

SETTLEMENT AGREEMENT

This Settlement Agreement, dated September 13, 2023, is made and entered into by and among the following Settling Parties (as defined below): Sylvia Tompkins, Kenneth Brennan, Chandra Brown, Ariann J-Hanna, Nicole Pyle, Beverly Owens, Michael Young, Nevse Brewster, Wesley Hanson, Donna Smith, Angela Standerfer, and Victoria Marker (collectively, “Plaintiffs”) and US Radiology Specialists, Inc. (“US Radiology”), Gateway Diagnostic Imaging, LLC (“Gateway”), Charlotte Radiology, P.A. A/K/A Charlotte Radiology (“Charlotte Radiology”), and American Health Imaging, Inc. (“AHI,” collectively “Defendants” and, together with Plaintiffs, the “Parties” or “Settling Parties”). The Settlement Agreement is subject to Court approval and intended by the Settling Parties to resolve, discharge, and settle the Released Claims and this Litigation (as defined below), upon and subject to the terms and conditions set forth below.

INTRODUCTION

This settlement resolves a nationwide consumer class action brought by Plaintiffs on behalf of themselves and a purported class of similarly situated individuals.

I. PROCEDURAL BACKGROUND

The case arises from the alleged compromise of personal identifying information (“PII”) and protected health information (“PHI”) (collectively “Private Information”) as a result of a data security incident Defendants experienced around December 2021 (the “Data Incident”). Plaintiffs and Class Members (as defined below) include current and former patients of Defendants and their affiliated and acquired entities, their dependents, and other individuals affiliated with Defendants whose Private Information was potentially compromised in the Data Incident. In response to the Data Incident, Defendants and/or Related Entities sent a Notice Letter (“Notice Letter”) to each impacted individual providing a description of the type of Private Information involved, which

may have potentially included: full names, Social Security numbers, dates of birth, addresses, driver's license numbers, U.S. passport numbers, financial account information (bank account and routing numbers), online account usernames and passwords, health insurance plan member ID numbers, and/or dates of coverage.

In response, class actions were filed in multiple jurisdictions, including in this Court: *Standerfer v. Gateway Diagnostics Imaging, LLC*, No. 153-336822-22 (Tarrant Cty., TX) (Filed Sept. 22, 2022) (Removed to N.D. Tex., No. 4:22-cv-00972-P) (Vol. Dismissal); *Marker v. Gateway Diagnostics, Inc.*, No. 352-337300-22 (Tarrant County, TX) (Filed Oct. 3, 2022) (Removed to N.D. Tex. and voluntarily joined with *Standerfer* Action, Case No. 4:22-cv-00972-P) (Vol. Dismissal); *J-Hanna & Pyle v. U.S. Radiology Specialists, Inc.*, No. 1:22-cv-01384 (D. Del.) (Filed Oct. 21, 2022); *Tompkins, et al. v. U.S. Radiology Specialists, Inc.*, No. 4:22-cv-00133 (E.D.N.C.) (Filed Oct. 26, 2022); *Brewster, et al. v. American Health Imaging, Inc.*, No. 1:22-cv-04466 (N.D. Ga.) (Filed Nov. 8, 2022) (Vol. Dismissal); *Young v. U.S. Radiology Specialists, Inc.*, No. 5:23-cv-00156 (E.D.N.C.) (Filed Mar. 29, 2023).

Plaintiffs, collectively, alleged individually and on behalf of a nationwide class that, as a direct result of the Data Incident, Plaintiffs and Class Members suffered numerous injuries and would likely suffer additional harm into the future. Plaintiffs' claims for alleged damages and remedies included the following categories of harms: (a) invasion of privacy; (b) financial costs incurred mitigating the imminent risk of identity theft; (c) loss of time and loss of productivity incurred mitigating the imminent risk of identity theft; (d) loss of time and loss of productivity heeding Defendants' warnings and following their instructions in the Notice Letter; (e) financial costs incurred due to actual identity theft; (f) the cost of future identity theft monitoring for the Class; (g) loss of time incurred due to actual identity theft; (h) loss of time and annoyance due to

increased targeting with phishing attempts and fraudulent robo-calls; (i) deprivation of value of their PII and PHI; and (j) statutory damages.

Plaintiffs, individually and on behalf of other members of the proposed nationwide class, collectively asserted claims for (i) negligence; (ii) negligence *per se*; (iii) negligent misrepresentation; (iv) breach of implied contract; (v) breach of confidence; (vi) unjust enrichment; (vii) breach of contract-third party beneficiary; (viii) intrusion upon seclusion; (ix) breach of fiduciary duty; (x) violations of the Texas Medical Practice Act, Tex. Occ. Code § 159.001 *et seq.*; (xi) GA Data Breach Statute, GA. Code Ann. § 10-1-912(a) *et seq.*; (xii) Georgia Uniform Deceptive Trade Practices Act, O.C.G.A. § 10-1-*et seq.*; (xiii) Texas Deceptive Trade Practices-Consumer Protection Act, Texas Bus. & Com. Code §§ 17.41 *et seq.*; (xiv) injunctive relief; and (xv) declaratory relief.

II. MEDIATION

Recognizing the risk and expenses of prolonged multidistrict litigation, the Parties agreed to pursue informal discovery and mediation. After Defendants produced informal discovery regarding the scope and nature of the Data Incident, and following several pre-mediation meetings and negotiations, on February 10, 2023, the parties engaged in a full-day mediation session with Rodney A. Max of Upchurch Watson White & Max. The mediation ended without a settlement. The Parties continued negotiations privately and after several weeks of unsuccessful efforts agreed to a second mediation. On March 30, 2023, the Parties re-engaged for another full day mediation with Jill Sperber of Sperber Dispute Resolution – the full day also ended without resolution. Afterwards, Ms. Sperber submitted a confidential mediator’s proposal that both Parties subsequently accepted resulting in the \$5,050,000 Settlement Fund. The agreed resolution and settlement is memorialized in this Settlement Agreement.

