

Exhibit E

**IN THE DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE SAN FRANCISCO 49ers DATA
BREACH LITIGATION

Case No. 3:22-cv-05138-JD

**CLASS ACTION SETTLEMENT
AGREEMENT**

This Settlement Agreement, dated as of November 14, 2024, is made and entered into by and among the following Settling Parties (as defined below): Samantha Donelson, James Sampson, and Katherine Finch (collectively, “Plaintiffs”), individually and on behalf of the Settlement Class (as defined below), by and through their counsel of record, and Forty Niners Football Company LLC (“the 49ers” and, together with Plaintiffs, the “Parties”), by and through its counsel of record, Casie Collignon of Baker & Hostetler LLP. The Settlement Agreement (as defined below) is subject to Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof:

THE LITIGATION

Plaintiffs allege that on February 6, 2022, cybercriminals bypassed the 49ers’ security systems undetected and accessed PII as part of a “ransomware” attack (“Data Incident”). Plaintiffs further allege that, as a result of the Data Incident, the criminals gained access to Plaintiffs’ and “other consumers[’]” personal information, including but not limited to name, date of birth, and Social Security Number” (collectively, “PII”).

After discovering the Data Incident, the 49ers notified approximately 20,930 individuals of the Data Incident. 49ers offered individuals who also had their social security or driver’s license number impacted one year of free credit monitoring.

1 Individuals, including Plaintiffs, were mailed notices of the Data Incident in or around August
2 31, 2022 and September 1, 2022. On September 9, 2022, Plaintiff Samantha Donelson filed a lawsuit
3 asserting claims against the 49ers relating to the Data Incident. On December 22, 2022, Plaintiff James
4 Sampson filed a separate lawsuit asserting claims against the 49ers relating to the Data Incident. On
5 January 10, 2023, Plaintiff Katherine Finch filed a separate lawsuit asserting claims against the 49ers
6 relating to the Data Incident. On February 23, 2023, the Court consolidated these matters, and on April
7 4, 2023, Plaintiffs filed the operative amended class-action complaint in the United States District
8 Court for the Northern District of California. The case is titled *In re San Francisco 49ers Data Breach*
9 *Litigation*, Case No. 2:22-cv-05138-JD (N.D. Cal.) (the “Litigation”).

10 From the onset of the Litigation, and over the course of several months, the Parties engaged in
11 settlement negotiations. The Parties participated in a formal mediation presided over by Bruce
12 Friedman, Esq. on January 23, 2023. As a result of these negotiations and the mediation, the Parties
13 reached a settlement. This resulted in a presentation to the Court of a settlement proposal. The Court,
14 however, denied preliminary approval of the first proposed settlement. [Dkt. No. 38]. The Parties then
15 proceeded to continue litigating the case, while also engaging in further negotiations. After more than
16 a year of further litigation and negotiations, this resulted in a second settlement agreement, which is
17 memorialized herein (“Settlement Agreement”).

18 Pursuant to the terms set out below, this Settlement Agreement provides for the resolution of
19 all claims and causes of action asserted, or that could have been asserted, against the 49ers and the
20 Released Persons (as defined below) relating to the Data Incident, by and on behalf of Representative
21 Plaintiffs and the Settlement Class (as defined below).

22 **CLAIMS OF REPRESENTATIVE PLAINTIFFS AND BENEFITS OF SETTLING**

23 Plaintiffs believe the claims asserted in the Litigation, as set forth in the Amended Class Action
24 Complaint, have merit. Plaintiffs and Proposed Settlement Class Counsel recognize and acknowledge,
25 however, the expense and length of continued proceedings necessary to prosecute the Litigation
26 against the 49ers through motion practice, trial, and potential appeals. They have also considered the
27 uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such
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litigation, especially in complex class actions. Proposed Settlement Class Counsel are highly experienced in class action litigation and very knowledgeable regarding the relevant claims, remedies, and defenses at issue generally in such litigation and in this Litigation. They have determined that the settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

