

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

**IN RE ARTHUR J. GALLAGHER DATA  
BREACH LITIGATION**

Master File No.: 1:22-cv-0137

This Document Relates To: All Actions

**SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (“Agreement”), dated as of the date of the last signature below, is made and entered into pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(2), 23(b)(3) and 23(e) between and among: (1) Plaintiffs Tracey Bock, Christopher Caswell, Matthew Copple, Jeremy Fischer, Peter Horning, Julia Kroll, Amanda Marr, Leslie May, Jonathon Mitchell, John Parsons, Adrian Villalobos, Justin Ward, and Chandra Wilson (collectively referred to as “Plaintiffs”), on behalf of themselves and as representatives of the Settlement Class (as defined below) (the Plaintiffs and members of the Settlement Class are collectively referred to as “Settlement Class Members”) on the one hand, and (2) Arthur J. Gallagher & Co. (“AJG”); and (3) Gallagher Bassett Services, Inc. (“GB”) (AJG and GB are collectively referred to as “Gallagher” or “Defendants”) on the other (Plaintiffs and Defendants are collectively referred to as the “Parties”). The Parties, by and through their undersigned counsel, enter into this Agreement to fully and finally settle and resolve the above-captioned litigation and to effect dismissal with prejudice of all of the Released Claims (defined below) asserted against Defendants on the terms set forth herein, subject to the final approval of the Court. This Agreement fully, finally and forever compromises, discharges and settles any and all claims that are, were, or could have been asserted against Defendants and all other Released Parties in the above captioned action, Master File No.: 1:22-cv-0137, pending in the United States District Court for the Northern District of Illinois (the

“Action”). This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and settle the Released Claims.

## **I. RECITALS**

WHEREAS, Plaintiffs are proposed class representatives in the Action filed against Defendants in connection with a criminal ransomware attack which Plaintiffs contend impacted certain Personal Information of Defendants’ customers (or its customers’ employees);

WHEREAS, on October 29, 2021, Plaintiffs filed a Consolidated Class Action Complaint against Defendants. ECF No. 25 (No. 21-cv-4056);

WHEREAS, Defendants filed a Motion to Dismiss the Consolidated Class Action Complaint on January 14, 2022 (ECF No. 2), which motion was granted in part and denied in part;

WHEREAS, on October 14, 2022, Plaintiffs filed the Second Consolidated Class Action Complaint against Defendants (ECF No. 27);

WHEREAS, on November 4, 2022, Defendants answered the Second Consolidated Class Action Complaint, denying all material allegations and interposing a number of affirmative defenses (ECF No. 34);

WHEREAS, plaintiffs Alan Wellikoff, John Owens, and Robert Davie voluntarily dismissed their claims by stipulation on April 19, 2023 (ECF No. 38), plaintiffs Jason Myers and Brent McDonald voluntarily dismissed their claims by stipulation on September 27, 2023 (ECF No. 62), and plaintiff Arda Yeremian (also known as Arda Tamar Shek) voluntarily dismissed her claims by stipulation on October 5, 2023 (ECF No. 67);

WHEREAS, the Parties engaged in substantial fact discovery, including written discovery, document productions, depositions, and motion practice in the Action;

WHEREAS, Defendants deny the allegations and all liability with respect to any and all facts and claims alleged in the Action; deny that the class representatives in the Action and the classes they purport to represent have suffered any injury or damage; deny that they are legally responsible or liable to Plaintiffs or any Settlement Class Member; and deny that the Action satisfies the requirements to be tried as a class action under Federal Rule of Civil Procedure 23;

WHEREAS, the Parties agree that neither this Agreement nor the settlement it represents shall be construed as an admission by Defendants of any wrongdoing whatsoever including an admission of a violation of any statute or law, or of liability on the claims or allegations in the Action;

WHEREAS, the Parties agree and understand that neither this Agreement nor the settlement it represents shall be construed or admissible as an admission by Defendants in the Action or any other proceedings that the Plaintiffs' claims or similar claims are or would be viable or suitable for class treatment if the Action proceeded through both litigation and trial;

WHEREAS, Defendants do not believe Plaintiffs' claims are meritorious or that certification of any proposed class for trial purposes would be proper under Fed. R. Civ. P. 23 and denied and continues to deny that it is legally responsible to Plaintiffs or any member of the Settlement Class for any of the claims or allegations asserted in the Action, but it has concluded that the Settlement is desirable to avoid the time, expense and inherent uncertainties of defending protracted litigation and to resolve, finally and completely, all claims of Plaintiffs and members of the Settlement Class for relief relating to the Data Security Incident;

WHEREAS, Class Counsel are experienced in this type of litigation, and therefore recognize the costs and risks of prosecution of this Action and believe that it is in the interest of all Settlement Class Members to resolve this Action as set forth in this Agreement;

WHEREAS, the Plaintiffs and Class Counsel have examined the benefits to be obtained under the terms of this Agreement, have considered the risks associated with the continued prosecution of the Action and the likelihood of success on the merits of the litigation and believe that, after considering all of the facts and circumstances, the proposed settlement set forth in this Agreement offers significant benefits to Settlement Class Members and is fair, reasonable, adequate, and in the best interests of Settlement Class Members;

WHEREAS, this Agreement and the settlement are the result of significant arm's-length negotiations that have taken place between the Parties, including with the assistance of a neutral and experienced mediator who is a retired federal judge; and,

WHEREAS, it is the intention of the Parties to fully and finally resolve any and all claims that are, were, or could have been asserted against the Released Parties on the terms set forth herein, subject to the approval of the Court.

NOW, THEREFORE, in consideration of the promises, covenants, and agreements herein described and for other good and valuable consideration acknowledged by each of the Parties to be satisfactory and adequate, and intending to be legally bound, the Parties do hereby mutually agree as follows:

## **II. DEFINITIONS**

As used in all parts of this Agreement, including the recitals above, and the exhibits hereto, the following terms have the meaning specified below:

1. **“Action”** shall mean the action captioned *In re Arthur J. Gallagher Data Breach Litigation*, Master File No. 1:22-cv-00137, and all other litigation, claims, disputes, and any other claims arising out of the Data Security Incident.

2. “**Administration and Notice Costs**” means all reasonable costs and expenses incurred by the Settlement Administrator in carrying out its duties under this Agreement, including all costs and expenses incurred in connection with implementing and executing the Notice Plan.

3. “**Agreement**” means this Settlement Agreement and Release and all exhibits hereto.

4. “**Approved Claims**” shall mean complete and timely Claim Forms submitted by Settlement Class Members that have been approved by the Settlement Administrator.

5. “**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 attorneys general of each state where a Settlement Class Member resides and the Attorney General of the United States. Costs for preparation and issuance of the CAFA Notice will be paid from the Settlement Fund.

6. “**Claim**” shall mean a request for certain benefits under this Agreement.

7. “**Claims Deadline**” shall mean the date by which all Claim Forms must be postmarked (if mailed) or submitted (if filed electronically) to be considered timely and shall be set as **ninety (90) Days after the Notice Date**. The Claims Deadline shall be clearly set forth in the Long Notice, Short Notice, and Claim Form.

8. “**Claim Form**” shall mean the form that Settlement Class Members may submit to obtain compensation under this Agreement, which is attached as **Exhibit A**.

9. “**Class Counsel**” shall mean Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman PLLC, John Yanchunis of Morgan & Morgan Complex Litigation Group, and M. Anderson Berry of Clayco C. Arnold, A Professional Corporation.

10. **“Complaint”** shall mean the Second Consolidated Class Action Complaint filed by Plaintiffs against Defendants on October 14, 2022, ECF No. 27, in Master File No. 1:22-cv-00137.

11. **“Court”** shall mean the United States District Court for the Northern District of Illinois, Judge Mary M. Rowland presiding, or her duly appointed successor.

12. **“Data Security Incident”** means the criminal ransomware attack perpetrated against Defendants as described in Plaintiffs’ Complaint.

13. **“Day(s)”** means calendar days, but does not include the day of the act, event, or default from which the designated period of time begins to run. Further and notwithstanding the above, when computing any period of time prescribed or allowed by this Agreement, “Days” includes the last day of the period unless it is a Saturday, a Sunday, or a federal legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or federal legal holiday.

14. **“Defendants’ Counsel”** shall mean Livia M. Kiser, Jade R. Lambert, Andrew E. Nieland, and Tatum Ellis of King & Spalding LLP.

15. **“Effective Date”** shall mean the date when all of the following conditions have occurred: (1) this Agreement has been fully executed by the Parties and their counsel; (2) orders have been entered by the Court certifying a Settlement Class, granting preliminary approval of this Agreement and approving the form of Notice, CAFA Notice, and Claim Forms, all as provided herein; (3) the Court-approved Notice and the Settlement Website have been duly created and/or disseminated as ordered by the Court; (4) the Court has entered a Final Order and Judgment (as defined below) finally approving this Agreement as provided below; and (5) the Final Order and Judgment has become Final, as defined immediately below, and no longer subject to any review or appeal.

16. **“Escrow Agent”** means Western Alliance Bank.

17. **“Fee Award and Expenses”** shall mean the amount of attorneys’ fees and reimbursement of litigation expenses awarded by the Court to Class Counsel. Class Counsel’s request for attorneys’ fees shall not exceed 1/3 (33.33%) of the Settlement Fund, and will depend on, *inter alia*, administrative costs, whether there are objectors to which Class Counsel has to respond, the number of claimants, and the like, subject to the approval of the Court.

18. **“Final”** when referring to a judgment or order means that: (1) the judgment is a final appealable judgment; and (2) either: (a) no appeal has been taken from the judgment relating to the merits of the settlement (as opposed to any appeals relating solely to the Class Counsel Fee Award and Expenses, which will not affect finality as defined herein) as of the date on which all times to appeal therefrom have expired, or (b) an appeal or other review proceeding of the judgment relating to the merits of the settlement having been commenced, such appeal or other review is finally concluded and no longer is subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions for rehearing *en banc*, petitions for *writ of certiorari*, the appeal is voluntarily withdrawn, or otherwise, and such appeal or other review has been finally resolved in a manner that affirms the Final Order and Judgment in all material respects.

19. **“Final Approval”** means entry of a Final Order and Judgment.

20. **“Final Approval Hearing”** shall mean the final hearing to be held by the Court to consider the fairness, reasonableness and adequacy of the proposed settlement and whether the settlement should be finally approved by the Court, such Final Approval Hearing to be no earlier than 150 days after the entry of the Preliminary Approval Order, subject to the approval of the Court. It is at the Final Approval Hearing where the Plaintiffs will request a judgment to be entered by the Court approving this Agreement and approving the Fees and Expenses Award.

21. **“Final Order and Judgment”** shall mean an order entered by the Court that approves this Agreement, which shall be without material alteration from **Exhibit E** attached hereto and which shall include all the following:

- a. Finds that the Court-approved Notice Plan has been followed and provided for the best notice practicable under the circumstances;
- b. Certifies the Settlement Class pursuant to Federal Rule of Civil Procedure 23;
- c. Finds that the Settlement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of this Agreement consistent with all material provisions of the Agreement;
- d. Dismisses Plaintiffs’ claims pending before it with prejudice and without costs, except as explicitly provided for in this Agreement;
- e. Approves the Release provided in Section XV and orders that, as of the Effective Date, the Released Claims will be released as to the Released Parties;
- f. Reserves jurisdiction over the Settlement and this Agreement; and
- g. Finds that there is no just reason for delay of entry of the Final Order and Judgment with respect to the foregoing.

22. **“Long Notice”** shall mean the Court-approved, detailed, long form notice that will be posted on the Settlement Website that will include robust details about the Settlement, the content of which will be substantially in the form attached as **Exhibit B**, except as modified by the Court.



23. **“Notice Date”** shall mean the date by which the Settlement Administrator shall have provided copies of the Short Notice and Claim Form for each person on the Settlement Class List to the United States Postal Service pursuant to the Court-approved Notice Plan in this Agreement. The Notice Date shall be no later than **forty-six (46) Days** after the Court enters the Preliminary Approval Order, defined herein, or such earlier practicable date.

24. **“Notice Plan”** means the notice program described in this Agreement and as approved by the Court.

25. **“Objection Deadline”** shall mean the date by which a written objection to this Agreement must be postmarked and/or filed with the Court and sent to the Settlement Administrator, which shall be designated as **sixty (60) Days after the Notice Date**, or such other date as ordered by the Court.