Pursuant to the terms identified below, this Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against the Released Persons (as defined below) relating to the Data Incident and this Litigation, by and on behalf of Plaintiffs and Class Members.

III. CONFIRMATORY DISCOVERY

Before entering into this Settlement Agreement, and in response to informal discovery requests for settlement purposes from Plaintiffs, Defendants produced informal discovery that addressed the estimated class size, and manner and mechanism of the Data Incident. Defendants further agreed to produce a confidential copy of the forensic report for examination by Plaintiffs' counsel.

IV. PLAINTIFFS' CLAIMS AND BENEFITS OF SETTLING

Plaintiffs and proposed Class Counsel believe the claims asserted in the Litigation, as set forth in the Amended Complaint (the "Complaint") against Defendants, have merit. Plaintiffs and proposed Class Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Litigation against Defendants through motion practice, discovery, class certification, trial, and potential appeals. Plaintiffs and proposed Class Counsel have also considered the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation, especially in complex class actions. Proposed Class Counsel are highly experienced in class action litigation and, in particular, data breach and privacy litigation, and have previously served as lead counsel in other data breach class actions through final approval. Plaintiffs and proposed Class Counsel have determined that the settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Class Members.

V. DENIAL OF WRONGDOING AND LIABILITY

Defendants deny each and all of the claims and contentions alleged against them in the Complaint. Defendants deny all charges of wrongdoing or liability as alleged, or which could be alleged. Nonetheless, Defendants have concluded that further conduct of litigation would be protracted and expensive, and that it is desirable that this matter be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement. Defendants have considered the uncertainty and risks inherent in any litigation and in this matter. Defendants have, therefore, determined that it is desirable and beneficial that the Litigation be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

TERMS OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiffs, individually and on behalf of the Class Members, Proposed Class Counsel, as set forth in the signature block below, and Defendants that, subject to the approval of the Court, the Released Claims (as defined below) shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice as to the Settling Parties and the Class Members, upon and subject to the terms and conditions of this Settlement Agreement, as follows:

1. Definitions

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

1.1 “Administration Fees” shall mean the fees, costs and other expenses incurred for Settlement Administration, as defined below.

1.2 “Agreement” or “Settlement Agreement” means this agreement.

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

1.4 “Claim Form” means the form that will be used by Class Members to submit a Claim to the Settlement Administrator and that is substantially in the form as shown in **Exhibit A** to this Settlement Agreement.

1.5 “Claims Deadline” means the postmark and/or online submission deadline for Claims, which shall be 90 days after the Notice Date (as defined below). The Claims Deadline shall clearly be set forth in the order granting Preliminary Approval of the settlement, as well as in the Notice and on the Claim Form.

1.6 “Class” means all natural persons residing in the United States who were sent a Notice Letter notifying them that their Private Information was potentially compromised in the Data Incident. The Class specifically excludes: (i) all Persons who timely and validly request exclusion from the Class; (ii) the Judge assigned to evaluate the fairness of this settlement; and (iii) any other Person 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 Incident or who pleads *nolo contendere* to any such charge.

1.7 “Class Member(s)” means any Person or Persons who falls within the definition of the Class.

1.8 “Court” means the North Carolina Superior Court in Mecklenburg County.

1.9 “Data Incident” means the data security incident Defendants experienced between December 17, 2021 and December 24, 2021, that involved an unauthorized third-party accessing Defendants’ network and computer systems and potentially accessing the Private Information of Plaintiffs and the Class Members.

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

1.11 “Effective Date” shall mean the date when the Settlement Agreement becomes Final, which is 35 days after the Court’s grant of the Final Approval Order assuming no appeals have been filed. If an appeal is filed, the Effective Date will be 35 days from when the appeal is decided and a Judgment is entered in this case.

1.12 “Escrow Account” means the account opened by the Settlement Administrator at Truist.

1.13 “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) approving the Settlement Agreement; 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 attorneys’ fees 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.

1.14 “Final Approval Order” is the order through which the Court grants final approval of class action settlement and finds that this settlement is fair, reasonable, and adequate.

1.15 “Judgment” means a judgment rendered by the Court.

1.16 “Litigation” means this consolidated case, Case No. 22 CVS 17797, pending in this Court against Defendants.

1.17 “Long Notice” means the long-form notice of settlement to be posted on the Settlement Website (as defined below), substantially in the form as shown in **Exhibit B** to this Settlement Agreement.

1.18 “Notice” means the Long Form and Short Form Notices and Settlement Website (as defined below), email address at info@usradsettlement.com, and/or telephone number that will be issued or made available to Class Members and will apprise Class Members about the settlement.

1.19 The “Notice Date” means 60 days after the entry of the Preliminary Approval Order, which is the date that Notice will be sent to Class Members.

1.20 “Notice Program” is the plan for issuing Notice to Class Members, including the timing of issuing such Notice that will be completed by the Settlement Administrator.

1.21 “Objection Date” means the date by which Class Members must file with the Court through the Court’s electronic case filing (“ECF”) system and mail to Class Counsel and counsel for Defendants their objection to the settlement for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes. The Objection Date shall be 60 days after the Notice Date.

1.22 “Opt-Out Date” means the date by which Class Members must mail to the Settlement Administrator their requests to be excluded from the Class for that request to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes. The Opt-Out Date shall be 60 days after the Notice Date.