DENIAL OF WRONGDOING AND LIABILITY

The 49ers deny each and all of the claims and contentions alleged against it in the Litigation. The 49ers deny all charges of wrongdoing or liability as alleged, or which could be alleged, in the Litigation. Nonetheless, the 49ers has concluded that further conduct of the Litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement. The 49ers has considered the uncertainty and risks inherent in any litigation. The 49ers has, therefore, determined that it is desirable and beneficial that the Litigation be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement

TERMS OF THE SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiffs, individually and on behalf of the Settlement Class and the 49ers that, subject to the approval of the Court, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice as to the Settling Parties, and the Settlement Class, except those members of the Settlement Class who lawfully opt-out of the Settlement Agreement, upon and subject to the terms and conditions of this Settlement Agreement, as follows.

1. Definitions

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

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

1.2. “California Settlement Subclass” means all persons residing in California who were mailed notification of the Data Incident from the 49ers at a California address.

1 1.3 “California Settlement Subclass Member(s)” means all persons meeting the definition
2 of the California Settlement Subclass.

3 1.4 “Claims Administration” means the processing and payment of claims received from
4 members of the Settlement Class by the Claims Administrator.

5 1.5 “Claims Administrator” means Kroll Settlement Administration, a company
6 experienced in administering class action claims generally and specifically those of the type provided
7 for and made in data breach litigation.

8 1.6 “Claims Deadline” means the postmark and/or online submission deadline for valid
9 claims submitted pursuant to ¶¶ 2.1 and 2.2.

10 1.7 “Claim Form” means the claim form to be used by members of the Settlement Class to
11 submit a Settlement Claim, either through the mail or online through the Settlement Website,
12 substantially in the form as shown in **Exhibit C** to this Agreement.

13 1.8 “Costs of Claims Administration” means all actual costs associated with or arising from
14 Claims Administration.

15 1.9 “Court” means the United States District Court for the Northern District of California.

16 1.10 “Dispute Resolution” means the process for resolving disputed Settlement Claims as set
17 forth in this Agreement.

18 1.11 “Effective Date” means the first date by which all of the events and conditions
19 specified herein have occurred and been met.

20 1.12 “Final” means the occurrence of all of the following events: (i) the settlement pursuant
21 to this Settlement Agreement is approved by the Court; (ii) the Court has entered a Judgment (as that
22 term is defined herein); and (iii) the time to appeal or seek permission to appeal from the Judgment has
23 expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been
24 affirmed in its entirety by the court of last resort to which such appeal may be taken, and such
25 dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the
26 above, any order modifying or reversing any attorneys’ fee award or service award made in this case
27 shall not affect whether the Judgment is “Final” as defined herein or any other aspect of the Judgment.
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1 1.13 “Final Approval Order” means the order finally approving the Settlement and entering
2 judgment. The Settling Parties’ proposed form of Final Approval Order is attached hereto as **Exhibit**
3 **E**.

4 1.14 “Judgment” means a judgment rendered by the Court.

5 1.15 “Long Notice” means the long form notice of settlement posted on the Settlement
6 Website, substantially in the form as shown in **Exhibit C** to this Agreement.

7 1.16 “Notice Commencement Date” means thirty days following entry of the Preliminary
8 Approval Order.

9 1.17 “Objection Date” means the date by which members of the Settlement Class must mail
10 to the Court or, in the alternative, file with the Court through the Court’s electronic case filing
11 (“ECF”) system their objection to the Settlement Agreement for that objection to be effective. The
12 postmark date shall constitute evidence of the date of mailing for these purposes.

13 1.18 “Opt-Out Date” means the date by which members of the Settlement Class must mail
14 their requests to be excluded from the Settlement Class for that request to be effective. The postmark
15 date shall constitute evidence of the date of mailing for these purposes.

16 1.19 “Person” means an individual, corporation, partnership, limited partnership, limited
17 liability company or partnership, association, joint stock company, estate, legal representative, trust,
18 unincorporated association, government or any political subdivision or agency thereof, and any
19 business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives,
20 or assignees.