26. **“Opt-Out Deadline”** shall mean the last day on which a Settlement Class Member may postmark a request to be excluded from the Settlement Class to the Settlement Administrator, which shall be designated as **sixty (60) Days after the Notice Date**, or such other date as ordered by the Court. A Settlement Class Member’s opt-out request may also be referred to herein as a Request for Exclusion.

27. **“Parties”** shall mean Plaintiffs and Defendants, collectively.

28. **“Parties’ Counsel”** shall mean both Class Counsel and Defendants’ Counsel, collectively.

29. **“Personal Information”** means personal information including: names; Social Security numbers or tax identification numbers; driver’s license, passport or other government identification numbers; dates of birth; usernames and passwords; employee identification numbers; financial account or credit card information; electronic signatures; medical treatment

information; medical claim information; medical diagnosis; medication information; health insurance information; medical records or account numbers; and/or biometric information.

30. **“Plaintiffs”** shall mean Tracey Bock, Christopher Caswell, Matthew Copple, Jeremy Fischer, Peter Horning, Julia Kroll, Amanda Marr, Leslie May, Jonathon Mitchell, John Parsons, Adrian Villalobos, Justin Ward, and Chandra Wilson.

31. **“Preliminary Approval Order”** shall mean the Court’s Order preliminarily approving this Agreement, certifying the Settlement Class for settlement purposes, and directing notice of the Settlement to the Settlement Class as set out in the Notice Plan set forth in this Agreement, which Order will be substantially in the form attached as **Exhibit D**, except as modified by the Court.

32. **“Recitals”** shall mean each statement of the facts and/or procedural history in Section I of this Agreement. The Parties acknowledge and agree the Recitals enumerate important facts and procedural history, are true and accurate, and are hereby made a part of this Agreement as though fully set forth herein.

33. **“Released Claims”** shall mean any and all claims, actions, causes of action, counterclaims, demands (including, without limitation, demands for arbitration), actions, misrepresentations, liens, rights, debts, contracts, agreements, offsets, liabilities, including but not limited to tort claims, claims for breach of contract, breach of the duty of good faith and fair dealing, breach of statutory duties, actual or constructive fraud, fraudulent inducement, statutory and consumer fraud, misrepresentations, fraudulent inducement, statutory and consumer fraud, breach of fiduciary duty, unfair business or trade practices, restitution, rescission, compensatory and punitive damages, injunctive or declaratory relief, attorneys’ fees, interests, costs, penalties and any other claims, whether known or unknown, and suits of every kind and description,

including any causes of action in law, claims in equity, complaints, suits, or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for reformation, disgorgement, constructive trust, compensatory damages, consequential damages, exemplary damages, statutory damages, or expenses) that the Releasing Parties had, have, or may claim now or in the future to have (including, but not limited to, assigned claims and any and all “Unknown Claims” as described and defined in Paragraph 110 of this Agreement) that were or could have been asserted or alleged arising out of the same nucleus of operative facts as any of the claims alleged or asserted in the Action, including but not limited to the facts, transactions, occurrences, events, acts, omissions, or failures to act that were alleged, argued, raised, or asserted in any pleading or court filing in the Action, including but not limited to those concerning: (1) the disclosure of the Settlement Class Members’ Personal Information in the Data Security Incident; (2) the provision to Defendants and their affiliates of, and Defendants’ and their affiliates’ maintenance of, the Settlement Class Members’ Personal Information as it relates to the Data Security Incident; (3) Defendants’ security policies and practices as they relate to the Data Security Incident, including assessments of those practices by clients and business partners of Defendants and their affiliates; and/or (4) the provision of notice to the Settlement Class Members following the Data Security Incident, whether or not those claims, demands, actions, or causes of action have been pleaded or otherwise asserted, including any and all damages, losses, or consequences thereof.

34. **“Released Parties”** means AJG, GB, any other Gallagher affiliate or related entity, and any other entity that provided Class Members’ Personal Information, or caused Class Members’ Personal Information to be provided, to Defendants or to any of Defendants’ affiliates, and their respective present and former predecessors, successors, assigns, parent organizations, subsidiaries,

joint venturers, insurers, reinsurers, distributors, suppliers, divisions, affiliates, customers, contractors, departments, and any and all of their past, present, and future officers, directors, employees, stockholders, partners, servants, agents, successors, attorneys, advisors, consultants, representatives, insurers, reinsurers, subrogees and the predecessors, successors, assigns of any of the foregoing, and any members of their immediate families, and any trust for which any of them are trustees, settlers, or beneficiaries.

35. **“Releasing Parties”** means each of the Settlement Class Representatives and Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns.

36. **“Remainder Funds”** means the funds, if any, that remain in the Settlement Fund after payment of costs of Financial Account Monitoring, CAFA Notice, Administration and Notice Costs, Fee Award and Expenses, Service Awards, claims for reimbursement of documented Monetary Losses, California Statutory Payments, and Alternative Pro Rata Cash Payments, as described below. The funds remaining in the Settlement Fund after the above payments have been made and the time for Settlement Class Members to cash and/or deposit 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 that any *cy pres* distribution be made to the University of Chicago Computer Science SAND Lab (“SAND Lab”) for the specific purpose of data privacy and security research.

37. **“Settlement”** means the settlement reflected by this Agreement.

38. **“Settlement Administrator”** means the class action settlement administrator, Kroll Settlement Administration LLC, which has been retained to carry out the Notice Plan and administer the claims and Settlement Fund distribution process.

39. **“Settlement Class”** means the approximately 3,492,654 individuals identified on the Settlement Class List who were mailed a letter from AJG or GB stating that their information may have been impacted as a result of the Data Security Incident. Excluded from the Settlement Class are the judges presiding over this Action and members of their direct families, and Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

40. **“Settlement Class List”** means the list containing the full names and current or last known addresses for all Settlement Class Members, which Defendants shall provide to the Settlement Administrator within **seven (7) Days** after the Court’s entry of the Preliminary Approval Order.

41. **“Settlement Class Member”** shall mean an individual who falls within the definition of the Settlement Class.

42. **“Settlement Class Representatives”** shall mean Plaintiffs Tracey Bock, Christopher Caswell, Matthew Copple, Jeremy Fischer, Peter Horning, Julia Kroll, Amanda Marr, Leslie May, Jonathon Mitchell, John Parsons, Adrian Villalobos, Justin Ward, and Chandra Wilson.

43. **“Settlement Fund”** means the non-reversionary sum of twenty-one million dollars and zero cents (\$21,000,000.00) to be paid by Defendants as specified in this Agreement, including any interest accrued thereon after payment. The Settlement Fund will be established by the Settlement Administrator or Class Counsel at Western Alliance Bank pursuant to 26 C.F.R. § 1.468B-1.

44. **“Settlement Website”** means the website the Settlement Administrator will establish as soon as practicable following entry of the Preliminary Approval Order as a means for Settlement Class Members to obtain notice of and information about the Settlement and relevant case documents and deadlines. The Settlement Website, [www.ajgdatasettlement.com](http://www.ajgdatasettlement.com), shall contain relevant

documents, including, but not limited to, a downloadable version of a customary form of Short Notice, a customary form of Long Notice, a customary version of the Claim Form, which together shall include a fair summary of the Settling Parties' respective litigation positions, the general terms of the settlement, instructions for how to object or opt-out of the settlement, the process and instructions for making claims, and the date, time and place of the Final Approval Hearing; this Agreement; Plaintiffs' motion for preliminary approval of the Settlement; the Preliminary Approval Order; and Class Counsel's motion for attorneys' fees and expenses. The Settlement Website shall also include a toll-free telephone number, email address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly. The Settlement Website shall not include any advertising and shall remain operational until at least **sixty (60) Days** after all Settlement Payments have been distributed.

45. **"Short Notice"** is the postcard notice that will be mailed to Settlement Class Members, the content of which will be substantially in the form attached as **Exhibit C**.

46. **"Taxes and Tax-Related Expenses"** means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon the Settlement Fund for any period while it is held in the Settlement Fund. The Settlement Administrator will file any necessary tax returns and pay all taxes required on behalf of the Settlement Fund and any such Taxes and Tax-Related Expenses will be included in the Administration and Notice Costs.

### **III. CERTIFICATION OF THE SETTLEMENT CLASS**

47. For settlement purposes only, Plaintiffs request the Court certify the Settlement Class.

48. Solely for the purpose of implementing this Agreement and effectuating the Settlement, Defendants stipulate to the Court entering an order preliminarily certifying the Settlement Class, appointing the Settlement Class Representatives named in this Agreement as representatives of the Settlement Class, and appointing Class Counsel named in this Agreement to serve as class counsel for the Settlement Class. Solely for the purpose of implementing this Agreement, the Parties stipulate that Kroll Settlement Administration LLC will be appointed as Settlement Administrator, subject to the approval of the Court.

49. Solely for the purposes of implementing this Agreement and effectuating the Settlement, Defendants stipulate that the Settlement Class Representatives and Class Counsel are adequate representatives of the Settlement Class.

50. If this Agreement is terminated or disapproved, or if the Effective Date should not occur for any reason, then Defendants' stipulation will be withdrawn and deemed to be of no effect in this or any other proceeding.

#### **IV. THE SETTLEMENT FUND**

51. In exchange for the dismissal of the Complaint with prejudice, and the Released Claims as provided in Section XV herein, Defendants will make available the Settlement Fund, from which payment of Settlement Class Member claims, Administration and Notice Costs, CAFA notice costs, the Fee Award and Expenses, and Service Awards will be made. The Settlement Fund is the maximum amount Defendants shall be obligated to pay under this Settlement. The failure of Defendants to make the funds available as called for in this Agreement will be considered a material breach of the Agreement by Defendants. The Settlement Fund will be used to fund the

settlement provisions listed herein. Except as provided in this Agreement regarding the Settlement Fund, Defendants shall have no responsibility for costs and expenses incurred by Plaintiffs, Class Counsel, the Settlement Administrator, or any Settlement Class Members.

52. Within **thirty (30) Days** after the Preliminary Approval Order is entered, Defendants will cause at least \$5,000,000 to be released into the Settlement Fund. No payment for Administration and Notice Costs shall be made until **thirty (30) Days** after the Court enters the Preliminary Approval Order. Defendants will cause the transfer of the balance of the \$16,000,000 into the Settlement Fund within **thirty (30) Days** after the Effective Date.

53. The Settlement Payment is to be deposited in an interest-bearing bank escrow account (the “Escrow Account”) established at Western Alliance Bank (the “Escrow Agent”) and administered by the Settlement Administrator. The Escrow Account shall be held in a Qualified Settlement Fund (defined below) in interest-bearing bank account deposits with commercial banks with excess capital exceeding One Billion United States Dollars and Zero Cents (\$1,000,000,000.00), with a rating of “A” or higher by S&P and in an account that is fully insured by the United States Government or the FDIC. The Settlement Fund will be used to pay Approved Claims, Administration and Notice Costs, CAFA Notice costs, the Fee Award and Expenses, and Service Awards.

54. All interest on the funds in the Escrow Account shall accrue to the benefit of the Settlement Class. Any interest shall not be subject to withholding and shall, if required, be reported appropriately to the Internal Revenue Service by the Settlement Administrator. The Administrator is responsible for the payment of all Taxes.

55. The funds in the Escrow Account shall be deemed a “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1 at all times after the creation of the Escrow



Account. All Taxes shall be paid out of the Escrow Account. Defendants, Defendants' Counsel, Plaintiffs, and Class Counsel shall have no liability or responsibility for any of the Taxes. The Escrow Account shall indemnify and hold Defendants, Defendants' Counsel, Plaintiffs, and Class Counsel harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification). For the purpose of the Internal Revenue Code and the Treasury Regulations thereunder, the Settlement Administrator shall be designated as the "administrator" of the Settlement Fund. The Settlement Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)). Such returns (as well as the election described in the previous paragraph) shall be consistent with this paragraph and in all events shall reflect that all taxes (including the Taxes, any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Settlement Administrator shall maintain control over the Settlement Fund and shall be responsible for all disbursements. The Settlement Administrator shall not disburse any portion of the Settlement Fund except as provided in this Agreement and with the written agreement of Class Counsel and Defendant's Counsel or by order of the Court. All funds held by the Settlement Administrator shall be deemed and considered to be *in custodia legis* of the Court and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Agreement or further order of the Court.

## **V. BENEFITS TO SETTLEMENT CLASS MEMBERS**

56. **Claims Administration Protocol.** Settlement Class Members may submit claims to be compensated for documented Monetary Losses as set forth in the Claims Administration Protocol, attached hereto as **Exhibit F**. Settlement benefits shall be paid from the Settlement Fund

and administered by the Settlement Administrator as set forth in the Claims Administration Protocol, attached hereto as **Exhibit F**.