1.23 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and

any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.

1.24 “Plaintiffs” and/or “Class Representatives” mean Sylvia Tompkins, Kenneth Brennan, Chandra Brown, Ariann J-Hanna, Nicole Pyle, Beverly Owens, Michael Young, Nevse Brewster, Wesley Hanson, Donna Smith, Angela Standerfer, and Victoria Marker.

1.25 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement and ordering that Notice be provided to the Class. The Settling Parties’ proposed form of Preliminary Approval Order is attached to this Settlement Agreement as **Exhibit C**.

1.26 “Proposed Class Counsel” and “Class Counsel” shall mean Jean S. Martin of Morgan & Morgan; Terence R. Coates of Markovits, Stock & DeMarco, LLC; Joseph M. Lyon of The Lyon Firm; Brian Gudmundson of Zimmerman Reed; Gerard Stranch of Stranch Jennings; Mason A. Barney of Siri & Glimstad LLP; and Jason Rathod of Migliaccio & Rathod.

1.27 “Released Claims” shall collectively mean any and all past, present, and future claims and causes of action including, but not limited to, any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality, including 15 U.S.C. § 45, *et seq.*, and all similar statutes in effect in any states in the United States as defined below; state consumer-protection statutes; negligence; negligence *per se*; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; fraud; 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; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement,

declaratory relief or judgment, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, direct or derivative, and any other form of legal or equitable relief that either has been asserted, was asserted, or could have been asserted, by any Class Member against any of the Released Persons based on, relating to, concerning or arising out of the alleged Data Incident or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the Litigation. Released Claims shall not include the right of any Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement, and shall not include the claims of any Person who has timely excluded themselves from the Class.

1.28 "Related Entities" means Defendants' past or present parents, subsidiaries, divisions, and related or affiliated entities, including joint ventures and joint venture partners, and each of their respective predecessors, successors, directors, officers, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in any of the actions in the Litigation, including, but not limited to, Diversified Radiology of Colorado, Inc., Radiology Ltd., LLC, Touchstone Medical Imaging, LLC, Upstate Carolina Radiology, P.A., Windsong Radiology Group, P.C., Buffalo MRI by Windsong Radiology, Windsong Health Medical Alliance, PLLC, Carolinas Imaging Services, LLC, Union Medical Services, LLC, RLC, LLC d/b/a Radiology Ltd. Carondelet, Tucson Imaging Associates, L.L.C., Tucson Medical Imaging Partners, LLC d/b/a Radiology Ltd. Rincon, Gateway Diagnostic JV, LLC, BTDI JV, LLP, SCLTDI JV, LLC, Blue Stone JV, LLP, and Blue Stone Frisco JV, LLP, other than any Person 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 Incident or who pleads *nolo contendere* to any such charge.

1.29 “Released Persons” means Defendants and Related Entities and each of their past or present parents, subsidiaries, divisions, and related or affiliated entities, including joint ventures and joint venture partners, and each of their respective predecessors, successors, directors, officers, principals, agents, attorneys, insurers, and reinsurers.

1.30 “Remainder Funds” means any funds that remain in the Settlement Fund after payments from the Settlement Fund are paid for all Valid Claims (as defined below). The funds remaining in the Settlement Fund after payments for Valid Claims have been distributed and the time for cashing and/or depositing checks has expired will be Remainder Funds. The Remainder Funds will be sent to one or more court-approved charitable organizations as a *cy pres* distribution. The Parties will jointly recommend the entity or entities to the Court that will be the recipients of the *cy pres* distribution.

1.31 “Service Awards” shall have the meaning ascribed to it as set forth in ¶ 7.3 of this Settlement Agreement. The Service Awards requested in this matter will be \$3,000.00 to each Class Representative, subject to Court approval and will be in addition to any other settlement benefits Plaintiffs may receive. The Service Awards shall be paid using and through the Settlement Fund.

1.32 “Settlement Administration” means the processing and payment of Claims received from Class Members by the Settlement Administrator.

1.33 “Settlement Administrator” means Kroll Settlement Administration LLC (“Kroll”), experienced in administering class action claims generally and specifically those of the type provided for and made in data breach litigation.

1.34 “Settlement Fund” means a non-reversionary common fund to be funded by US Radiology in the amount of five million and fifty thousand dollars (\$5,050,000.00) which shall be deposited into the Escrow Account.

1.35 “Settling Parties” means, collectively, Defendants and Plaintiffs, individually and on behalf of the Class and all Released Persons.

1.36 “Short Notice” means the short notice of the proposed class action settlement, substantially in the form as shown in **Exhibit D** to this Settlement Agreement. The Short Notice will direct recipients to the Settlement Website where recipients may view, *inter alia*, the Long Notice and make a Claim for monetary relief. The Short Notice will also inform Class Members, *inter alia*, of the Claims Deadline, the Opt-Out Date and Objection Date, and the date of the Final Approval Hearing (as defined below).

1.37 “Settlement Website” shall be the URL www.usradsettlement.com that the Settlement Administrator will establish and will contain detailed information about this Litigation.

1.38 “United States” as used in this Settlement Agreement means the United States of America and includes all of its States, the District of Columbia and all territories.

1.39 “Unknown Claims” means any of the Released Claims that any Class Member, including any Plaintiff, does not know or suspect to exist in his/her favor at the time of the release of the Released Persons that, if known by him or her, might have affected his or her settlement with, and release of, the Released Persons, or might have affected his or her 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, Plaintiffs intend to and expressly shall have, and each of the other Class Members intend to and 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, (or any similar comparable, or equivalent provision of any federal, state or foreign law, or principle of common law) 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.