21 1.20 “Preliminary Approval Order” means the order preliminarily approving the Settlement
22 Agreement and ordering that notice be provided to the Settlement Class. The Settling Parties’
23 proposed form of Preliminary Approval Order is attached hereto as **Exhibit D**.

24 1.21 “Proposed Settlement Class Counsel” means M. Anderson Berry and Gregory
25 Haroutunian of Clayeo C. Arnold, A Professional Corp, John J. Nelson of Milberg Coleman Bryson
26 Phillips Grossman PLLC, and Matthew R. Wilson and Michael J. Boyle, Jr. of Meyer Wilson Co.,
27 LPAN.
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1 1.22 “Related Entities” means the 49ers’s respective past, present or future owners, parents,
 2 subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors,
 3 successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and
 4 includes, without limitation, 49ers Enterprises, LLC, and any Person related to any such entity who is,
 5 was, or could have been named as a defendant in any of the actions in the Litigation, other than any
 6 Person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating,
 7 causing, aiding, or abetting the Data Incident or who pleads *nolo contendere* to any such charge.

8 1.23 “Released Claims” shall collectively mean any and all past, present, and future claims
 9 and causes of action including, but not limited to, any causes of action arising under or premised upon
 10 any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state,
 11 province, county, city, or municipality, including 15 U.S.C. §§ 45 *et seq.*, and all similar statutes in
 12 effect in any states in the United States as defined below; violations of the California Unfair
 13 Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*, and all similar state consumer-protection
 14 statutes; violations of the California Consumer Protection Act of 2018, Cal. Civ. Code § 1798, *et seq.*
 15 and all similar state privacy-protection statutes; negligence; negligence *per se*; breach of contract;
 16 breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; fraud;
 17 misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment;
 18 wantonness; failure to provide adequate notice pursuant to any breach notification statute or common
 19 law duty; and including, but not limited to, any and all claims for damages, injunctive relief,
 20 disgorgement, declaratory relief, equitable relief, attorneys’ fees and expenses, pre-judgment interest,
 21 credit monitoring services, the creation of a fund for future damages, statutory damages, punitive
 22 damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver,
 23 whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent,
 24 direct or derivative, and any other form of legal or equitable relief that either has been asserted, was
 25 asserted, or could have been asserted, by any member of the Settlement Class against any of the
 26 Released Persons based on, relating to, concerning or arising out of the Data Incident and alleged theft
 27 of personal information or the allegations, transactions, occurrences, facts, or circumstances alleged in
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1 or otherwise described in the Litigation as they relate to the Data Incident. Released Claims shall not
2 include the right of any Settlement Class Member or any of the Released Persons to enforce the terms
3 of the settlement contained in this Settlement Agreement and shall not include the claims of members
4 of the Settlement Class Members who have timely excluded themselves from the Settlement Class.

5 1.24 “Released Persons” means the 49ers and its Related Entities and each of its past or
6 present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective
7 predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and
8 reinsurers.

9 1.25 “Plaintiffs” and “Representative Plaintiffs” mean Samantha Donelson, James Sampson,
10 and Katherine Finch.

11 1.26 “Data Incident” means the cyberattack perpetrated on the 49ers on or about February 6,
12 2022, in which third-party criminals gained unauthorized access to the 49ers’s network and gained
13 unauthorized access to the personal information of Plaintiffs and other consumers.

14 1.27 “Settlement Claim” means a claim for settlement benefits made under the terms of this
15 Settlement Agreement.

16 1.28 “Settlement Class” means all United States residents who were mailed notice by the
17 49ers that their personal and/or financial information was impacted in a data incident occurring
18 between February 6, 2022 and February 11, 2022. However, the Settlement Class specifically
19 excludes: (i) the 49ers, the Related Entities, and their officers and directors; (ii) all Settlement Class
20 Members who timely and validly request exclusion from the Settlement Class; (iv) any judges
21 assigned to this case and their staff and family; and (v) any other Person found by a court of competent
22 jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal
23 activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

24 1.29 “Settlement Class Member(s)” means all United States residents meeting the definition
25 of the Settlement Class.