57. **Reimbursement of Documented Monetary Losses:** The Parties will create a claims process through which all Settlement Class Members may submit a claim form for reimbursement of documented monetary losses fairly traceable to the Data Security Incident up to \$6,000 per individual (“Monetary Losses”). Monetary Losses may 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 the Data Security Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges. Settlement Class Members with Monetary Losses must submit documentation supporting their claims. This can 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 can be considered to add clarity or support other submitted documentation.

58. In addition to reimbursement of documented Monetary Losses, all Settlement Class Members may choose to claim one of the following two Settlement Benefits:

- a. **Financial Account Monitoring:** All Settlement Class Members can submit a claim for identity theft protection and credit monitoring services as follows: three (3) years of Cyex Identity Defense Total with three-bureau monitoring and at least \$1,000,000 of fraud/identity theft insurance. Settlement Class Members may use their code to enroll for a period of 12 months (meaning that a Settlement Class

Member could enroll up to the end of the first year and have coverage for the full three (3) years). Such coverage and flexibility in enrollment will provide protection for Class Members against future identity theft. The three-year period will commence when Settlement Class Members use their codes to activate the Financial Account Monitoring.

- b. **Alternative Pro Rata Cash Payment:** Settlement Class Members can submit a claim for an Alternative Pro Rata Cash Payment as an alternative to claiming Financial Account Monitoring. The amount of this benefit shall be determined pro rata based on the amount remaining in the Settlement Fund following payment of the Fee Award and Expenses, Service Awards, Administration and Notice Costs, CAFA Notice costs, the costs of Financial Account Monitoring, claims for reimbursement of documented Monetary Losses, and California Statutory Payments.

59. **California Statutory Payment:** Settlement Class Members who were residents of California at any time from June 3, 2020, to the end of the claims period (“California Settlement Class Members”) can submit a claim for payment of up to \$100.00 for their statutory claims under the California Consumer Privacy Act (“California Statutory Payment”). The California Statutory Payment is an additional settlement benefit made available to California Settlement Class Members that is in addition to reimbursement of claims for Monetary Losses and a Settlement Class Member’s selection of either Financial Account Monitoring or the Alternative Pro Rata Cash Payment. California Statutory Payments are subject to a *pro rata* decrease based on the amount remaining in the Settlement Fund following payment of the Fee Award and Expenses, Service Awards, Administration and Notice Costs, CAFA Notice costs, claims for reimbursement of

documented Monetary Losses and costs of Financial Account Monitoring. Validation of eligibility for the California Statutory Payments shall be made by the Settlement Administrator in accordance with the Claims Administration Protocol, attached hereto as **Exhibit F**.

60. **Remainder Funds:** Remainder Funds shall be distributed to the SAND Lab for the specific purpose of data privacy and security research, subject to the Court's approval, or to any other charitable organization jointly recommended by the Parties and approved by the Court

61. **Business Practices Commitments:** Defendants have provided confidential information subject to the parties' protective order outlining, inter alia, to enhanced data security procedures put in place subsequent to the Data Security Incident. None of the past or future costs associated with the development and implementation of these enhanced security procedures has been or will be paid by Plaintiffs and no portion of the Settlement Fund is to be used for this purpose.

## **VI. SETTLEMENT ADMINISTRATION**

62. Administration and Notice Costs will be paid from the Settlement Fund, including the costs of direct mail notice and any reminder notice(s) that Class Counsel elects to issue.

63. The Parties agree Kroll Settlement Administration LLC will be the Settlement Administrator, who is charged with delivering sufficient notice (including direct notice) and administering the claims process. Within **seven (7) Days** of the entry of the Preliminary Approval Order, Defendants will provide to the Settlement Administrator the Settlement Class List as called for in paragraph 40 herein. Should Kroll Settlement Administration LLC be unable, unwilling, or unavailable to serve and/or continue serving as the Settlement Administrator, the Parties will jointly select a different qualified entity to serve as the Settlement Administrator.

64. The Parties agree that all Claim Forms must be postmarked (if mailed) or submitted (if filed electronically) within **ninety (90) Days** after the Notice Date (the Claims Deadline).

65. Within **ten (10) Days** following the Court's entry of the Preliminary Approval Order and pursuant thereto, the Settlement Administrator, on behalf of Defendants, shall cause a CAFA Notice to be served upon the appropriate state and federal officials. All expenses incurred in connection with the preparation and service of the CAFA Notice by the Settlement Administrator shall be payable from the Settlement Fund.

## **VII. NOTICE TO SETTLEMENT CLASS MEMBERS**

66. The Parties agree that the following Notice Plan provides reasonable notice to the Settlement Class.

67. The Short Notice and Claim Form shall be provided to Settlement Class Members by First Class U.S. Mail for Settlement Class Members for whom the Settlement Administrator has a valid address.

68. Defendants shall provide the Settlement Administrator with the Settlement Class List as specified in this Agreement. The Settlement Administrator will then, using the National Change of Address database maintained by the United States Postal Service, obtain updates, as needed, to the mailing addresses.

69. The Settlement Administrator shall agree to maintain the confidentiality of the Settlement Class List and related information provided by Defendants, to implement appropriate safeguards to prevent unauthorized access to that data, and to use that data strictly for the business purpose of administering the Settlement. The Settlement Administrator shall not provide the Settlement Class List or related information provided by Defendants to Class Counsel.

70. Within **forty-six (46) Days** following entry of the Preliminary Approval Order (the Notice Date), the Settlement Administrator shall have provided addressed copies of the Short Notice and Claim Form for all Settlement Class Members to the United States Postal Service.

71. Prior to commencing the mailing of the Short Notice and Claim Form, the Settlement Administrator shall create a dedicated Settlement Website that will inform Class Members of the terms of this Agreement, their rights, relevant 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 Short Notice; (iii) the Claim Form; (iv) the Preliminary Approval Order; (v) this Agreement; (vi) the Complaint; and (vi) 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.

72. Before commencing the mailing of the Short Notice and Claim Form, the Settlement Administrator shall establish a toll-free help line whose number will be posted on the Settlement Website and that will be staffed during normal business hours with live operators who can answer questions about and provide information to Settlement Class Members regarding the settlement and provide paper copies of the Short Notice, Long Notice, Claim Form, and this Agreement upon request.

73. No later than **fourteen (14) Days** before the Final Approval Hearing, the Settlement Administrator shall provide Class Counsel with an affidavit or declaration to file with the Court certifying compliance with the Court-approved Notice Plan.

### **VIII. OPT-OUT PROCEDURE**

74. Each Settlement Class Member shall have the right to request exclusion from the Settlement (*i.e.*, “Opt-Out”), relinquishing their rights to any benefits under this Agreement as provided for in the Preliminary Approval Order.

75. The Short Notice shall inform each Settlement Class Member of their right to request exclusion from the Settlement Class and not be bound by this Agreement if, before the Opt-Out Deadline, the Settlement Class Member completes and mails a Request for Exclusion to the Settlement Administrator at the address set forth in the Short Notice.

76. Valid Settlement Class Member Requests for Exclusion must: (i) state a full name, current address, and telephone number; (ii) contain the Settlement Class Member’s signature; (iii) contain a clear statement communicating that the Settlement Class Member elects to be excluded from the Settlement Class, does not wish to be a Settlement Class Member, and elects to be excluded from any judgement entered pursuant to the Settlement; and (iv) be postmarked on or before the Opt-Out Deadline. Settlement Class Members who fail to submit a valid and timely request for exclusion shall be bound by the Settlement Agreement. Class Counsel will confirm the participation of the Settlement Class Representatives in the settlement in advance of the execution of the Settlement Agreement.

77. If a Settlement Class Member files a Claim Form and also requests exclusion from the settlement, then such Settlement Class Member will remain in the Settlement Class and the request for exclusion will be deemed void. If a Settlement Class Member opts out and files a separate action based on the same or similar facts, in any tribunal, and also submits a Claim Form, the Settlement Class Member shall be deemed to be a member of the Settlement Class and such Settlement Class Member’s claims shall be deemed Released Claims.

78. No later than **fourteen (14) Days** after the Opt-Out Deadline, the Settlement Administrator shall provide the Court and the Parties' Counsel with a list identifying each Settlement Class Member who submitted a request for exclusion together with copies of the requests for exclusion and a declaration attesting to the completeness and accuracy thereof.

79. Settlement Class Members who submit a valid and timely Request for Exclusion are ineligible to receive benefits or compensation under this Agreement and have no rights to object to the proposed Settlement or address the Court at the Final Approval Hearing.

80. An opt-out request that does not comply with these terms is hereby invalid.

#### **IX. OBJECTIONS TO THE SETTLEMENT**

81. The Parties agree to ask the Court to require any Settlement Class Member who wishes to object to the fairness, reasonableness, or adequacy of the proposed Settlement to file any objection via the Court's electronic filing system (if represented by counsel) or to send the objection to the Settlement Administrator and mail copies to the Parties' Counsel via first-class postage prepaid mail to the addresses set out in Section XI *infra*.

82. Each objection must: (i) set forth the Settlement Class Member's full name, current address, and telephone number; (ii) contain the Settlement Class Member's original signature; (iii) state that the objector has reviewed the Settlement Class definition and understands that they are a Settlement Class Member and provide written proof establishing that they are a Settlement Class Member; (iv) state that the Settlement Class Member objects to the Settlement in whole or in part; (v) set forth a statement of the specific legal and factual basis or bases for the Objection, including whether each objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class, and including any evidence or legal authority the Settlement Class Member wishes to bring to the Court's attention; (vi) provide copies of any



documents that the Settlement Class Member wishes to submit in support of his/her position; and (vii) state whether the Settlement Class Member intends to appear at the Final Approval Hearing.

83. Objections must be filed with the Court or mailed to the Settlement Administrator and the Parties' Counsel no later than **sixty (60) Days** after the Notice Date (the Objection Deadline) or as set by the Court. The Objection Deadline shall be included in the Short Notice and Long Notice.

84. Between the Parties, Counsel for Plaintiffs shall have sole responsibility for responding to any objections and may respond to the objections, if any, by means of a memorandum of law, filed and served prior to the Final Approval Hearing.

85. An objecting Settlement Class Member has the right, but is not required to, attend the Final Approval Hearing. If an objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he or she must also file a notice of appearance with the Court, as well as serve notice on Class Counsel and Defendants' Counsel by the Objection Deadline.

86. The submission of an objection allows the Parties' Counsel to take the deposition of the objecting Settlement Class Member pursuant to the Federal Rules of Civil Procedure at an agreed-upon time and location, and to obtain any evidence relevant to the objection. Failure by an objector to make themselves available for a deposition or comply with expedited discovery requests may result in the Court striking and/or overruling the objection. The Court may tax the costs of any such discovery to the objector or the objector's counsel if the Court determines that the objection is frivolous or is made for an improper purpose.

87. Any Settlement Class Member who fails to submit a timely objection per the terms of this Agreement, the Long Notice, and as otherwise ordered by the Court, shall not be treated as

having filed a valid objection to the Settlement and shall forever be barred from raising any objection to the Settlement.

**X. ATTORNEYS' FEES, COSTS, EXPENSES, AND SERVICE AWARDS**

88. The Fee Award and Expenses will be paid from the Settlement Fund.

89. Class Counsel shall request the Court to approve an award of attorneys' fees not to exceed one-third (33.33%) of the Settlement Fund plus reasonable litigation expenses. Class Counsel shall submit a motion for Fee Award and Expenses no later than **fourteen (14) Days** before the Objection and Opt-Out Deadline.

90. Unless otherwise ordered by the Court, Class Counsel shall have the sole and absolute discretion to allocate any approved fee award amongst Plaintiffs' counsel and any other attorneys for Plaintiffs. Defendants shall have no liability or other responsibility for allocation of any such attorneys' fees and costs.

91. Class Counsel shall request the Court approve a service award of up to seven thousand five hundred dollars (\$7,500) for Plaintiffs Tracey Bock, Peter Horning, and Julia Kroll, who were deposed, and five thousand dollars (\$5,000) for Plaintiffs Christopher Caswell, Matthew Cople, Jeremy Fischer, Amanda Marr, Leslie May, Jonathon Mitchell, John Parsons, Adrian Villalobos, Justin Ward, and Chandra Wilson, who were not deposed, which award is intended to recognize Plaintiffs for their efforts in the Action and commitment on behalf of the Settlement Class ("Service Award"). The Service Awards will be paid from the Settlement Fund.