Class Members, including Plaintiffs, 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 Plaintiffs expressly shall have, and each other 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, including Unknown Claims. The Settling Parties acknowledge, and 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.

1.40 “Valid Claims” means Claims in an amount approved by the Settlement Administrator or found to be valid through the claims processing and/or Dispute Resolution process.

2. Settlement Benefits

2.1 Claimed Benefits: All Class Members shall have the opportunity to submit a Claim Form for certain Claimed Benefits either through the Settlement Website or by hand to a designated Post Office box established by the Settlement Administrator. The Claimed Benefits, as described below, shall include: (a) *Pro Rata* Cash Payment; (b) Out-of-Pocket-Expense Claims; (c) Lost-Time Claims; (d) Verified Fraud Claims, and any Valid Claim may be combined with any other Valid Claim.

- a) *Pro Rata* Cash Payment. After the distribution of attorneys' fees, Class Counsel's litigation expenses, Administration Fees, Service Awards, Out-of-Pocket-Expense Claims, and Lost-Time Claims (each of which is defined below in this Section), the Settlement Administrator will make *pro rata* payments of the remaining Settlement Fund to each Class Member who submits a Claim. This payment is estimated to be around \$50, but may *pro rata* increase or decrease from the \$50 cash payment. No documentation or attestation is required to receive the *Pro Rata* Cash Payment (the "\$50 *Pro Rata* Cash Payment" or "*Pro Rata* Cash Payment").
- b) Out-of-Pocket-Expense Claims. Class Members can submit a Claim Form for reimbursement of documented out-of-pocket losses reasonably traceable to the Data Incident up to \$5,000.00 per individual ("Out-of-Pocket-Expense Claims"). Out-of-Pocket-Expense Claims will include, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit

reporting agency; credit monitoring costs that were incurred on or after December 17, 2021 that the claimant attests under penalty of perjury were caused or otherwise incurred as a result of the Data Incident, through the date of claim submission; and miscellaneous expenses such as notary, data charges (if charged based on the amount of data used) fax, postage, copying, mileage, cell phone charges (only if charged by the minute), and long-distance telephone charges.

Class Members with Out-of-Pocket-Expense Claims must submit documentation and attestation supporting their Claims. This may include receipts or other documentation, not “self-prepared” by the claimant, that documents the costs incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but may be considered to add clarity or support to other submitted documentation.

- c) Lost-Time Claims. Class Members may submit a Claim Form for reimbursement for time spent remedying issues related to the Data Incident for up to four (4) total hours at a rate of \$25 per hour capped at \$100 (“Lost-Time Claims”). No documentation needs to be submitted in connection with Lost-Time Claims, but Class Members must attest that the time claimed was actually spent as a result of the Data Incident.
- d) Verified Fraud Claims: \$250 per incident. Class Members can submit a Claim Form for documented incidents of fraud for \$250 per incident capped at \$5,000.00 per individual for verified and documented incidents of fraud

(“Verified Fraud Claim”). Verified Fraud Claims will include, without limitation, any verified incident regardless of reimbursement. This may include fraudulent bank or credit card charges, tax filings, opening of bank and/or credit accounts, unemployment filings, etc. Class Members with Verified Fraud Claims must submit documentation and attestation supporting their Claims. Receipts or other documentation, not “self-prepared” by the claimant, that documents the incident are required. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but may be considered to add clarity or support to other submitted documentation.

All payments for Claims from the Settlement Fund under Paragraph 2.1(a)-(d) may be *pro rata* decreased depending on the total number of Valid Claims.

2.2 Any funds remaining in the Settlement Fund, to the extent any exist, after payment of all class benefits, Administration Fees, attorneys’ fees, costs, and Service Awards shall be used for a *pro rata* increase of the Claims for \$50 *Pro Rata* Cash Payment set forth in Section 2.1(a) above, with no maximum payment. Any funds that remain after the distribution and reissuance of all payments from the Settlement Fund will be Remainder Funds that shall be distributed to a charitable organization approved of by the Parties and subject to Court approval.

2.3 Business Practices Changes & Confirmatory Discovery. Plaintiffs have received assurances that Defendants either have undertaken or will undertake certain reasonable steps to further secure their systems and environments. Defendants have provided reasonable access to confidential confirmatory discovery regarding the number of Class Members broken down by

category (*e.g.*, current employee, former employee, etc.) and state of residence, the facts and circumstances of the Data Incident and Defendants' response thereto, and the changes and improvements that have been made or are being made to protect class members' PII. Defendants will provide a declaration attesting to the undertaken or planned data security enhancements.

2.4 Dispute Resolution for Claims. The Settlement Administrator, in its sole discretion to be reasonably exercised, will determine whether: (1) the claimant is a Class Member; (2) the claimant has provided all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support the Out-of-Pocket-Expense Claims or Verified Fraud Claims; (3) the information submitted could lead a reasonable person to conclude that it is more likely than not the claimant has suffered the claimed losses as a result of the Data Incident; and (4) the claimant timely submitted his or her Claim Form. The Settlement Administrator may, at any time, request from the claimant, in writing, additional information that the Settlement Administrator deems reasonably necessary to evaluate the Claim, *e.g.*, documentation requested on the Claim Form, information regarding the claimed losses, and claims previously made for identity theft and the resolution thereof. For any such Claims that the Settlement Administrator determines to be invalid, the Settlement Administrator will submit those Claims to the Settling Parties (one Plaintiffs' lawyer shall be designated to fill this role for all Plaintiffs). If, upon meeting and conferring, the Settling Parties disagree as to the Claim validity, then the Claim shall be referred back to the Settlement Administrator for final determination on the Claim validity.