26 1.30 “Settlement Fund” means a means the common settlement fund established by Class
27 Counsel pursuant to 26 CFR § 1.468B-1 at Huntington Bancshares, Inc. or another qualified bank
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1 agreed upon by the Parties and Settlement Administrator, in which the 49ers will deposit \$610,000.00
2 in settlement funds and from which all monetary compensation to the Settlement Class and certain
3 other expenses shall be paid pursuant to Section 2 below. It is understood and agreed by the Settling
4 Parties that the \$610,000.00 in settlement funds paid by the 49ers shall be the full amount of the 49ers'
5 financial contribution and that under no circumstances will the 49ers be required to pay any additional
6 amounts related to settlement of the Litigation.1.31 "Settlement Remainder" means the funds that
7 remain in the Settlement Fund after paying (1) all Valid Claims; (2) all Costs of Claims
8 Administration; (3) any incentive payments approved by the Court to the Representative Plaintiffs;
9 and (4) attorney's fees and costs as approved by the Court.

10 1.32 "Settlement Website" means a website, the URL for which to be mutually selected by
11 the Settling Parties, that will inform Settlement Class Members of the terms of this Settlement
12 Agreement, their rights, dates and deadlines and related information, as well as provide the Settlement
13 Class Members with the ability to submit a Settlement Claim online.

14 1.33 "Settling Parties" means, collectively, the 49ers and Plaintiffs, individually and on
15 behalf of the Settlement Class.

16 1.34 "Short Notice" means the short form notice of the proposed class action settlement,
17 substantially in the form as shown in **Exhibit A** to this Agreement. The Short Notice will direct
18 recipients to the Settlement Website and inform members of the Settlement Class of, among other
19 things, the Opt-Out and Objection Deadlines, and the date of the Final Fairness Hearing (if set prior to
20 the Commencement Date (as defined below)).

21 1.35 "Unknown Claims" means any of the Released Claims that any member of the
22 Settlement Class, including any Plaintiffs, does not know or suspect to exist in his/her favor at the time
23 of the release of the Released Persons that, if known by him or her, might have affected his or her
24 settlement with, and release of, the Released Persons, or might have affected his or her decision not to
25 object to and/or to participate in this Settlement Agreement. With respect to any and all Released
26 Claims, the Settling Parties stipulate and agree that upon the Effective Date, Plaintiffs intend to and
27 expressly shall have, and each of the other members of the Settlement Class intend to and shall be
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1 deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and
 2 benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and
 3 benefits conferred by any law of any state, province, or territory of the United States (including,
 4 without limitation, California Civil Code §§ 1798.80 *et seq.*, Montana Code Ann. § 28-1-1602; North
 5 Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar,
 6 comparable, or equivalent to California Civil Code §1542, which provides:

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

13 Members of the Settlement Class, including Plaintiffs, and any of them, may hereafter discover
 14 facts in addition to, or different from, those that they, and any of them, now know or believe to be true
 15 with respect to the subject matter of the Released Claims, but Plaintiffs expressly shall have, and each
 16 other member of the Settlement Class shall be deemed to have, and by operation of the Judgment shall
 17 have, upon the Effective Date, fully, finally and forever settled and released any and all Released
 18 Claims. The Settling Parties acknowledge, and members of the Settlement Class shall be deemed by
 19 operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of
 20 the Settlement Agreement of which this release is a part.

21 1.36 “United States” as used in this Settlement Agreement includes the District of Columbia
 22 and all territories.

23 1.37 “Valid Claims” means Settlement Claims in an amount approved by the Claims
 24 Administrator or found to be valid through the claims processing and/or Dispute Resolution process.