92. Class Counsel will file applications with the Court for the requested Service Awards and Fee Award and Expenses.

93. The Parties agree that the Court's approval or denial of any request for the Service Awards or Fee Award and Expenses are not conditions to this Settlement Agreement and are to be

considered by the Court separately from the final approval, reasonableness, and adequacy of the Settlement. The failure of the Court or any appellate court to approve in full any request by Class Counsel for the Fee Award and Expenses or the Service Awards shall not be grounds for Plaintiffs, the Settlement Class, or Class Counsel to terminate or cancel this Settlement Agreement or proposed settlement.

94. The Fee Award and Expenses and Service Awards awarded by the Court shall be paid by the Settlement Administrator from the Settlement Fund no later than **ten (10) Days** after the Effective Date. Payment will be made to accounts designated by Class Counsel who shall have sole discretion in allocating attorneys' fees and expenses.

## **XI. NOTICES**

95. All notices (other than the Notice to class members) required by this Agreement shall be made in writing and communicated by First Class U.S. mail and email to the following individuals at the following addresses:

All notices to Class Counsel shall be sent to:

M. Anderson Berry  
**Clayco C. Arnold, APC**  
865 Howe Ave.  
Sacramento, CA 95825  
aberry@justice4you.com

Gary M. Klinger  
**Milberg Coleman Bryson Phillips Grossman PLLC**  
227 W. Monroe Street, Suite 2100  
Chicago, Illinois 60606  
gklinger@milberg.com

John A. Yanchunis  
**Morgan & Morgan Complex Business Division**  
201 N. Franklin Street, 7th Floor  
Tampa, Florida 33602  
(813) 223-5505  
jyanchunis@ForThePeople.com

All notices to Defendants shall be sent to:

Livia M. Kiser  
**King & Spalding LLP**  
110 N. Wacker Dr. Suite 3800  
Chicago, Illinois 60606  
lkiser@kslaw.com

96. Other than attorney-client communications or those otherwise protected from disclosure pursuant to law or rule, the Parties shall promptly provide to each other copies of comments, objections, opt-out requests, or other documents or filings received from a Settlement Class Member as a result of the Notice Plan.

## **XII. SETTLEMENT APPROVAL PROCESS**

97. As soon as practicable after the execution of this Agreement, the Settlement Class Representatives and Class Counsel shall submit this Agreement to the Court and file a motion for preliminary approval of the Settlement, requesting entry of a Preliminary Approval Order substantially in the form attached hereto as **Exhibit D**, requesting, among other things:

- a. Certification of the Settlement Class for settlement purposes only;
- b. Preliminary approval of this Agreement;
- c. Appointment of Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman PLLC and M. Anderson Berry of Clayco C. Arnold, A Professional Corporation as Class Counsel.
- d. Appointment of Tracey Bock, Christopher Caswell, Matthew Copple, Jeremy Fischer, Peter Horning, Julia Kroll, Amanda Marr, Leslie May, Jonathon Mitchell, John Parsons, Adrian Villalobos, Justin Ward, and Chandra Wilson as the Settlement Class Representatives;

- e. Approval of the Notice Plan;
- f. Approval of a Short Notice substantially similar to the one attached hereto as **Exhibit C**;
- g. Approval of a Long Notice substantially similar to the one attached hereto as **Exhibit B**;
- h. Approval of a Claim Form substantially similar to the one attached hereto as **Exhibit A**; and
- i. Appointment Kroll Settlement Administration LLC, as the Settlement Administrator.

98. The Long Notice, Short Notice, and Claim Form shall be reviewed by the Settlement Administrator and may be revised as agreed by the Parties after submission to the Court with the motion for preliminary approval of the Settlement.

99. After entry by the Court of a Preliminary Approval Order, and no later than **fourteen (14) Days** before the Final Approval Hearing, the Settlement Class Representatives shall file a motion seeking final approval of the Settlement and entry of a Final Order and Judgment, including a request that the preliminary certification of the Settlement Class for settlement purposes be made final.

### **XIII. FINAL APPROVAL HEARING**

100. The Parties will recommend the Final Approval Hearing be scheduled no earlier than **one hundred and fifty (150) Days** after the entry of the Preliminary Approval Order.

101. Any Settlement Class Member who wishes to appear at the Final Approval Hearing must mail to the Court or file a notice of appearance in the Action by the Objection Deadline, as well as take actions required in the Long Notice or as otherwise required by the Court.

102. The Parties shall present a motion requesting that the Court enter a Final Order and Judgment pursuant to Fed. R. Civ. P. 54(b), substantially in the form attached hereto as **Exhibit E**, including the following provisions:

- a. A finding that the Notice Plan fully and accurately informs all Settlement Class Members entitled to notice of the material elements of the Settlement, constitutes the best notice practicable under the circumstances, constitutes valid, due, and sufficient notice, and complies fully with Fed. R. Civ. P. 23, the United States Constitution and any other applicable law;
- b. A finding that after proper notice to the Settlement Class, and after sufficient opportunity to object, no timely objections to this Settlement have been made, or a finding that all timely objections have been considered and denied;
- c. Approval of the Settlement, as set forth in this Agreement, as fair, reasonable, adequate, and in the best interests of the Settlement Class, in all respects, finding that the Settlement is in good faith and ordering the Parties to perform the Settlement in accordance with the terms of this Agreement;
- d. A finding that neither the Final Order and Judgment, the Settlement, or the Agreement constitutes an admission of liability by the Parties;
- e. A finding that Plaintiffs shall have been deemed to fully and finally release, relinquish, and discharge the Released Parties from the Released Claims;
- f. A finding that all Settlement Class Members who have not properly opted out of the Settlement Class are, following entry of Final Order and Judgment, deemed to have fully and finally released, relinquished, or discharged the Released Parties from the Released Claims; and

- g. If and when the Final Order and Judgment is entered, the claims against Defendants in the Action shall be dismissed with prejudice.

103. If the Settlement is not finally approved, is not upheld on appeal, or otherwise does not become Final for any reason, then the Settlement Class shall be decertified, the settlement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be without prejudice to any Party and shall not be deemed or construed to be an admission or confession by any Party of any fact, matter or proposition of law; and all Parties shall stand in the same procedural posture as if the settlement had never been negotiated, made or filed with the Court.

#### **XIV. TERMINATION OF THIS AGREEMENT**

104. Defendants shall have the right, but not the obligation, to terminate this Agreement, declare it null and void, and have no further obligations under this settlement to the Plaintiffs or to the Settlement Class Members, if any of the following conditions subsequent occurs: (i) The Court fails to enter the [Proposed] Preliminary Approval Order in a form materially consistent with **Exhibit D** to this Agreement; (ii) The Parties fail to obtain and maintain approval of the proposed settlement; (iii) The Court requires a notice program in any form materially different from the Notice Plan specifically set forth in Section VII; (iv) The Court fails to enter a Final Order and Judgment materially consistent with the provisions in Section XIII; (v) The Settlement does not become Final for any reason; (vi) The Effective Date does not occur for any reason, including but not limited to the entry of an order by any court that would require either material modification or termination of this Agreement; or (vii) The total number of timely and valid requests for exclusion exceeds five (5) percent of the total number of Settlement Class Members. This Agreement is expressly contingent on: (i) the execution of this Agreement; (ii) preliminary approval of the

Settlement by the District Court; (iii) final approval of the Settlement by the District Court, which is no longer subject to appeal; and (iv) the final, non-appealable dismissal of the Action with prejudice.

105. In the event that the above right to cancel or terminate is exercised, then Defendants shall have no further obligations under this Settlement Agreement to Settlement Class Members or Plaintiffs and shall have the right to terminate the entire settlement and declare it null and void, except that Defendants shall pay the Administration and Notice Costs incurred up to the date the right to cancel or terminate is exercised.

#### **XV. RELEASE**

106. Upon the Effective Date, and in consideration of the Settlement benefits described herein, the Action shall be dismissed with prejudice and each of the Releasing Parties shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, and forever released, acquitted, waived and discharged, the Released Parties from any and all Released Claims. This release expressly includes Defendants' insurers with respect to all obligations under any part of any insurance policy applicable to the Released Claims, and from any and all claims arising out of the investigation, handling, adjusting, defense, or settlement of the claim including, without limitation, any claims for negligence, invasion of privacy, violations of California's Unfair Competition Law (Cal. Bus. & Prof. Code § 17200, *et seq.*), and violations of California's Consumer Privacy Act (Cal. Civ. Code § 1798.150).

107. In return for the consideration provided in this Agreement, the Plaintiffs, on their behalf and on behalf of all other Settlement Class Members, shall, as of the Effective Date, release, acquit, and forever discharge the Released Parties from the Released Claims.



108. Named Plaintiffs, on their own behalf and on behalf of all other Settlement Class Members agree, covenant and acknowledge that they shall not now or hereafter initiate, participate in, maintain, or otherwise bring any claims, either directly or indirectly, derivatively, on their own behalf, or on behalf of the Settlement Class Members or the general public, or any other person or entity, against the Released Parties based on the Released Claims, regardless of whether such claims accrue after this Agreement is approved. As of the Effective Date, Plaintiffs and the Settlement Class Members who do not timely and validly opt out of the settlement, and anyone claiming through or on behalf of any of Settlement Class Member, will be forever barred and enjoined from commencing or prosecuting any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum, directly, representatively, or derivatively, asserting any of the Released Claims against the Released Parties.

109. Upon the Effective Date, no default by any person in the performance of any covenant or obligation under this settlement or any order entered in connection therewith shall affect the dismissal of the Action, the res judicata effect of the Final Order and Judgment, the foregoing releases, or any other provision of the Final Order and Judgment; provided, however, that all other legal and equitable remedies for violation of a court order or breach of this Agreement shall remain available to all Parties.

110. Upon the Effective Date, each of the Releasing Parties shall be deemed to have, and expressly shall have, waived any and all provisions, rights, and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States. Specifically, the Parties stipulate and agree that upon the Effective Date, the Releasing Parties expressly shall have and by operation of the Final Order and Judgment shall have, released any and all Released Claims,

including Unknown Claims, and 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 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.

The Releasing Parties understand and acknowledge on behalf of themselves and the Settlement Class Members the significance of this waiver of California Civil Code § 1542 (if applicable) and/or of any other applicable federal or state law relating to limitations on releases. The Releasing Parties acknowledge that they may hereafter discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Action and the Released Claims, and that these facts may support claims within the definition of Released Claims but not contemplated by the Releasing Parties at the time this Agreement is executed (“Unknown Claims”), but that it is their intention to, and they do upon the Effective Date of this Settlement Agreement, fully, finally and forever settle and release the Released Claims, including but not limited to any Unknown Claims they may have, as that term is defined in this paragraph, without regard to the subsequent discovery or existence of different additional facts. The Releasing Parties also hereby expressly waive and fully, finally, and forever settle and release any and all Released Claims they may have against the Released Parties under § 17200, *et seq.*, of the California Business and Professional Code.

111. After entry by the Court of a Preliminary Approval Order, and no later than **fourteen (14) Days** before the Final Approval Hearing, Settlement Class Representatives shall file a motion seeking final approval of the Settlement and entry of a Final Order and Judgment,

including a request that the preliminary certification of the Settlement Class for settlement purposes be made final.

#### **XVI. NO ADMISSION OF LIABILITY**

112. No Admission of Liability. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

113. No Use of Agreement. This Agreement, whether or not it shall become Final, and any and all negotiations, communications, and discussions associated with it shall not be:

- (a) Offered or received by or against any Party as evidence of, or be construed as or deemed to be evidence of, any presumption, concession, or admission by a Party of the truth of any fact alleged by Plaintiffs, of the validity of any Released Claim that has been or could have been asserted in the Action, or the deficiency of any defense that has been or could have been asserted in the Action, or the deficiency of any defense that has been or could have been asserted in the Action, or of any liability, negligence, fault or wrongdoing on the part of Plaintiffs, Defendants, or any Released Party;
- (b) Offered or received by or against Plaintiffs or Defendants as a presumption, concession, admission, or evidence of any violation of any state or federal statute, law, rule or regulation or of any liability or wrongdoing by Defendants or any Released Party or of the truth of any of the Released Claims, and evidence thereof shall not be used directly or indirectly, in any way, (whether

in the Action or in any other action or proceeding), except for purposes of enforcing this Agreement and Final Order and Judgment including, without limitation, asserting as a defense the release and waivers provided herein;

- (c) Offered or received by or against Plaintiffs, Defendants or any Released Party as evidence of a presumption, concession, or admission with respect to a decision by any court regarding the certification of a class, or for purposes of proving any liability, negligence, fault or wrongdoing; or in any way referred to for any other reason against Defendants or any Released Party, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the terms of this Agreement; provided, however, that if this Agreement is approved by the Court, then Plaintiffs or Defendants may refer to it to enforce their rights hereunder; or
- (d) Construed as an admission or concession by Plaintiffs, the Settlement Class, Defendants or any Released Party that the consideration to be given hereunder represents the relief that could or would have been obtained through trial in the Action.