2.4.1 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 Settlement Administrator shall request additional information and allow the claimant

14 days from the date of the request to cure the defect. If the defect is not cured within the time allotted, then the Claim will be deemed invalid.

2.4.2 Following timely receipt of additional information pursuant to a request by the Settlement Administrator under ¶ 2.4.1, the Settlement Administrator shall have 10 days to accept or reject the Claim. If, after review of the Claim and all documentation submitted by the claimant, the Settlement Administrator determines that such Claim is valid, then the Claim shall be paid. If the Claim is not valid because the claimant has not provided the information requested by the Settlement Administrator, then the Settlement Administrator may reject the Claim without any further action. A defect in one Claim shall not cause rejection of any other Valid Claim submitted by the claimant.

2.4.3 Class Members shall have 10 days from receipt of the approval of a Claim that provides a payment that deviates from the losses described on the Claim Form to accept or reject the Claim. This provision does not apply where the Claim value deviates due to a *pro rata* increase or decrease.

2.5 Settlement Expenses. All costs for Notice to the Class Members as required under ¶ 3.2, Administration Fees under ¶ 1.1, and the costs of Dispute Resolution described in ¶ 2.4 shall be paid out of the Settlement Fund.

2.6 Class Certification. The Settling Parties agree, for purposes of this settlement only, to the certification of the 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 the Settlement Agreement, this Settlement Agreement and the certification of the Class provided for herein will be vacated and the Litigation shall proceed as though the Class had never been certified, without prejudice to any Person's or Settling Party's position on the issue of

class certification or any other issue. The Settling Parties' agreement to the certification of the 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.

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

3.1. As soon as practicable after the execution of the Settlement Agreement, Proposed Class Counsel shall jointly submit this Settlement Agreement to the Court, and Interim Class Counsel will file a motion for preliminary approval of the settlement with the Court requesting entry of a Preliminary Approval Order in the form substantially similar to **Exhibit C** in both terms and cost, requesting, *inter alia*:

- a) certification of the Class for settlement purposes only pursuant to ¶ 2.6;
- b) preliminary approval of the Settlement Agreement as set forth herein;
- c) appointment of Interim Class Counsel as Class Counsel;
- d) appointment of Plaintiffs as Class Representatives;
- e) approval of the Short Notice to be emailed or mailed to Class Members in a form substantially similar to the one attached as **Exhibit D** to this Settlement Agreement;
- f) approval of the Long Notice to be posted on the Settlement Website in a form substantially similar to the one attached as **Exhibit B** to this Settlement Agreement, which, together with the Short Notice, shall include a fair summary of the Parties' respective litigation positions, statements that the settlement and notice of settlement are legitimate and that the Class Members are entitled to benefits under the settlement, the general terms of the settlement set forth in the Settlement Agreement,

instructions for how to object to or opt-out of the settlement, instructions for how to obtain the settlement benefits, the process and instructions for making Claims to the extent contemplated herein, and the date, time and place of the Final Approval Hearing;

- g) approval of a Claim Form to be used by Class Members to make a Claim in a form substantially similar to the one attached as **Exhibit A** to this Settlement Agreement; and
- h) appointment of Kroll as the Settlement Administrator.

The Short Notice, Long Notice, and Claim Form have been reviewed and approved by the Settlement Administrator, but may be revised as agreed upon by the Settling Parties before submission to the Court for approval. Immaterial revisions to these documents may also be made prior to dissemination of notice. Any changes to the Preliminary Approval Order, Short Notice, Long Notice, and Claim Form that do not materially affect the substance of the Settlement Agreement that the Court may require will not invalidate this Settlement Agreement.

3.2 Costs for providing Notice to the Class in accordance with the Preliminary Approval Order, and the costs of such Notice, together with the Administration Fees shall be paid from the Settlement Fund. Attorneys' fees, costs, and expenses of Proposed Class Counsel, and Service Awards to Class Representatives, as approved by the Court, shall also be paid from the Settlement Fund. Notice shall be provided to Class Members by the Settlement Administrator as follows:

- a) *Class Member Information*: No later than 14 days after entry of the Preliminary Approval Order, Defendants shall provide the Settlement Administrator with the name, last known physical address, and email of

each Class Member (collectively, “Class Member Information”) that Defendants possess.

- b) Class Member Information and its contents shall be used by the Settlement Administrator solely for the purpose of performing its obligations pursuant to this Agreement and shall not be used for any other purpose at any time. Except to administer the settlement as provided in this Settlement Agreement, or provide all data and information in its possession to the Settling Parties upon request, the Settlement Administrator shall not reproduce, copy, store, or distribute in any form, electronic or otherwise, the Class Member Information.
- c) *Settlement Website*: Prior to the dissemination of the Notice, the Settlement Administrator shall establish the Settlement Website (www.usradsettlement.com) that will inform Class Members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information. The Settlement Website shall include, in .pdf format and available for download, the following: (i) the Long Notice; (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv) this Settlement Agreement; and (v) any other materials agreed upon by the Parties and/or required by the Court. The Settlement Website shall provide Class Members with the ability to complete and submit the Claim Form electronically, and shall have a “Contact Us” page whereby Class Members can send an email with any additional questions to a dedicated

email address and send hardcopy documents to a designated Post Office box established by the Settlement Administrator.

d) *Short Notice:* 60 days after the entry of the Preliminary Approval Order, and subject to the requirements of this Settlement Agreement and the Preliminary Approval Order, the Settlement Administrator shall begin to provide Notice to the Class through any one of the following means:

- via Class member email to any email address Defendants provided to the Settlement Administrator;
- in the event that an email bounces or the email is otherwise undeliverable:
 - approximately 24 to 72 hours after attempting to send the first email notice (to allow any temporary block at the ISP level to expire), the Settlement Administrator will send a second round of email notices to any email addresses deemed not to have received the first email notice due to a bounce or other undeliverable notice;
 - after the second email notice, the Settlement Administrator will conduct an email change of address search for any email address deemed not to have received either the first or second email notice. The Settlement Administrator will then

send an email notice to any email address updated via this process.