25 **2. Settlement Benefits**

26 2.1 In consideration for the releases provided in this Settlement Agreement, the 49ers shall
 27 fund the creation of the Settlement Fund to provide compensation to Settlement Class Members as set
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1 forth in this Section.

2 2.2 Out-of-Pocket Expense Reimbursement: All members of the Settlement Class who
3 have suffered a proven monetary loss and who submit a Valid Claim using the Claim Form are eligible
4 for up to \$7,500 if: (1) the loss is an actual, documented and unreimbursed monetary loss; (2) the loss
5 was more likely than not caused by the Data Incident; (3) the loss occurred between February 6, 2022,
6 and the Claims Deadline; and (4) the member of the Settlement Class made reasonable efforts to
7 avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of all available
8 credit monitoring insurance and identity theft insurance.

9 2.3 Members of the Settlement Class seeking reimbursement under ¶ 2.2 must complete
10 and submit a Claim Form to the Claims Administrator, postmarked or submitted online on or before
11 the 90th day after the Notice Commencement Date. The notice to the class will specify this deadline
12 and other relevant dates described herein. The Claim Form must be verified by the member of the
13 Settlement Class with a statement that his or her claim is true and correct, to the best of his or her
14 knowledge and belief. Notarization shall not be required. The member of the Settlement Class must
15 submit reasonable documentation that the out-of-pocket expenses and charges claimed were both
16 actually incurred and plausibly arose from the Data Incident. Failure to provide supporting
17 documentation of the out-of-pocket expenses referenced above, as requested on the Claim Form, shall
18 result in denial of a claim. Disputes as to claims submitted under this paragraph are to be resolved
19 pursuant to the provisions stated herein.

20 2.4 Dispute Resolution for Claims.

21 2.4.1 The Claims Administrator, in its sole discretion to be reasonably exercised, will
22 determine whether: (1) the claimant is a Settlement Class Member; (2) the claimant has provided all
23 information needed to complete the Claim Form, including any documentation that may be necessary
24 to reasonably support the out-of-expenses described in ¶ 2.2; and (3) the information submitted could
25 lead a reasonable person to conclude that more likely than not the claimant has suffered the claimed
26 losses as a result of the Data Incident. The Claims Administrator may, at any time, request from the
27 claimant, in writing, additional information as the Claims Administrator may reasonably require in
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1 order to evaluate the claim, e.g., documentation requested on the Claim Form, information regarding
2 the claimed losses, available insurance and the status of any claims made for insurance benefits, and
3 claims previously made for identity theft and the resolution thereof. For any such Claims that the
4 Claims Administrator determines to be implausible, the Claims Administrator will submit those
5 Claims to the Settling Parties (one Plaintiffs' lawyer shall be designated to fill this role for all
6 Plaintiffs). If the Settling Parties do not agree with the Settlement Administrator's determination, after
7 meeting and conferring, then the Claim shall be referred for resolution to the claim_referee, to be
8 selected by the Parties if needed. Any costs associated with work performed by the claims referee shall
9 be paid by the 49ers.

10 2.4.2 Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is
11 not accompanied by sufficient documentation to determine whether the claim is facially valid, the
12 Claims Administrator shall request additional information and give the claimant thirty (30) days to
13 cure the defect before rejecting the claim. If the defect is not cured, then the claim will be deemed
14 invalid and there shall be no obligation to pay the claim.

15 2.4.3 Following receipt of additional information requested by the Claims
16 Administrator, the Claims Administrator shall have thirty (30) days to accept, in whole or lesser
17 amount, or reject each claim. If, after review of the claim and all documentation submitted by the
18 claimant, the Claims Administrator determines that such a claim is facially valid, then the claim shall
19 be paid. If the claim is not facially valid because the claimant has not provided all information needed
20 to complete the Claim Form and evaluate the claim, then the Settlement Administrator may reject the
21 claim without any further action.