These prohibitions on the use of this settlement shall extend to, but are not limited to, any Settlement Class Member who opts-out of the settlement pursuant to Section VIII above.

## **XVII. MISCELLANEOUS PROVISIONS**

114. Further Steps. The Parties agree that they each shall undertake any further required steps to effectuate the purposes and intent of this Agreement, and that Class Counsel, on behalf of the Plaintiffs and the Settlement Class, are expressly authorized to take all appropriate action required or permitted to be taken by the Settlement Class pursuant to this settlement to effectuate

its terms and are also expressly authorized to enter into any modifications or amendments to this Settlement Agreement on behalf of the Settlement Class which they deem appropriate.

115. Cooperation. The Parties: (i) acknowledge that it is their intent to consummate this Agreement and (ii) agree to cooperate to the extent reasonably necessary to effect and implement all terms and conditions of this Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of this Agreement.

116. Contractual Agreement. The Parties understand and agree that all terms of this Agreement, including the exhibits hereto, are contractual and are not a mere recital. All individuals signing this Agreement on Defendants' behalf represent that they are fully authorized to enter into, and to execute, this Agreement on Defendants' behalf. Class Counsel represent that they are fully authorized to conduct settlement negotiations with Defendants' Counsel on behalf of Plaintiffs, and expressly to enter into, and to execute, this Settlement Agreement on behalf of each of the Plaintiffs and the Settlement Class, subject to Court approval pursuant to Fed. R. Civ. P. 23(e)..

117. Headings. Any headings contained herein are for informational purposes only and do not constitute a substantive part of this Agreement. In the event of a dispute concerning the terms and conditions of this Agreement, the headings shall be disregarded.

118. Integration. This Agreement constitutes the entire agreement and understanding among the Parties and supersedes all prior proposals, negotiations, agreements, and understandings relating to the subject matter of this Agreement. The Parties acknowledge, stipulate, and agree that no covenants, obligations, conditions, representations, warranties, inducements, negotiations, or understandings have been made to or relied on by any Party concerning any part or all of the subject matter of this Agreement other than the representations, warranties, and covenants expressly contained and memorialized herein.

119. Exhibits. The exhibits to this Agreement are an integral part of the settlement and are expressly incorporated by reference and made part of the terms and conditions of this Agreement.

120. Drafting. The language of all parts of this Agreement shall in all cases be construed as a whole, according to their fair meaning, and not strictly for or against any Party. No Party shall be deemed the drafter of this Agreement. The Parties acknowledge that the terms of the Agreement are contractual and are the product of negotiations between Parties represented by competent and effective counsel. Each Party and their counsel cooperated in the drafting and preparation of the Agreement, and there was no disparity in bargaining power among the Parties to this Agreement. In any construction to be made of the Agreement, the Agreement shall not be construed against any Party and any canon of contract interpretation to the contrary shall not be applied.

121. Modification or Amendment. Before Final Approval of this Agreement is Ordered by the Court, this Agreement may not be modified or amended, nor may any of its provisions waived, except by an express writing signed by the Parties who executed this Agreement, or their successors. Following Final Approval of this Agreement, after all appeals have been exhausted in favor of the Final Approval and the time period to file such appeals has expired, this Agreement may not be modified or amended, nor may any of its provisions be waived, absent a Court Order. Notwithstanding the above, any Party unilaterally may change the notice designation that applies to that Party at any time.

122. Waiver. The failure of a Party to insist upon strict performance of any provision of this Agreement shall not be deemed a waiver of such Party's rights or remedies or a waiver by such Party of any default by another Party in the performance or compliance of any of the terms of this

Agreement. In addition, the waiver by one Party of any breach of this Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

123. Severability. Should any part, term, or provision of this Agreement be declared or determined by any court or tribunal to be illegal, invalid, unenforceable, or void, such provision shall be separable and shall not limit or affect the validity, legality, or enforceability of any other provision hereunder, and this Agreement shall continue in full force and effect without said provision to the extent this Agreement is not terminated pursuant to Section XIV.

124. Counterparts. 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. This Agreement may be executed using electronic signature technology (e.g., via DocuSign, Adobe Sign, or other electronic signature technology), and such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's handwritten signature. Facsimile and scanned signatures shall be considered as valid signatures as of the date signed.

125. Electronic Mail. Transmission of a signed Agreement by electronic mail shall constitute receipt of an original signed Agreement by mail.

126. Successors and Assigns. The Agreement shall be binding upon, and inures to the benefit of, the Parties and their representatives, heirs, executors, successors, and assigns.

127. Governing Law. All terms and conditions of this Agreement shall be construed and enforced in accordance with, and governed by, the substantive laws of Illinois, without giving effect to that state's choice-of-law principles. However, the Parties acknowledge that the federal law of the United States applies to consideration and approval of the settlement, certification of

the Settlement Class, and all related issues such as any petition for the Fee Award and Expenses and Service Awards.

128. Interpretation. The following rules of interpretation shall apply to this Agreement:

- a. Definitions apply to the singular and plural forms of each term defined.
- b. Definitions apply to the masculine, feminine, and neuter genders of each term defined.
- c. Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall not be limiting but rather shall be deemed to be followed by the words “without limitation.”

129. Fair and Reasonable. The Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Action. The Parties and the Parties’ Counsel agree that this Agreement reflects a good faith, fair and reasonable compromise of the disputed claims raised by Plaintiffs and the Settlement Class reached voluntarily after consultation with experienced legal counsel and with the assistance and involvement of a neutral mediator. All terms, conditions, and exhibits in their exact form are material and necessary to this Agreement and have been relied upon by the Parties in entering into this Agreement. The Parties have arrived at this Agreement as a result of extensive arms-length negotiations taking all relevant factors, present or potential, into account.

130. Jurisdiction. The Court shall retain exclusive jurisdiction over the implementation, enforcement, and performance of this Agreement, and 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 exclusive jurisdiction over all parties to this Action and the Settlement Class for the purpose of



consummating, implementing, administering, and enforcing all terms of the Agreement. The Court shall also retain exclusive 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. From and after the entry of the Preliminary Approval Order, all Class Members who have not opted out are barred and enjoined from filing, commencing, continuing, prosecuting, intervening in, or participating as class members in any other suit, action, proceeding, case, controversy, or dispute in any jurisdiction against any or all of the Released Parties based on or relating to the Agreement or the matters, claims, or causes of action, or the facts and circumstances relating thereto in this Action, that are to be released upon entry of the Final Order and Judgment pursuant to the Agreement, except as required by law or as required to effectuate this Agreement. Furthermore, all persons are enjoined from filing, commencing, prosecuting, litigating, or continuing a lawsuit in any jurisdiction on behalf of Settlement Class Members who have not timely excluded themselves, that is based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in this Action.

131. Confidentiality Agreement. The Parties agree to comply with their destruction and certification obligations pursuant to Paragraph 27 of the Agreed Confidentiality Order entered in the Action on May 30, 2023 within sixty-three (63) days of the Effective Date of this Agreement.

132. Extensions of Time. The Parties may agree upon a reasonable extension of time for deadlines and dates reflected in this Settlement Agreement without further notice (subject to Court approval as to Court dates).

133. No Government Third-Party Rights or Beneficiaries. No government agency or official (in their official capacity) can claim any rights under this Agreement.

134. No Collateral Attack. The Settlement Agreement shall not be subject to collateral attack, including by any Settlement Class Member or any recipient of notices of the Settlement after the Final Order and Judgment is entered.

135. Public Statements. Class Counsel and Plaintiffs hereby agree not to make any statements to the press, on the internet, or in any public forum, either orally or in writing, that undermine or contradict the Settlement or any of its terms. The Parties, with respect to this Action, while in Court and/or addressing the Court, may discuss the Settlement, the terms of the Settlement, any matter addressed in Plaintiffs' motion for preliminary approval or any other aspect of the Action as needed in order to further or enforce the Settlement.

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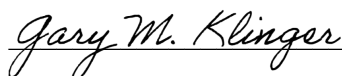
IN WITNESS WHEREOF, the Parties have herby accepted and agreed to this Agreement.

**Class Counsel:**



Date: 09/10/2024

M. Anderson Berry



Date September 10, 2024

Gary M. Klinger



Date: 09/10/2024

John A. Yanchunis

**Counsel for AJG and GB:**



Date: 9/10/24

Livia M. Kiser

## SETTLEMENT TIMELINE

<b><u>From Order Granting Preliminary Approval</u></b>	
<u>Defendants provide Settlement Class List to Settlement Administrator</u>	<u>+7 Days</u>
Defendants will deposit \$5,000,000 into the Settlement Fund	+30 Days
Notice Date (administrator has provided Short Notice and Claim Form for all Settlement Class Members to the United States Postal Service)	+46 Days
Settlement Website and Help-Line Go Live	Prior to Notice Date
<b><u>From Notice Date</u></b>	
Counsel's Motion for Attorneys' Fees and Reimbursement of Litigation Expenses	+46 Days
Objection & Opt Out Deadlines	+60 Days
Claims Deadline	+90 Days
Motion for Final Approval	At least 14 Days prior to the Final Approval Hearing
Final Approval Hearing	At least 150 Days after entry of the Preliminary Approval Order
<b><u>From Final Approval Date</u></b>	
Deadline to appeal Final Order and Judgment under FRAP 4(a) (agreement becomes effective if none taken)	+30 days
<b><u>From Effective Date</u></b>	
Defendants deposit \$16,000,000 into the Settlement Fund	+30 days

## **EXHIBIT F – CLAIMS ADMINISTRATION PROTOCOL**

1. Reimbursement of Documented Monetary Losses: All Settlement Class Members may submit a claim form for reimbursement of documented monetary losses, fairly traceable to the Data Security Incident, up to \$6,000 per individual (“Monetary Losses”). Monetary Losses may 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 the Data Security Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges. Settlement Class Members with Monetary Losses must submit documentation supporting their claims. This can 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 can be considered to add clarity or support other submitted documentation.

2. In addition to reimbursement of documented Monetary Losses, all Settlement Class Members may choose to claim one of the following two Settlement Benefits:

- a. Financial Account Monitoring: All Settlement Class Members can submit a claim for identity theft protection and credit monitoring services as follows: three (3) years of Cyex Identity Defense Total with three-bureau monitoring and at least \$1,000,000 of fraud/identity theft insurance. Settlement Class Members may use their code to enroll for a period of 12 months (meaning that a Class Member could enroll up to the end of the first year and have coverage for the full three (3) years). Such coverage and flexibility in enrollment will provide protection for Class Members against future identity theft. The three-year period will commence when Settlement Class Members use their codes to activate the Financial Account Monitoring.
- b. Alternative Pro Rata Cash Payment: Settlement Class Members can submit a claim for an Alternative Pro Rata Cash Payment as an alternative to claiming Financial Account Monitoring. The amount of this benefit shall be determined pro rata based on the amount remaining in the Settlement Fund following payment of the Fee Award and Expenses, Service Awards, Administration and Notice Costs, costs of CAFA Notice, costs of Financial Account Monitoring, claims for reimbursement of documented Monetary Losses, and California Statutory Payments. There will be no maximum payment amount for Alternative Pro Rata Cash Payments.

3. California Statutory Payments: Settlement Class Members who were residents of California at any time from June 3, 2020, to the end of the claims period (“California Settlement Class Members”) can submit a claim for payment of up to \$100.00 for their statutory claims under the California Consumer Privacy Act (“California Statutory Payment”). The California Statutory Payment is an additional settlement benefit made available to California Settlement Class Members that is in addition to reimbursement of claims for Monetary Losses and a Settlement Class Member’s selection of either Financial Account Monitoring or the Alternative Pro Rata Cash Payment. California Statutory Payments are subject to a pro rata decrease based on the amount remaining in the Settlement Fund following payment of the Fee Award and Expenses, Service

Awards, Administration and Notice Costs, costs of CAFA Notice, claims for reimbursement of documented Monetary Losses and costs of Financial Account Monitoring.

4. **Assessing Claims.** The Settlement Administrator shall verify that each person who submits a Claim Form is a Settlement Class Member. Subject to the dispute provisions in Paragraph 6, below, the Settlement Administrator shall have the sole discretion and authority to determine whether and to what extent a claim is supported by reasonable documentation and seeks reimbursement for actual losses that are fairly traceable to the Data Security Incident. The Settlement Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity. In no event shall any member of the Settlement Class be compensated for documented Monetary Losses that were spent or incurred prior to June 3, 2020 or after the Claims Deadline.