- in the event that the foregoing methods fail to result in a successful email send, the Settlement Administrator shall then send notice to that the Class Member via postal address as described below if such postal address is available;
- for each Class Member who did not receive an email notice, via mail to the Class Member's postal address that Defendants provided to the Settlement Administrator. Before any mailing under this paragraph occurs, the Settlement Administrator shall run the postal addresses of Class Members through the United States Postal Service ("USPS") National Change of Address database to update any change of address on file with the USPS;
- in the event that a Short Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Settlement Administrator shall re-send the Short Notice to the forwarding address if the Short Notice is returned as undeliverable;
- in the event that subsequent to the first mailing of a Short Notice, and at least 14 days prior to the Opt-Out Date and Objection Date, a Short Notice is returned to the Settlement Administrator by the

USPS because the address of the recipient is no longer valid, i.e., the envelope is marked “Return to Sender” and does not contain a new forwarding address, the Settlement Administrator shall perform a standard skip trace, in the manner that the Settlement Administrator customarily performs skip traces, in an effort to attempt to ascertain the Class Member’s current address and, if such an address is ascertained, the Settlement Administrator will re-send the Short Notice within 7 days of receiving such information. This shall be the final requirement for mailing.

- e) Publishing, on the Notice Date, the Claim Form, Long Notice and this Settlement Agreement on the Settlement Website, as specified in the Preliminary Approval Order, and maintaining and updating the Settlement Website throughout the Claim period;
- f) A toll-free help line with an IVR system and a live operator option shall be made available to provide Class Members with additional information about the settlement. The Settlement Administrator also will provide copies of the Long Notice and paper Claim Form, as well as this Settlement Agreement, upon request; and
- g) Contemporaneously with seeking final approval of the settlement, Proposed Class Counsel and Defendants shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with these provisions regarding Notice.

3.3 The Short Notice, Long Notice, and other applicable communications to the Class may be adjusted by the Settlement Administrator in consultation and agreement with the Settling Parties as may be reasonable and not inconsistent with such approval. The Notice Program shall commence within 60 days after entry of the Preliminary Approval Order and shall be completed within 74 days after entry of the Preliminary Approval Order.

3.4 Proposed Class Counsel and Defendants' counsel shall request that after Notice is completed the Court hold a hearing (the "Final Approval Hearing") and grant final approval of the settlement set forth herein, and request that the Final Approval Hearing occur on a date that is convenient for the Court and is at least 135 days after the entry of the Preliminary Approval Order.

4. Opt-Out Procedures

4.1 Each Person wishing to opt-out of the Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Settlement Administrator. The written notice must clearly manifest the Person's intent to opt-out of the Class. To be effective, written notice must be postmarked no later than the Opt-Out Date.

4.2 All Persons who submit valid and timely notices of their intent to opt-out of the Class (hereinafter, "Opt-Outs") shall not receive any benefits of and shall not be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Class who do not opt-out of the Class in the manner set forth in this Agreement shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.

4.3 If the Settlement Administrator receives more than 0.5% of the Class Opt-Outs from the settlement, then Defendants shall have the right to terminate the Settlement Agreement in its entirety.

5. Objection Procedures

5.1 Each 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 objector's full name and address; (ii) the case name and docket number, *Beverly Owens, et al. v. US Radiology Specialists, Inc., et al.*, Case No. 22 CVS 17797 (N.C. Super. Ct., Mecklenburg Cty.); (iii) information identifying the objector as a Class Member, including proof that the objector is a member of the Class (e.g., copy of the objector's settlement notice, copy of original notice of the Data Incident, or a statement explaining why the objector believes he or she is a Class Member); (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 any and all counsel representing the objector in connection with the objection; (vi) a statement whether the objector and/or his or her counsel will appear at the Final Approval Hearing; and (vii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (if any) representing him or her in connection with the objection. To be timely, written notice of an objection in the appropriate form must be mailed, with a postmark date no later than the Objection Date, to Terence R. Coates, Markovits, Stock & DeMarco, LLC, 119 E. Court St., Suite 530 Cincinnati, Ohio 45202, as Class Counsel; and Casie D. Collignon and Sarah A. Ballard, Baker & Hostetler LLP, 1801 California Street, Suite 4400, Denver, Colorado 80202 as counsel for Defendants. The objector or his or her counsel shall also file any objection with the Court through the Court's ECF system or submitting them to the Clerk of Court. For all objections mailed to Proposed Class Counsel and counsel for Defendants, Class Counsel will file them with the Court with the Motion for Final Approval of the settlement, unless the objection(s) were previously filed on the docket.

5.2 Any Class Member who fails to comply with the requirements for objecting 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 this Settlement Agreement. 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 North Carolina Rules of Appellate Procedure and not through a collateral attack.

