individuals falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class in the manner set forth in ¶ 4.1 above shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.

4.3. Within seven (7) days after the Opt-Out Date, the Claims Administrator shall furnish to Proposed Class Counsel and Defendants' counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List"). No later than 10 days prior to the Final Fairness Hearing, Class Counsel shall file this Opt-Out List with the Court for purposes of being attached to the Judgment to be entered upon final approval.

5. Objection Procedures

5.1. Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall state: (i) the name or caption of this Litigation; (ii) the objector's full name, address, telephone number, and e-mail address (if any); (iii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class; (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of all counsel representing the objector; (vi) a statement whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vii) a statement identifying all class action settlements objected to by the objector in the previous 5 years; and (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative, if any. To be timely, written notice of an objection in the appropriate form must be: (a) electronically filed by the Objection Date; or (b) mailed first-class postage prepaid to the Clerk of Court for the United States District Court for the Eastern District of Michigan and postmarked by no later than the Objection Date. Objections must also be served concurrently with their filing or mailing upon Proposed Class Counsel and counsel for Defendants either via the Court's electronic filing system (if filed electronically) or via U.S. mail (if mailed to the Clerk of Court) at the addresses set forth below for Proposed Class Counsel and Defendants' counsel in the signature blocks at the end of this Agreement.

5.2. Any Settlement Class Member who fails to comply with the requirements for objecting in ¶ 5.1 shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation. The exclusive means

for any challenge to the Settlement Agreement shall be through the provisions of ¶ 5.1. Without limiting the foregoing, any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or the Judgment to be entered upon final approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

5.3. The Parties will have the same right to seek discovery from any objecting Settlement Class Member as they would if the objector were a party in the Litigation, including the right to take the objector's deposition. Such discovery will be conducted on an expedited basis, and the objecting Settlement Class Member is required to respond to any written discovery within fourteen (14) days and must appear for deposition within fourteen (14) days after a deposition is noticed.

6. Release

6.1. Upon the Effective Date, each Settlement Class Member, including Representative Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, completely, fully, finally, irrevocably, and forever released, relinquished, and discharged Defendants, the Related Entities and the Released Persons from all Released Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Representative Plaintiffs, shall, either directly, indirectly, representatively, on their own behalf or on behalf of any class or other person or entity, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action, regulatory action, arbitration, or court or other proceeding in this or any other forum (other than participation in the settlement as provided herein) in which any Released Claim is asserted.

7. Proposed Class Counsel's Attorneys' Fees and Expenses; Service Award to Representative Plaintiff

7.1. The Settling Parties did not discuss the payment of attorneys' fees and litigation expenses and/or service awards to Representative Plaintiffs, as provided for in ¶¶ 7.2 and 7.3, until after the substantive terms of the settlement had been agreed upon, other than that the Settlement Fund would be used to pay reasonable attorneys' fees and litigation expenses and service awards to Representative Plaintiffs as may be agreed to by Defendants and Proposed Class Counsel and/or as ordered by the Court, or, in the event of no agreement, then as ordered by the Court. Defendants and Proposed Class Counsel have agreed to the following:

7.2. Defendants take no position on an application by Proposed Class Counsel for an award of attorneys' fees not to exceed one third of the Settlement Fund (\$900,000.00) and litigation costs and expenses in an amount not to exceed \$25,000.00, subject to Court approval. The Claims Administrator shall, from the Settlement Fund, pay any attorneys' fee and expenses award approved by the Court.

7.3. Defendants take no position on an application by Representative Plaintiffs for service awards not to exceed \$2,500.00. The Claims Administrator shall, from the Settlement Fund, pay any service awards approved by the Court. This service awards shall be separate and apart from any other sums agreed under this Settlement Agreement and the request for service awards is not a condition to the Representative Plaintiffs' approval of this settlement.

7.4. The Claims Administrator shall, from the Settlement Fund, pay the Court-approved amount of attorneys' fees and expenses to Proposed Class Counsel and the Court-approved service award to Representative Plaintiffs within ten (10) days after the Effective Date. Proposed Class Counsel shall provide payment instructions and completed W-9 Forms prior to the deadline for these payments and the Claims Administrator shall issue IRS Forms 1099-MISC to Representative

Plaintiffs solely for the amount awarded by the Court for the Representative Plaintiffs' service awards. Neither Class Counsel nor counsel for Defendants intend anything contained herein to constitute legal advice concerning the tax consequences of any amount paid hereunder nor shall it be relied on as such.

7.5. If this Settlement Agreement is terminated or otherwise does not become Final (e.g., disapproval by the Court or any appellate court), Defendants shall have no obligation to pay attorneys' fees and litigation costs or expenses or service awards and shall only be required to pay costs and expenses related to notice and administration that were already incurred. Under no circumstances will Proposed Class Counsel or any Settlement Class Member be liable for any costs or expenses related to notice or administration.