5. **Deficient Claims.** To the extent the Settlement Administrator determines a claim seeking reimbursement pursuant to Paragraphs 1, 2, or 3, above, is deficient in whole or part, within a reasonable time of making such a determination, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and give the Settlement Class Member twenty-one (21) Days to cure the deficiencies. Such notifications shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such notifications shall be sent via U.S. mail. If the Settlement Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Settlement Administrator, fails to do so, the Settlement Administrator shall notify the Settlement Class Member of that determination within ten (10) Days of the determination. All such determinations of disputed claims by the Settlement Administrator are final, subject to the dispute provisions in Paragraph 6, below.

6. **Right to Dispute Approved or Denied Claims.** Notwithstanding the determination of the Settlement Administrator, Defendants and Class Counsel maintain the right to dispute any Approved or Denied Claims. At regular intervals and in a manner to be agreed upon by Class Counsel, Defendants' Counsel, and the Settlement Administrator, the Settlement Administrator shall provide Class Counsel and Defendants with copies of all Approved and Denied Claims. Within twenty-one (21) Days of receipt of any Approved Claim, Class Counsel and/or Defendants have the right to provide notice that they deem the Approved Claim to be deficient, or the Denied Claim to not be deficient. The notice shall be provided to the Settlement Administrator and counsel for the opposite Party and set forth the asserted deficiencies or lack thereof in reasonable detail. Within twenty-one (21) Days of receipt of notice that Class Counsel or Defendants dispute an Approved or Denied Claim, Class Counsel, Defendants, and the Settlement Administrator shall meet and confer in an attempt to resolve the dispute. Any agreement between the Parties regarding the sufficiency of the disputed claim that is reached through this meet and confer process shall be deemed final. In the event that the meet and confer process does not result in an agreement regarding the sufficiency of the claim, the disputing party may submit the dispute to the Court for resolution with twenty-one (21) Days of the completion of the meet and confer. Any decision by the Court as to the validity of the disputed claim shall be final. No Approved Claim that is disputed by either Party shall be paid until the completion of the dispute process set forth in this Paragraph 6.

7. **Payment Timing.** Payments for Approved Claims shall be issued by the Settlement Administrator in the form of a check mailed and/or an electronic payment as soon as practicable after the funding of the Escrow Account pursuant to Paragraph 53 of the Settlement Agreement, but in no event prior to the Effective Date.

8. **Timing.** Settlement Checks shall bear in the legend that they expire if not negotiated within ninety (90) Days of their date of issue. If a Settlement Check is not cashed within sixty (60) Days after the date of issue, the Settlement Administrator is authorized to send an e-mail and/or place a telephone call to that Participating Settlement Class Member reminding him/her of the deadline to cash such check.

9. **Returned Checks.** For any Settlement Check returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator shall make reasonable efforts to locate a valid address and resend the Settlement Payment within thirty (30) Days after the check is returned to the Settlement Administrator as undeliverable. In attempting to locate a valid address, the Settlement Administrator is authorized to send an e-mail and/or place a telephone call to that Participating Settlement Class Member to obtain updated address information. Any replacement Settlement Checks issued to Participating Settlement Class Members shall remain valid and negotiable for sixty (60) Days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Participating Settlement Class Members within that time.

10. **Uncashed Checks.** To the extent that a Settlement Check is not cashed within ninety (90) Days after the date of issue, the Settlement Administrator shall undertake the following actions: (1) attempt to contact the Participating Settlement Class Member by e-mail and/or telephone to discuss how to obtain a reissued check; (2) if those efforts are unsuccessful, make reasonable efforts to locate an updated address for the Participating Settlement Class Member using advanced address searches or other reasonable methods; and (3) reissue a check or mail the Participating Settlement Class Member a postcard (either to an updated address if located or the original address if not) providing information regarding how to obtain a reissued check. Any reissued Settlement Checks issued to participating Settlement Class Members shall remain valid and negotiable for sixty (60) Days from the date of their issuance and may thereafter automatically be canceled if not cashed by the participating Settlement Class Members within that time.

11. **Unclaimed Property.** To the extent any monies remain in the Escrow Account more than one hundred and fifty (150) Days after the distribution of Settlement payments to the participating Settlement Class Members, or thirty (30) Days after all reissued Settlement Checks are no longer negotiable, whichever occurs later or as otherwise agreed to by the Parties, any remaining monies shall be awarded to the designated and court-approved cy pres recipient.

12. **Deceased Class Members.** If the Settlement Administrator is notified that a participating Settlement Class Member is deceased, the Settlement Administrator is authorized to reissue the Settlement Check to the participating Settlement Class Member's estate upon receiving proof the participating Settlement Class Member is deceased and after consultation with Class Counsel.

13. **Submission of Electronic and Hard Copy Claims.** Participating Settlement Class Members may submit Claim Forms to the Settlement Administrator electronically via the Settlement Website or physically by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked during the Claims Period and on or before the Claims Deadline.

14. **Contingencies.** In the event that the aggregate amount of all Settlement payments exceeds the remaining funds available after payment of the costs of Settlement Administration, the costs of CAFA Notice, the costs of Financial Account Monitoring, the Fee Award and Expenses and Service Award(s), then each Settlement Class Member's claim for the Alternative Pro Rata Cash Payment and the California Statutory Payment shall be proportionately reduced on a *pro rata* basis.

15. **Duties of Settlement Administrator.** The Settlement Administrator shall perform the functions and duties necessary to effectuate the Settlement and as specified in this Agreement, including, but not limited to, the following:

- a. Creating, administering, and overseeing the Settlement Fund;
- b. Obtaining the Settlement Class List for the purpose of disseminating Notice to Settlement Class Members;
- c. Providing Notice to Settlement Class Members via U.S. mail;
- d. Establishing and maintaining the Settlement Website;
- e. Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries within one (1) business day;
- f. Responding to any mailed or emailed Settlement Class Member inquiries within a reasonable amount of time, but no later than five (5) business days from the date of receipt;
- g. Reviewing, determining the validity of, and processing all claims submitted by Settlement Class Members;
- h. Receiving Requests for Exclusion and objections from Settlement Class Members and providing Class Counsel and Defendant's Counsel a copy thereof no later than three (3) Days following the deadline for submission of the same. If the Settlement Administrator receives any Requests for Exclusion, objections, or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and to Defendant's Counsel;



- i. After the Effective Date, processing and transmitting Settlement Payments to Settlement Class Members;
- j. Providing weekly or other periodic reports to Class Counsel and Defendant's Counsel that include the number of claims submitted, the number of claims approved, information regarding the number of Settlement checks mailed and delivered, Settlement checks cashed, undeliverable information, and any other requested information relating to Settlement payments;
- k. In advance of the Final Approval Hearing, preparing a sworn declaration to submit to the Court that: (i) attests to implementation of Notice in accordance with the Preliminary Approval Order; (ii) identifies each Settlement Class Member who timely and properly submitted a Request for Exclusion; (iii) the number of objections received; and (iv) the number of claims received;
- l. Issuing notification to the appropriate government officials of this Settlement Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715; and
- m. Performing any function related to Settlement administration at the agreed-upon instruction of Class Counsel or Defendant's Counsel, including, but not limited to, verifying that Settlement payments have been distributed.

# Exhibit A

<<Mail ID>>

AJG Settlement Administrator  
[ADD ADDRESS and WEBSITE]

**Your Claim Form Must Be Submitted  
Electronically or Postmarked by [ADD DATE]**

### **CLAIM FORM**

*In re Arthur J. Gallagher Data Breach Litigation, Master File No. 1:22-cv-00137*

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

**The CLAIMS DEADLINE to submit or mail this Claim Form is **Month Day, 2024**.**

### **GENERAL INSTRUCTIONS**

This litigation arose out of a data security incident perpetrated against Defendants Arthur J. Gallagher & Co. (“AJG”) and Gallagher Bassett Services, Inc. (“GB”) (AJG and GB are collectively referred to as “Gallagher” or “Defendants”). Between June 3, 2020 and September 26, 2020, an unknown party accessed or acquired data contained within certain segments of Gallagher’s network during a criminal ransomware attack (the “Data Security Incident”). Plaintiffs allege that the Data Security Incident exposed individuals’ person information, including some combination of names; Social Security numbers and tax identification numbers; driver’s license, passport and other government identification numbers; dates of birth; usernames and passwords; employee identification numbers; financial account and credit card information; and/or electronic signatures, as well as medical treatment, claim, diagnosis, medication or other medical information; health insurance information; medical records or account numbers; and/or biometric information. Defendants deny all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or anyone else have asserted in this Litigation or may assert in the future based on the conduct alleged in the complaint.

You are a Settlement Class Member if you are among the approximately 3,492,654 individuals who were mailed a letter from AJG or GB stating that their information may have been impacted as a result of the Data Security Incident. All Settlement Class Members are eligible to claim: (i) three (3) years of Financial Account Monitoring services, (ii) reimbursement for documented Monetary Losses up to \$6,000, and (iii) an Alternative Pro Rata Cash Payment as an alternative to claiming Financial Account Monitoring.

In addition, Settlement Class Members who were residents of California at any time from June 3, 2020, to the end of the claims period (“California Settlement Class Members”) can submit a claim for payment of up to \$100 for their statutory claims under the California Consumer Privacy Act (“California Statutory Payment”). The California Statutory Payment is an additional settlement benefit made available only to California Settlement Class Members, and is in addition to reimbursement of claims for documented Monetary Losses and a Settlement Class Member’s selection of either Financial Account Monitoring or the Alternative Pro Rata Cash Payment.

The amount of the Alternative Pro Rata Cash Payment available to all Settlement Class Members shall be determined pro rata based on the amount remaining in the Settlement Fund following payment of the Fee Award and Expenses, Service Awards, Administration and Notice Costs, CAFA Notice costs, the costs of Financial Account Monitoring, claims for reimbursement of documented Monetary Losses, and California Statutory Payments.

To receive Settlement benefits, you must complete and submit a claim online or by mail if you are a Settlement Class Member.

You must submit your claim online by the Claims Deadline of **Month Day, 2024**, or complete and mail this Claim Form, postmarked by **Month Day, 2024**.



**CLAIM INFORMATION**

***Section A. - Confirm Your Eligibility***

**Did you receive a unique Claim Number indicating that you may be a member of the Settlement Class?**

Yes  No

*If yes, continue to the next question. If no, you are not a member of the Settlement Class and do not qualify to file a Claim.*

***Section B. - Financial Account Monitoring***

Yes, I would like to claim up to three (3) years of Financial Account Monitoring.

Settlement Class Members may submit a claim for identity theft protection and credit monitoring services consisting of: three (3) years of Cyex Identity Defense Total with three-bureau monitoring and at least \$1,000,000 of fraud/identity theft insurance.

**You do NOT need to submit documentation to make a claim for Financial Account Monitoring. If you choose Financial Account Monitoring, you may not select the Alternative Pro Rata Cash Payment.**

***Section C. - Compensation for Unreimbursed Documented Monetary Losses***

If you suffered costs or expenditures in response to the Data Security Incident, you may be eligible to receive a payment to compensate you for losses.

If it is verified that you meet all the criteria described in the Settlement Agreement and you submit the dollar amount of those losses, you will be eligible to receive a payment compensating you for your losses of up to six thousand dollars (**\$6,000**).

Examples of what can be used to prove your losses include: receipts, account statements, etc. You may also prove losses by submitting information on the claim form that describes the expenses and how they were incurred.

Providing adequate proof of your losses does not guarantee that you will be entitled to receive the full amount claimed. All claims will also be subject to an aggregate maximum payment amount, as explained in the Settlement Agreement. If the amount of losses claimed exceeds the maximum amount of money available under the Settlement Agreement, then the payment for your claim will be reduced on a pro rata basis. If you would like to learn more, please review the Settlement Agreement for further details.