6. Release

6.1 Upon the Effective Date, each Class Member who did not opt out of the settlement, including Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims as against all Released Persons. Further, upon the Effective Date, and to the fullest extent permitted by law, each Class Member, including Plaintiffs, shall, either directly, indirectly, representatively, 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 in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted. Any other claims or defenses Plaintiffs and each and all of the Class Members may have against the Released Persons that are not based upon or do not arise out of the institution, prosecution, assertion, settlement, or resolution of the Data Incident, the Litigation, or the Released Claims are specifically preserved and shall not be affected by the preceding sentence.

7. Plaintiffs' Counsel's Attorneys' Fees, Costs, and Settlement Expenses; Service Awards to Plaintiffs

7.1 The Settling Parties did not discuss the payment of attorneys' fees, costs, expenses and/or Service Awards to Plaintiffs, until after the substantive terms of the settlement had been agreed upon, other than that reasonable attorneys' fees, costs, expenses, and Service Awards to Plaintiffs as may be agreed to by Defendants and Class Counsel and as ordered by the Court shall be paid from the Settlement Fund.

7.2 Defendants agree not to challenge a petition for an award of attorneys' fees at or below 33.33% of the Settlement Fund, or approximately \$1,683,333.33 or litigation expenses of \$30,000.00 or less. Class Counsel, in their sole discretion, shall allocate and distribute any amounts of attorneys' fees, costs, and expenses awarded by the Court among Class Counsel.

7.3 Subject to Court approval, Plaintiffs intend to request, and Defendants agree not to challenge, any requested Service Award in the amount of up to \$3,000.00 for each of the Plaintiffs as a result of Plaintiffs' time and efforts expended on behalf of the Class.

7.4 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, costs, expenses, and/or service awards ordered by the Court to Class Counsel or Plaintiffs shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement.

8. Settlement Fund

8.1 Deposits. US Radiology agrees to make a payment of and deposit that payment into the Settlement Fund as follows: (i) US Radiology shall pay eight hundred thousand dollars (\$800,000.00) into the Settlement Fund within 14 days of the Court's entry of the Preliminary Approval Order to pay for Costs of Settlement Administration; and (ii) US Radiology shall pay \$4,250,000.00 into the Settlement Fund within 30 days after the Effective Date. For the avoidance

of doubt, and for purposes of this Settlement Agreement only, Defendants' liability shall not exceed \$5,050,000.00.

8.2 Custody of the Settlement Fund. The Settlement Fund shall be deposited into an appropriate trust established by the Settlement Administrator but shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to the Settlement Agreement or returned to those who paid the Settlement Fund in the event this Settlement Agreement is voided, terminated, or cancelled.

8.3 Treasury Regulations and Fund Investment. The Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund ("QSF") within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any taxes owed with respect to the Settlement Fund. The Parties agree that the Settlement Fund shall be treated as a QSF from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a QSF from the earliest date possible. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account insured by the Federal Deposit Insurance Corporation ("FDIC") at a financial institution determined by the Settlement Administrator and approved by the Parties. Funds may be placed in a non-interest bearing account as may be reasonably necessary during the check clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

8.4 Taxes. All taxes relating to the Settlement Fund shall be paid out of the Settlement Fund, shall be considered an Administration Fee, and shall be timely paid by the Settlement

Administrator without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties and their counsel for taxes (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty with respect to any tax treatment by any Class Representative or any Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, they, or it of the receipt of funds from the Settlement Fund pursuant to this Agreement.

9. Administration of Claims

9.1 The Settlement Administrator shall administer and calculate the Claims submitted by Class Members. Class Counsel and Defendants shall be given reports as to both Claims and distribution, and have the right to review and obtain supporting documentation and challenge such reports if they believe them to be inaccurate or inadequate. The Settlement Administrator's determination of whether a Claim is a Valid Claim shall be binding, subject to the Dispute Resolution process.

9.2 Payment of Valid Claims shall be made within 90 days from the Final Approval Order. Settlement Class Members may choose to be paid via electronic payment (e.g., Venmo), pre-paid credit card, or check.

9.3 All Class Members who fail to timely submit a Valid 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.

9.4 No Person shall have any claim against the Settlement Administrator, Defendants, Class Counsel, Plaintiffs, and/or Defendants' counsel based on distributions of benefits to Class Members.

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

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

- a) Defendants have not exercised their option to terminate the Settlement Agreement pursuant to ¶ 4.3,
- b) the Court has entered the Judgment approving the settlement and certification of the Class as set forth herein; and
- c) the Judgment has become Final, as defined in ¶ 1.13.

10.2 If the conditions specified in ¶ 10.1 hereof are not satisfied, the Settlement Agreement shall be canceled and terminated unless Class Counsel and Defendants' counsel mutually agree in writing to proceed with the Settlement Agreement.

10.3 Within 10 days after the Opt-Out Date, the Settlement Administrator shall furnish to Class Counsel and to Defendants' counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

10.4 In the event that the Settlement Agreement, including the releases, are not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (a) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (b) the terms and provisions of the Settlement Agreement shall 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, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or Service Awards 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 to the Class, Settlement Administration, and Dispute Resolution 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.

11. Miscellaneous Provisions

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

11.2 In the event that the aggregated amount of payments of all Valid Claims (i.e., \$50 *Pro Rata* Cash Payment, Out-of-Pocket-Expense Claims, Lost-Time Claims, and Verified Fraud Claims) exceeds the total amount of the Settlement Fund, then the value of the payments to be paid to each Class Member making a Valid Claim shall be reduced on a *pro rata* basis, such that the aggregate value of all payments for all Claims does not exceed the Settlement Fund (after payment of all Administration Fees, attorneys' fees, settlement expenses, and Service Awards). All *pro rata* reduction determinations shall be made by the Settlement Administrator.