7.6. The amount(s) of any award of attorneys' fees and expenses and the service award are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees and expenses and/or any service award ordered by the Court to Proposed Class Counsel or Representative Plaintiffs shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement.

8. Administration of Claims

8.1. The Claims Administrator shall administer and calculate the claims submitted by Settlement Class Members under ¶ 2. Proposed Class Counsel and Defendants' counsel shall be given reports as to both claims and distribution and have the right to review and obtain supporting documentation and challenge any such claim if they believe it to be inaccurate or inadequate. The

Claims Administrator's final determination of the validity or invalidity of any claims shall be binding, subject to the Dispute Resolution process set forth in ¶ 2.10.

8.2. Payments for Approved Claims shall be sent to the claimants within sixty (60) days of the Effective Date, or within thirty (30) days of the date that the claim is approved, whichever is later. No Approved Claims shall be paid until after the Effective Date. If this Settlement Agreement is terminated or otherwise does not become Final (*e.g.*, disapproval by the Court or any appellate court) prior to the payment of Approved Claims, Defendants shall have no obligation to pay such claims and shall only be required to pay costs and expenses related to notice and administration that were already incurred.

8.3. All Settlement Class Members who fail to timely submit a claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

8.4. No individual shall have any claim against the Claims Administrator, Defendants, Proposed Class Counsel, Representative Plaintiffs, and/or Defendants' counsel based on distribution of benefits to Settlement Class Members.

8.5. The Parties, Proposed Class Counsel, and Defendants' counsel shall not have any liability whatsoever with respect to (i) any act, omission or determination of the Claims Administrator, or any of its respective designees or agents, in connection with the Claims Administration or otherwise; or (ii) the determination, rejection, administration, calculation or payment of any Claims.

9. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

9.1. The Effective Date of the settlement shall be conditioned on the occurrence of all of the following events:

- a) the Court has entered the Preliminary Approval Order, as required by ¶ 3.1;
- b) the Court has entered the Judgment granting final approval to the settlement as set forth herein; and
- c) the Judgment has become Final, as defined in ¶ 1.15.

9.2. If all of the conditions specified in ¶ 9.1 hereof are not satisfied, the Settlement Agreement shall be canceled and terminated subject to ¶ 9.3 unless Proposed Class Counsel and Defendants' counsel mutually agree in writing to proceed with the Settlement Agreement.

9.3. In the event that the Settlement Agreement is not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Settling Parties shall be restored to their respective positions in the Litigation as if the Agreement had never been entered into (and without prejudice to any of the Parties' respective positions on the issue of class certification or any other issue) and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party, and (b) the terms and provisions of the Settlement Agreement shall be void and have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, including but not limited to ¶ 9.4, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees and litigation costs or expenses and/or the service award shall constitute grounds for cancellation or termination of the Settlement Agreement. Further,

notwithstanding any statement in this Settlement Agreement to the contrary, Defendants shall be obligated to pay amounts already billed or incurred for costs of Notice and Claims Administration and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation.

9.4. This Settlement Agreement may be terminated and/or cancelled by any of the Parties if (i) the Court rejects, materially modifies, materially amends, or changes, or declines to preliminarily approve or finally approve the Settlement Agreement apart from the award of attorneys' fees and expenses; (ii) an appellate court reverses the Preliminary Approval Order and/or Judgment, and the Settlement Agreement is not reinstated and finally approved without material change by the Court on remand; or (iii) the Court or any reviewing appellate court incorporates material terms or provisions into, or deletes or strikes material terms or provisions from, or materially modifies, amends, or changes, the proposed Preliminary Approval Order, the Preliminary Approval Order, the proposed Judgment, the Judgment, or the Settlement Agreement, other than the amount of attorneys' fees and expenses.

10. Non-Disparagement

10.1. Representative Plaintiffs shall not make, publish, or state, or cause to be made, published, or stated, any defamatory or disparaging statement, writing or communication pertaining to Defendants, or their directors, officers, and employees, and/or affiliates, and Related Entities.

11. Miscellaneous Provisions

11.1. The Settling Parties: (i) acknowledge that it is their intent to consummate this Settlement Agreement; (ii) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement; (iii) and agree to exercise their

commercially reasonable best efforts to accomplish the terms and conditions of this Settlement Agreement.

11.2. The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling Parties, that it reflects a settlement that was reached voluntarily after consultation with competent legal counsel, and that for the purpose of construing or interpreting this Agreement, the Settling Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis. It is agreed that neither Party shall have any liability to one another as it relates to the Litigation, except as set forth herein.