**Did you suffer any financial expenses or other financial losses that you believe was as a result of the Data Security Incident? For example, did you sign up and pay for a credit monitoring service, hire and pay for a professional service to remedy identity theft, etc., as a direct result of or attributed to the Data Security Incident?**

Yes  No

*If yes, you may be eligible to fill out the rest of this form and provide corroborating documentation.*



**failure to check this box may render my Claim for Monetary Losses null and void.**

***Section D. - Alternative Pro Rata Cash Payment***

**Cash Payment:** Would you like to receive an Alternative Pro Rata Cash Payment under the Settlement?  **Yes**

\*\* The value of each cash payment under this option will be determined on a pro rata basis based on the balance of the Settlement Fund after the payment of other benefits, attorneys’ and Settlement Administrator fees and expenses. The balance of the Settlement Fund will be divided proportionally among those Settlement Class Members who submit valid claims selecting the Alternative Pro Rata Cash Payment. Settlement Class Members may receive both reimbursement for documented Monetary Losses and an Alternative Pro Rata Cash Payment.

**You do NOT need to submit documentation to make a claim for an Alternative Pro Rata Cash Payment. If you choose an Alternative Pro Rata Cash Payment, you may not select the Financial Account Monitoring.**

***Section E. - California Statutory Payment***

Settlement Class Members who were residents of California at any time from June 3, 2020, to the end of the claims period (“California Settlement Class Members”) can submit a claim for payment of up to \$100.00 for their statutory claims under the California Consumer Privacy Act (“California Statutory Payment”). The California Statutory Payment is an additional settlement benefit made available to California Settlement Class Members that is in addition to reimbursement of claims for documented Monetary Losses and a Settlement Class Member’s selection of either Financial Account Monitoring or the Alternative Pro Rata Cash Payment. California Statutory Payments are subject to a *pro rata* decrease based on the amount remaining in the Settlement Fund following payment of the Fee Award and Expenses, Service Awards, Administration and Notice Costs, CAFA Notice costs, claims for reimbursement of documented Monetary Losses and costs of Financial Account Monitoring.

**California Statutory Payment:** Are you eligible for and would you like to receive a \$100 California Statutory Payment under the Settlement? **If so, please check the box below with the following attestation:**

**Yes, I understand that I am submitting this Claim Form and the affirmations it makes as to my seeking relief for a California Statutory Payment under penalty of perjury. I further understand that my failure to check this box may render my claim for a California Statutory Payment null and void.**

***Section F. - Payment***

**Please select the manner in which payment will be issued for your valid Claims.**

- PayPal\*:  \_\_\_\_\_ (PayPal Email Address)
- Venmo\*:  \_\_\_\_\_ (Venmo Email Address)
- Zelle\*:  \_\_\_\_\_ (Zelle Email Address)
- Paper Check via Mail:  \_\_\_\_\_ (Mailing Address)

\*If you select payment via PayPal, Venmo or Zelle, the email address entered on this form will be used to process the payment to your account linked to that email address.

***Section G. - Settlement Class Member Affirmation***

I declare under penalty of perjury that the information supplied in this claim form is true and correct. I authorize the Settlement Administrator to contact me, using the contact information set forth above, to obtain any necessary supplemental information.

By submitting this Claim Form, I certify that any documentation that I have submitted in support of my Claim consists of unaltered documents in my possession.

Yes, I understand that my failure to check this box may render my Claim null and void.

Please include your name in both the Signature and Printed Name fields below.

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

Print Name: \_\_\_\_\_

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

**IN ORDER TO BE VALID, THIS CLAIM FORM MUST BE MAILED BY OR RECEIVED ONLINE AT AJGDATASETTLEMENT.COM NO LATER THAN [CLAIMS DEADLINE].**



# Exhibit B

**NOTICE OF CLASS ACTION SETTLEMENT**

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS  
*In re Arthur J. Gallagher Data Breach Litigation, Master File No. 1:22-cv-00137*

**If your data was accessed in the 2020 Data Security Incident involving Arthur J. Gallagher & Co. and Gallagher Bassett Services, Inc., you may be eligible for a CASH PAYMENT or other benefits under a class action settlement.**

A proposed settlement has been reached in a class action lawsuit concerning a Data Security Incident perpetrated against Defendants Arthur J. Gallagher Co. (“AJG”) and Gallagher Bassett Services, Inc. (“GB,” and collectively with AJG, “Defendants”). Between June 3, 2020 and September 26, 2020, an unknown party accessed or acquired data contained within certain segments of Defendants’ network during a criminal ransomware attack (the “Data Security Incident”). The Settlement would resolve a lawsuit in which Plaintiffs allege that the Data Security Incident exposed individuals’ personal identifying information (“PII”) and personal health information (“PHI”), including some combination of names; Social Security numbers and tax identification numbers; driver’s license, passport and other government identification numbers; dates of birth; usernames and passwords; employee identification numbers; financial account and credit card information; and/or electronic signatures, as well as medical treatment, claim, diagnosis, medication or other medical information; health insurance information; medical records or account numbers; and/or biometric information. Defendants deny all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or anyone else have asserted in this Litigation or may assert in the future based on the conduct alleged in the complaint.

The Settlement offers payments and financial account monitoring services to members of the Settlement Class. Settlement Class Members can claim the following Settlement Benefits:

- (1) Compensation for unreimbursed documented Monetary Losses: All Settlement Class Members may claim compensation for documented Monetary Losses up to a total of \$6,000.00 per Settlement Class Member;
- (2) In addition to compensation for unreimbursed documented Monetary Losses, Settlement Class Members may select one of the two following benefits:
  - (a) Financial Account Monitoring: All Settlement Class Members are eligible to enroll in three (3) years of Financial Account Monitoring services, or:
  - (b) Alternative Pro Rata Cash Payment: Participating Settlement Class Members can elect to make a claim for a pro rata share of the Net Settlement Fund.
- (3) California Statutory Payment: In addition, Settlement Class Members who were residents of California at any time from June 3, 2020 to the Claims Deadline (“California Settlement

Class Members”) can submit a claim for payment of up to \$100 for their statutory claims under the California Consumer Privacy Act.

If you are a Settlement Class Member, your options are:

<b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM DEADLINE:</b> [REDACTED]	The only way to receive cash and other benefits from this Settlement is by submitting a valid and timely Claim Form.  You can submit your Claim Form online at <a href="http://www.ajgdatasettlement.com">www.ajgdatasettlement.com</a> or download the Claim Form from the Settlement Website and mail it to the Settlement Administrator. You may also call or email the Settlement Administrator to receive a paper copy of the Claim Form.
<b>DO NOTHING</b>	You will receive no payment and will no longer be able to sue Defendants over the claims resolved in the Settlement.
<b>EXCLUDE YOURSELF DEADLINE:</b> [REDACTED]	You may exclude yourself from this Settlement and keep your right to sue separately. If you exclude yourself, you will receive no Settlement Benefits. Exclusion instructions are provided in this notice.
<b>OBJECT DEADLINE:</b> [REDACTED]	If you do not exclude yourself, you may write to the Court to comment on or detail why you do not like the Settlement by following the instructions in this notice. The Court may reject your objection. You must still submit a Claim Form if you desire any monetary relief under the Settlement.
<b>ATTEND A HEARING:</b> [REDACTED]	Ask to speak in Court about the Settlement. You may ask the Court for permission to speak about your objection at the Final Approval Hearing.

- These rights and options—and the deadlines to exercise them—are explained in this notice.
- The Court must give final approval to the Settlement before it takes effect, but has not yet done so. No payments will be made until after the Court gives final approval and any appeals are resolved.

**Please review this notice carefully.** You can learn more about the Settlement by visiting [www.ajgdatasettlement.com](http://www.ajgdatasettlement.com) or by calling 1-[REDACTED].

### **Further Information about this notice and the Action**

#### **1. Why was this notice issued?**

Settlement Class Members are eligible to receive payment and financial account monitoring services from a proposed Settlement in the Action. The Court overseeing the Action authorized this Notice to advise Settlement Class Members about the proposed Settlement that will affect their legal rights. This notice explains certain legal rights and options Settlement Class Members have in connection with the Settlement.

#### **2. What is the Action about?**

The Action is a proposed class action lawsuit brought on behalf of the Settlement Class. The Settlement Class is defined by the Court as “the approximately 3,492,654 individuals identified on the Settlement Class List who were mailed a letter from AJG or GB stating that their information may have been impacted as a result of the Data Security Incident.”

The PII/PHI alleged to have been exposed in the Data Security Incident includes some combination of names; Social Security numbers and tax identification numbers; driver’s license, passport and other government identification numbers; dates of birth; usernames and passwords; employee identification numbers; financial account and credit card information; and/or electronic signatures, as well as medical treatment, claim, diagnosis, medication or other medical information; health insurance information; medical records or account numbers; and/or biometric information.

The Action claims Defendants are legally responsible for the Data Security Incident and asserts various legal claims including (i) negligence; (ii) breach of implied contract; (iii) violation of California’s Consumer Privacy Act (“CCPA”); (iv) violation of California’s Customer Records Act; (v) violation of Illinois’s Consumer Fraud and Deceptive Business Practices Act; (vi) violation of the Maryland Consumer Protection Act; (vii) violation of the New Hampshire Consumer Protection Act; (viii) violation of the New Hampshire Notice of Security Breach statute; (ix) violation of the Washington State Consumer Protection Act; (x) violation of the Washington state Security Breach Notification Law; and (xi) breach of contract.

Defendants deny all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or anyone else have asserted in this Action or may assert in the future based on the conduct alleged in the complaint.

#### **3. Why is the Action a class action?**

In a class action, one or more plaintiffs bring a lawsuit on behalf of others who have similar claims. Together, all these people are the “Class,” and each individual is a “Settlement Class Member.” There are thirteen Plaintiffs in this case: Tracey Bock, Christopher Caswell, Matthew Copple, Jeremy Fischer, Peter Horning, Julia Kroll, Amanda Marr, Leslie May, Jonathon Mitchell, John

Parsons, Adrian Villalobos, Justin Ward, and Chandra Wilson. The Class in this case is referred to in this notice as the “Settlement Class.”

The Honorable Mary M. Rowland, United States District Court Judge of the Northern District of Illinois, is overseeing this case.

#### **4. Why is there a Settlement?**

Plaintiffs and Class Counsel have conducted an investigation into the facts and the law regarding the Action. The Plaintiffs and Class Counsel believe that the Settlement is fair, reasonable, and adequate, and beneficial to and in the best interests of Plaintiffs and the Settlement Class. The Court has not decided whether Plaintiffs’ claims or Defendants’ defenses have any merit, and it will not do so if the proposed Settlement is approved. Considering the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in their respective best interests. The Settlement does not mean that Defendants did anything wrong, or that the Plaintiffs and the Settlement Class would or would not win the case if it were to go to trial.

#### **Terms of the Proposed Settlement**

#### **5. Who is in the Settlement Class?**

The Settlement Class is defined by the Court as “the approximately 3,492,654 individuals identified on the Settlement Class List who were mailed a letter from AJG or GB stating that their information may have been impacted as a result of the Data Security Incident.”

Excluded from the Settlement Class are the judges presiding over this Action and members of their direct families, and Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

#### **6. What are the terms of the Settlement?**

The proposed Settlement would create a non-reversionary common fund amount of \$21,000,000.00 that would be used to pay all costs of the Settlement, including: (i) payments to Settlement Class Members who submit valid claims, (ii) costs of administration and notice, (iii) any attorneys’ fees and expenses awarded by the Court to Class Counsel (not to exceed one third of the total Settlement Fund, or \$7,000,000.00 in attorneys’ fees, and reasonable litigation expenses), and (iv) any Service Awards to the Plaintiffs awarded by the Court (not exceed an amount between \$5,000 to \$7,500 for each Class Representative). The Settlement also releases all claims or potential claims of Settlement Class Members against Defendants arising from or related to the Data Security Incident, as detailed in the Settlement Agreement and Release.

#### **7. What claims are Settlement Class Members giving up under the Settlement?**

Any Settlement Class Member who does not file a timely Request for Exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and

will be bound by the Settlement. The claims that Settlement Class Members are releasing are described in the Settlement Agreement and Release.

### **Settlement Benefits Available to Settlement Class Members**

#### **8. What benefits can Settlement Class Members receive?**

Settlement Class Members who submit valid claims and any required documentation may receive one or more of the following, to be paid from the \$21,000,000.00 Settlement Fund: (i) three (3) years of Financial Account Monitoring services, (ii) compensation for unreimbursed documented Monetary Losses up to \$6,000, and (iii) an Alternative Pro Rata Cash Payment as an alternative to claiming Financial Account Monitoring. In addition, Settlement Class Members who were residents of California at any time from June 3, 2020, to the end of the claims period (“California Settlement Class Members”) can submit a claim for payment of up to \$100 for their statutory claims under the California Consumer Privacy Act.