11.3 The Settling Parties intend this settlement to be a final and complete resolution of all claims and disputes between them with respect to the Data Incident and this Litigation. The settlement compromises claims, including but not limited to all Released 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, and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. 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 no Party shall have any liability to any other Party as it relates to the Litigation, except as set forth herein.

11.4 Neither the Settlement Agreement, nor the settlement 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. 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.

11.5 The Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

11.6 The exhibits to this Settlement Agreement and any exhibits thereto are a material part of the settlement and are incorporated and made a part of the Agreement.

11.7 This Settlement Agreement, including all exhibits hereto, contains the entire understanding between Defendants and Plaintiffs, individually and on behalf of the Class and all Released Persons, regarding the payment of the Litigation settlement and supersedes all previous negotiations, agreements, commitments, understandings, and writings between the Parties in connection with the payment of the Litigation settlement. Except as otherwise provided herein, each party shall bear its own costs. This Settlement Agreement supersedes all previous agreements made between the Parties.

11.8 Class Counsel, on behalf of the Class, and Defendants' counsel, on behalf of Defendants, are expressly authorized to take all appropriate actions required or permitted to be taken by the Parties 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 Parties which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Parties.

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

11.10 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 original executed counterparts shall be filed with the Court.

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

11.12 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. The Court shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Settlement Administrator. As part of its agreement to render services in connection with this settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

11.13 As used herein, “he” means “he, she, they, or it;” “his” means “his, hers, theirs, or its,” and “him” means “him, her, them, or it.”

11.14 The Settlement Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of North Carolina, 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 North Carolina.

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

11.16 If a Class Member opts to receive settlement benefits via mailed check, cashing the settlement check is a condition precedent to any Class Member’s right to receive settlement benefits. All settlement checks shall be void 90 days after issuance and shall bear the language: “This check must be cashed within 90 days, after which time it is void.” If a check becomes void, the 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 Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Class Member's right to receive monetary relief shall be extinguished, and there shall be no obligation to make payments to the Class Member for expense reimbursement or any other type of monetary relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than 180 days after the Effective Date, requests for re-issuance need not be honored after such checks become void.

11.17 The Settlement Website shall be deactivated 180 days after the Effective Date.

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

By: 
Casie D. Collignon
Sarah A. Ballard
Baker & Hostetler LLP

Date: 9/13/2023

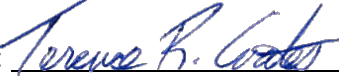
By: _____
Jonathan C. Krisko
Robinson, Bradshaw & Hinson, P.A.

Date: _____

Counsel for Defendants

By: _____
Jean S. Martin
Morgan & Morgan

Date: _____

By: 
Terence R. Coates
Markovits, Stock & DeMarco, LLC

Date: 9/13/2023

By: /s/ Joseph M. Lyon
Joseph M. Lyon
The Lyon Firm

Date: 9/15/2023

By: /s/ Gerard Stranch
Gerard Stranch
Stranch, Jennings & Garvey, PLLC

Date: 9/15/2023

By: 
Brian C. Gudmundson
Zimmerman Reed

Date: 9/14/2023

By: /s/ Mason Barney
Mason Barney
Siri & Glimstad


Date: 9/15/2023

By: /s/ Jason Rathod
Jason Rathod
Migliaccio & Rathod LLP

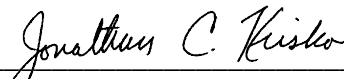
Date: 9/15/2023

Counsel for Plaintiffs and for the Proposed Class

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

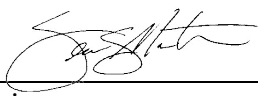
By: 
Casie D. Collignon
Sarah A. Ballard
Baker & Hostetler LLP

Date: 9/13/2023

By: 
Jonathan C. Krisko
Robinson, Bradshaw & Hinson, P.A.

Date: 9/13/2023

Counsel for Defendants

By: 
Jean S. Martin
Morgan & Morgan

Date: 9/14/2023

By: _____
Terence R. Coates
Markovits, Stock & DeMarco, LLC

Date: _____

By: _____
Joseph M. Lyon
The Lyon Firm

Date: _____

By: _____
Gerard Stranch
Stranch, Jennings & Garvey, PLLC

Date: _____

By: _____
Brian C. Gudmundson
Zimmerman Reed

Date: _____

By: _____
Mason Barney
Siri & Glimstad

Date: _____

By: _____
Jason Rathod
Migliaccio & Rathod LLP

Date: _____

Counsel for Plaintiffs and for the Proposed Class

SETTLEMENT TIMELINE

<u>From Order Granting Preliminary Approval</u>	
Defendants provide list of Class Members to the Settlement Administrator	+14 days
Long and Short Notices Posted on the Settlement Website	+60 days
Notice Date	+60 days
<u>From Notice Date</u>	
Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Costs and Expenses, and Class Representative Service Awards	+30 days from Notice Date
Objection Date	+60 days from Notice Date
Opt-Out Date	+60 days from Note Date
Settlement Administrator Provide List of Objections/Exclusions to the Parties' counsel	+70 days from Notice Date
Claims Deadline	+90 days from Notice Date
<u>Final Approval Hearing</u>	
Motion for Final Approval	+135 (at minimum) from Order Granting Preliminary Approval -14 days from Final Approval Hearing
<u>From Order Granting Final Approval</u>	
Effective Date	+35 days from Final Approval Order, assuming no appeal has been taken. See definition of Final in the Agreement.
Payment of Attorneys' Fees and Expenses Class Representative Service Awards	+90 days from Final Approval Order
Payment of Claims to Class Members	+90 days from Final Approval Order
Settlement Website Deactivation	+180 days from Effective Date