11.3. Neither the Settlement Agreement, nor the settlement terms contained herein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Persons; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. If this Agreement does not become effective or is cancelled, withdrawn, or terminated for any reason, the Agreement along with all related communications and documents exchanged in connection with the Agreement and

mediation between the Parties shall be deemed a negotiation for settlement purposes only under Federal Rule of Procedure 408 and will not be admissible in evidence or usable for any purposes whatsoever in the Litigation or any proceedings between the Parties or in any other action related to the Released Claims or otherwise involving the Parties or any Released Person. Any of the Released Persons may file the Settlement Agreement and/or the Judgment in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

11.4. The terms of this Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest and approved by the Court; provided, however, that after enter of the Preliminary Approval order, the Parties may by written agreement, effect such amendments or modifications of this Agreement and its implementing documents (including all exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Settlement Class Members under this Agreement.

11.5. The Settlement Agreement, together with the **Exhibits attached hereto**, constitutes the entire agreement among the Parties hereto, and no representations, warranties or inducements have been made to any Party concerning the Settlement Agreement other than the representations, warranties and covenants contained and memorialized in such document. Except as otherwise provided herein, each party shall bear its own costs. This agreement supersedes all previous agreements made between Representative Plaintiffs and Defendants.

11.6. Proposed Class Counsel, on behalf of the Settlement Class, is expressly authorized by Representative Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.

11.7. The Parties understand that if the facts upon which this Agreement is based are found hereafter to be different from the facts now believed to be true, each Party expressly assumes the risk of such possible difference in facts, and agrees that this Agreement, including the release contained herein, shall remain effective notwithstanding such difference in facts. The Parties agree that in entering this Agreement, it is understood and agreed that each Party relies wholly upon her or its own judgment, belief, and knowledge and that each Party does not rely on inducements, promises, or representations made by anyone other than those embodied herein.

11.8. If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to “days” in this Agreement shall refer to calendar days unless otherwise specified.

11.9. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties, through their respective counsel, shall consult with each other in good faith prior to seeking Court intervention.

11.10. Each counsel or other individual executing the Settlement Agreement on behalf of any Party hereto hereby warrants that such individual has the full authority to do so.

11.11. The Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court.

11.12. The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

11.13. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement, and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Settlement Agreement.

11.14. The Settlement Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the state of Michigan, and the rights and obligations of the parties to the Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the state of Michigan.

11.15. The Final Fairness Hearing shall be scheduled no earlier than: (i) 100 days after the notices are made in order to comply with the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715(d); or (ii) 14 days after the Claims Deadline, whichever is later.

11.16. As used herein, “he” means “he, she, or it;” “his” means “his, hers, or its,” and “him” means “him, her, or it.”

11.17. All dollar amounts are in United States dollars (USD).

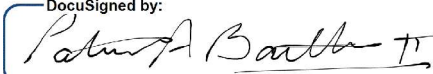
11.18. Cashing a settlement check (whether paper or electronic) is a condition precedent to any Settlement Class Member’s right to receive settlement benefits. All settlement checks and electronic payments shall be void sixty (60) days after issuance and the checks or emails containing the links to the electronic payments shall bear the language: “This check[/payment] must be

cash[ed]/accepted] within 60 days, after which time it is void.” If a check or electronic payment becomes void, the Settlement Class Member shall have until six months after the Effective Date to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Settlement Class Member’s right to receive monetary relief shall be extinguished, and the funds shall be disbursed to a *cy pres* recipient to be agreed upon by the parties and approved by the Court or, if they cannot agree, selected by the Court. The same provisions shall apply to any re-issued check or electronic payment. For any checks or electronic payments that are issued or re-issued for any reason more than one hundred eighty (180) days from the Effective Date, requests for re-issuance need not be honored after such checks or electronic payments become void.

11.19. All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

AGREED TO BY:

DocuSigned by:

By: _____
522B56634CE24D5...
Patrick A. Barthle II (*interim co-lead counsel*)
MORGAN & MORGAN
COMPLEX LITIGATION GROUP
201 N. Franklin Street, 7th Floor
Tampa, Florida 33602
Tel: (813) 229-4023
Email: *pbarthle@ForThePeople.com*

Joseph M. Lyon (*interim co-lead counsel*)
THE LYON FIRM
2754 Erie Ave.
Cincinnati, OH 45208
Phone: (513) 381-2333
Fax: (513) 766-9011
jlyon@thelyonfirm.com

Proposed Class Counsel

6/27/2024
Date: _____


By: _____
Sean G. Wieber
Kevin P. Simpson
WINSTON & STRAWN LLP
35 W. Wacker Dr.
Chicago, IL 60601
Tel.: 312-558-5600
Fax: 312-558-5700
SWieber@winston.com
KPSimpson@winston.com

Attorneys for Defendants