The amount of the Alternative Cash Payments will be determined depending on how many valid claims are submitted, with the remainder of the Settlement Fund, following payment of the Fee Award and Expenses, Service Awards, Administration and Notice Costs, CAFA Notice costs, the costs of Financial Account Monitoring, claims for reimbursement of documented Monetary Losses, and California Statutory Payments being divided proportionally among Settlement Class Members submitting valid claims for those awards, as explained further below in Question 11.

#### **9. What are Unreimbursed Documented Monetary Losses?**

The Settlement Administrator, from the Settlement Fund, will provide compensation, up to a total of \$6,000 per person who is a Participating Settlement Class Member, upon submission of a claim and supporting documentation, for unreimbursed ordinary and/or extraordinary monetary losses incurred as a result of the Data Security Incident, including, 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 the Data Security Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

Participating Settlement Class Members with Documented Monetary Losses must submit documentation supporting their claims. This can include receipts or other documentation not “self-prepared” by the claimant that document 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 other submitted documentation.

#### **10. What is the Alternative Pro Rata Cash Payment?**

Every Settlement Class Member is eligible to claim a Pro Rata Cash Payment share of the Net Settlement Fund, less all valid claims for unreimbursed Monetary Losses and Financial Account Monitoring, as an alternative to claiming Financial Account Monitoring. To receive this benefit, participating Settlement Class Members must submit a valid claim form, but no documentation is

required to make a claim. The amount of the Cash Payments will be determined on a *pro rata* basis, depending upon the number of valid claims filed and the amount of funds available for these payments.

Eligibility for any award and the validity of your claim, including the Alternative Pro Rata Cash Payment, will be determined by the Settlement Administrator as outlined in Question 15.

**11. When and how will the amount of Settlement payments be adjusted?**

The amounts paid for all Alternative Pro Rata Cash Payments will be determined depending on how many Settlement Class Members submit valid claims. The amount of this benefit shall be determined pro rata based on the amount remaining in the Settlement Fund following payment of the Fee Award and Expenses, Service Awards, Administration and Notice Costs, CAFA Notice costs, the costs of Financial Account Monitoring, claims for reimbursement of documented Monetary Losses, and California Statutory Payments.

Class Members may receive compensation for both Unreimbursed Economic Losses and an Alternative Pro Rata Cash Payment.

**12. What happens after all claims are processed and there are funds remaining?**

The funds remaining in the Settlement Fund after completion of these disbursements and after the time for cashing and/or depositing checks has expired will be Remainder Funds. The Remainder Funds will be sent to the University of Chicago Computer Science SAND Lab, a not-for-profit charitable organization, which was jointly proposed by the parties and approved by the Court, as a *cy pres* distribution.

Because the Alternative Pro Rata Cash Payments will be calculated as a pro rata share of the Net Settlement Fund, it is anticipated that all Net Settlement Funds will be initially distributed to the Settlement Class Members. It is also anticipated that Remainder Funds will only consist of uncashed settlement checks or electronic payments that are not redeemed.

**13. What is the Financial Account Monitoring?**

All Settlement Class Members can submit a claim for identity theft protection and credit monitoring services instead of the Alternative Cash Payment. This service includes three (3) years of CyEx Identity Defense Total with three-bureau monitoring and at least \$1,000,000 of fraud/identity theft insurance. Settlement Class Members may use their code to enroll for a period of 12 months (meaning that a Settlement Class Member could enroll up to the end of the first year and have coverage for the full three (3) years). Such coverage and flexibility in enrollment will provide protection for Class Members against future identity theft. The three-year period will commence when Settlement Class Members use their codes to activate the Financial Account Monitoring. The codes will be sent to Settlement Class Members who submit valid claims selecting this benefit after the Court finally approves the Settlement, and the time for all appeals has run.

Class Members may submit claims for unreimbursed documented Monetary Losses in addition to a claim for the Financial Account Monitoring, but may not choose to claim both the monitoring and the Alternative Pro Rata Cash Payment.

#### **14. What are the California Statutory Payments?**

Settlement Class Members who were residents of California at any time from June 3, 2020, to the end of the claims period (“California Settlement Class Members”), can submit a claim for payment of up to \$100.00 for their statutory claims under the California Consumer Privacy Act (“California Statutory Payment”). The California Statutory Payment is an additional settlement benefit made available to California Settlement Class Members that is in addition to reimbursement of claims for Monetary Losses and a Settlement Class Member’s selection of either Financial Account Monitoring or the Alternative Pro Rata Cash Payment. California Statutory Payments are subject to a *pro rata* decrease based on the amount remaining in the Settlement Fund following payment of the Fee Award and Expenses, Service Awards, Administration and Notice Costs, CAFA Notice costs, claims for reimbursement of documented Monetary Losses and costs of Financial Account Monitoring.

To claim this benefit, you must attest under the penalty of perjury that you were a resident of California during the designated time period, and that you are eligible to make this claim.

#### **Your Options as a Settlement Class Member**

#### **15. If I am a Settlement Class Member, what options do I have?**

If you are a Settlement Class Member, you do not have to do anything to remain in the Settlement. In order to receive payment from the Settlement, you must submit a valid Claim Form.

If you do not want to give up your right to sue Defendants about the Data Security Incident or the issues raised in this case, you must exclude yourself (or “opt out”) from the Settlement Class. See Question 16 below for instructions on how to exclude yourself.

If you wish to object to the Settlement, you must remain a Settlement Class Member (*i.e.*, you may not also exclude yourself from the Settlement Class by opting out) and submit a written objection. See Question 19 below for instructions on how to submit an objection.

#### **16. What happens if I do nothing?**

If you do nothing, you will get no award from this Settlement. Unless you exclude yourself, after the Settlement is granted final approval and the judgment becomes Final, you will be bound by the judgment and you will never be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants related to the claims released by the Settlement.

#### **17. Who decides my Settlement claim and how do they do it?**

The Settlement Administrator will decide whether a Claim Form is complete and valid and includes all required documentation. The Settlement Administrator may require additional



information from any claimant. Failure to timely provide all required information will invalidate a claim and it will not be paid.

**18. How do I exclude myself from the Settlement?**

To opt out of the Settlement, you must submit a Request for Exclusion that must include (i) a full name, current address, and telephone number; (ii) contain the Settlement Class Member's signature; (iii) contain a clear statement communicating that the Settlement Class Member elects to be excluded from the Settlement Class, does not wish to be a Settlement Class Member, and elects to be excluded from any judgement entered pursuant to the Settlement; and (iv) be postmarked on or before the Opt-Out Deadline. You must mail your request to this address:

AJG Settlement Administrator  
PO Box XXX  
CITY, ST ZIP

Your request must be submitted online or postmarked by [OPT-OUT DEADLINE].

**19. If I exclude myself, can I receive any payment from this Settlement?**

No. If you exclude yourself, you will not be entitled to any award under the Settlement. However, you will also not be bound by any judgment in this Action.

**20. If I do not exclude myself, can I sue Defendants for the Data Security Incident later?**

No. Unless you exclude yourself, you give up any right to sue Defendants for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form requesting a payment.

**21. How do I object to the Settlement?**

All Settlement Class Members who do not opt-out from the Settlement Class have the right to object to the Settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no Settlement Payments will be sent out and the Action will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing and your objection and any supporting papers must be mailed to this address:

AJG Settlement Administrator  
PO Box XXX  
CITY, ST ZIP

You must also mail a copy of your objection to the attorneys for the Parties, at the following addresses:

Class Counsel	Defendants' Counsel
<p>M. Anderson Berry  <b>Clayco C. Arnold, APC</b>                      865 Howe Ave.                      Sacramento, CA 95825</p> <p>Gary M. Klinger  <b>MILBERG COLEMAN BRYSON                      PHILLIPS GROSSMAN PLLC</b>                      227 W. Monroe Street, Suite 2100                      Chicago, IL 60606</p> <p>John A. Yanchunis  <b>Morgan &amp; Morgan Complex Business                      Division</b>                      201 N. Franklin Street, 7th Floor                      Tampa, Florida 33602</p>	<p>Livia M. Kiser  <b>King &amp; Spalding LLP</b>                      110 N. Wacker Dr. Suite 3800                      Chicago, Illinois 60606                      lkiser@kslaw.com</p>

Your objection must be filed or postmarked no later than the objection deadline, [**OBJECTION DEADLINE**].

To be considered by the Court, your written objection must include: (i) the Settlement Class Member's full name, current address, and telephone number; (ii) contain the Settlement Class Member's original signature; (iii) state that the objector has reviewed the Settlement Class definition and understands that they are a Settlement Class Member and provide written proof establishing that they are a Settlement Class Member; (iv) state that the Settlement Class Member objects to the Settlement in whole or in part; (v) set forth a statement of the specific legal and factual basis or bases for the Objection, including whether each objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class, and including any evidence or legal authority the Settlement Class Member wishes to bring to the Court's attention; (vi) provide copies of any documents that the Settlement Class Member wishes to submit in support of his/her position; and (vii) state whether the Settlement Class Member intends to appear at the Final Approval Hearing.

If you submit a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

**Court Approval of the Settlement**

**22. How, when, and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. That hearing is scheduled for \_\_\_\_\_, 202\_\_ at \_\_\_\_\_ a.m./p.m. at the United States District Court for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois 60604. At the Final Approval Hearing, the Court will consider whether the Settlement Agreement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of this Settlement Agreement. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider Class Counsel's request for attorneys' fees and costs and expenses, and the request for a service award for the Plaintiffs. After the hearing, the Court will decide whether to approve the Settlement.

It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check [www.ajgdatasettlement.com](http://www.ajgdatasettlement.com) to confirm the schedule if you wish to attend.

**23. Do I have to attend the hearing?**

No. You do not need to attend the hearing unless you object to the settlement and wish to appear in person. It is not necessary to appear in person in order to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 21. You or your own lawyer are welcome to attend the hearing at your expense, but are not required to do so.

**24. What happens if the Court approves the settlement?**

If the Court approves the Settlement and no appeal is taken, the Settlement Fund will be fully funded. The Settlement Administrator will pay any Fee Award and Expenses and any Plaintiffs' Service Awards from the Settlement Fund. Then, the Settlement Administrator will send Settlement Payments and Financial Account Monitoring Services to Settlement Class Members who submitted timely and valid Claim Forms.

If any appeal is taken, it is possible the settlement could be disapproved on appeal.

**25. What happens if the Court does not approve the settlement?**

If the Court does not approve the Settlement, there will be no Settlement Payments to Settlement Class Members, Class Counsel or the Plaintiffs, and the case will proceed as if no Settlement had been attempted.

**Lawyers for the Settlement Class and Defendants**

**26. Who represents the Settlement Class?**

The Court has appointed the following Class Counsel to represent the Settlement Class in this Action:

<b>Class Counsel</b>	
<p>M. Anderson Berry  <b>Clayco C. Arnold, APC</b>                      865 Howe Ave.                      Sacramento, CA 95825</p>	<p>John A. Yanchunis  <b>Morgan &amp; Morgan</b>  <b>Complex Business Division</b>                      201 N. Franklin Street, 7th Floor                      Tampa, Florida 33602</p>
<p>Gary M. Klinger  <b>MILBERG COLEMAN BRYSON</b>  <b>PHILLIPS GROSSMAN PLLC</b>                      227 W. Monroe Street, Suite 2100                      Chicago, IL 60606</p>	

Settlement Class Members will not be charged for the services of Class Counsel. Class Counsel will be paid out of the Settlement Fund, subject to Court approval. However, you may hire your own attorney at your own cost to advise you in this matter or represent you in making an objection or appearing at the Final Approval Hearing.

**27. How will the lawyers for the Settlement Class be paid?**

Class Counsel will file a Fee and Expense Application for an award of attorneys' fees to be paid from the Settlement Fund not to exceed one-third (1/3) of the value of the Settlement, or \$7,000,000.00, and also reimbursement of litigation expenses. Class Counsel will file a Fee Application that will include a request for Service Award payments for the Settlement Class Representatives in recognition for their contributions to this Action not to exceed between \$5,000 and \$7,500 per Plaintiff.

**28. Who represents Defendants in the Action?**

Defendants are represented by the following counsel:

<b>Defendants' Counsel</b>
<p>Livia M. Kiser  <b>King &amp; Spalding LLP</b>                      110 N. Wacker Dr. Suite 3800                      Chicago, Illinois 60606                      lkiser@kslaw.com</p>

**For Further Information**

**29. What if I want further information or have questions?**

Go to [www.ajgdatasettlement.com](http://www.ajgdatasettlement.com), call 1-XXX-XXX-XXXX, or write to the AJG Settlement Administrator, PO Box XXXX, CITY, STATE, ZIP.

**Please do not contact the Court or Defendants' Counsel.**