22 2.4.4 Settlement Class Members shall have thirty (30) days from receipt of the offer
23 to accept or reject any offer of partial payment received from the Claims Administrator. If a
24 Settlement Class Member rejects an offer from the Claims Administrator, the Claims Administrator
25 shall have fifteen (15) days to reconsider its initial adjustment amount and make a final determination.
26 If the claimant approves the final determination, then the approved amount shall be the amount to be
27 paid. If the claimant does not approve the final determination within thirty (30) days, then the dispute
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1 shall be submitted to the Settling Parties. If the Settling Parties do not agree with the Settlement
 2 Administrator's determination, or are unable to reach a mutually satisfactory resolution after meeting
 3 and conferring, then the Claim shall be referred for resolution to the claims referee, to be selected by
 4 the Parties if needed.

5 2.4.5 If any dispute is submitted to the claims referee, the claims referee may approve
 6 the Claims Administrator's determination by making a ruling within fifteen (15) days. The claims
 7 referee may make any other final determination of the dispute or request further supplementation of a
 8 claim within thirty (30) days. The claims referee's determination shall be based on whether the claims
 9 referee is persuaded that the claimed amounts are reasonably supported in fact and were more likely
 10 than not caused by the Data Incident. The claims referee shall have the power to approve a claim in
 11 full or in part. The claims referee's decision will be final and non-appealable. Any claimant referred to
 12 the claims referee shall reasonably cooperate with the claims referee, including by either providing
 13 supplemental information as requested or, alternatively, signing an authorization allowing the claims
 14 referee to verify the claim through third-party sources, and failure to cooperate shall be grounds for
 15 denial of the claim in full. The claims referee shall make a final decision within thirty (30) days of
 16 receipt of all supplemental information requested. The Parties shall jointly select an acceptable claims
 17 referee if the need for one arises under the terms of this section.

18 2.5 Settlement Remainder. The Settlement Remainder shall be distributed to Settlement
 19 Class Members on a *pro rata* basis, except that each California Settlement Subclass Member shall be
 20 allocated three shares of the Settlement Remainder. Payment to Class Members under this Paragraph
 21 shall be in addition to, and independent of, any other compensation or relief under this Section.

22 2.6 Business Practices Changes. Plaintiffs have received assurances in the form of a
 23 confidential declaration (suitable for filing under seal if the need to do so arises) that the 49ers have
 24 implemented or will implement certain reasonable steps to adequately secure its systems and
 25 environments.

26 2.7 Confirmatory Discovery. The 49ers have provided reasonable access to confidential
 27 confirmatory discovery regarding the number of Settlement Class Members and state of residence, the
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1 facts and circumstances of the Data Incident and the 49ers' response thereto, and the changes and
 2 improvements that have been made or are being made to further protect Settlement Class Members'
 3 PII.

4 2.8 Settlement Class Certification. The Settling Parties agree, for purposes of this
 5 settlement only, to the certification of the Settlement Class. If the settlement set forth in this
 6 Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or
 7 cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the
 8 certification of the Settlement Class provided for herein, will be vacated and the Litigation shall
 9 proceed as though the Settlement Class had never been certified, without prejudice to any Person's or
 10 Settling Party's position on the issue of class certification or any other issue. The Settling Parties'
 11 agreement to the certification of the Settlement Class is also without prejudice to any position asserted
 12 by the Settling Parties in any other proceeding, case or action, as to which all of their rights are
 13 specifically preserved.

14 3. **Order of Preliminary Approval and Publishing of Notice of Fairness Hearing**

15 3.1 As soon as practicable after the execution of the Settlement Agreement, Proposed
 16 Settlement Class Counsel and counsel for the 49ers shall jointly submit this Settlement Agreement to
 17 the Court, and Proposed Settlement Class Counsel will file a motion for preliminary approval of the
 18 settlement with the Court requesting entry of a Preliminary Approval Order in the form to be agreed
 19 upon by the parties, or an order substantially similar to such form in both terms and cost, requesting,
 20 among other things:

- 21 a) certification of the Settlement Class for settlement purposes only;
- 22 b) preliminary approval of the Settlement Agreement as set forth herein;
- 23 c) appointment of Proposed Settlement Class Counsel as Settlement Class
 24 Counsel;
- 25 d) appointment of Plaintiffs as Class Representatives;
- 26 e) approval of a customary form of Short Notice to be mailed to Settlement Class
 27 Members in a form substantially similar to the one attached as **Exhibit A** to
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1 this Agreement;

- 2 f) approval of the Long Notice to be posted on the Settlement Website in a form
3 substantially similar to the one attached as **Exhibit B** to this Agreement,
4 which, together with the Short Notice, shall include a fair summary of the
5 parties' respective litigation positions, the general terms of the settlement set
6 forth in the Settlement Agreement, instructions for how to object to or opt-out
7 of the settlement, the process and instructions for making claims to the extent
8 contemplated herein, and the date, time and place of the Final Fairness
9 Hearing; and
10 g) appointment of Kroll Settlement Administration as the Claims Administrator.

11 The Short Notice and Long Notice have been reviewed and approved by the Claims
12 Administrator but may be revised as agreed upon by the Settling Parties prior to submission to the
13 Court for approval.

14 3.2 All fees and costs for providing notice to the Settlement Class in accordance with the
15 Preliminary Approval Order, and the costs of such notice, together with the Costs of Claims
16 Administration shall be paid from the Settlement Fund. Attorneys' fees, costs, and expenses of
17 Settlement Class Counsel, and service awards to Class Representatives, as approved by the Court,
18 shall also be paid from the Settlement Fund. Notice shall be provided to Settlement Class Members by
19 the Claims Administrator as follows:

- 20 a) *Class Member Information*: No later than fourteen (14) days after entry of the
21 Preliminary Approval Order, the 49ers shall provide the Claims Administrator
22 with the name and last known physical address of each Settlement Class
23 Member (collectively, "Class Member Information") that the 49ers possess.

- 24 • The Class Member Information and its contents shall be used by
25 the Claims Administrator solely for the purpose of performing
26 its obligations pursuant to this Settlement Agreement and
27 shall not be used for any other purpose at any time. Except to
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1 administer the settlement as provided in this Settlement
2 Agreement, or provide all data and information in its
3 possession to the Settling Parties upon request, the Claims
4 Administrator shall not reproduce, copy, store, or distribute in
5 any form, electronic or otherwise, the Class Member
6 Information.

7 b) *Settlement Website:* Prior to the dissemination of the Class Notice, the Claims
8 Administrator shall establish the Settlement Website that will inform
9 Settlement Class Members of the terms of this Settlement Agreement, their
10 rights, dates and deadlines and related information. The Settlement Website
11 shall include, in .pdf format and available for download, the following: (i) the
12 Long Notice; (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv)
13 this Settlement Agreement; (v) the operative Amended Class Action
14 Complaint filed in the Litigation; and (vi) any other materials agreed upon by
15 the Parties and/or required by the Court. The Settlement Website shall provide
16 Class Members with the ability to complete and submit the Claim Form
17 electronically.

18 c) *Short Notice:* Within thirty (30) days after the entry of the Preliminary Approval
19 Order and to be substantially completed not later than forty-five (45) days after
20 entry of the Preliminary Approval Order, and subject to the requirements of
21 this Agreement and the Preliminary Approval Order, the Claims Administrator
22 will provide notice to the Settlement Class as follows:

- 23 • To all class members for whom the 49ers is in possession of a
24 postal address. Before any mailing under this Paragraph
25 occurs, the Claims Administrator shall run the postal
26 addresses of Settlement Class Members through the United
27 States Postal Service (“USPS”) National Change of Address
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1 database to update any change of address on file with the
2 USPS;

- 3 • in the event that a mailed Short Notice is returned to the Claims
4 Administrator by the USPS because the address of the
5 recipient is no longer valid, and the envelope contains a
6 forwarding address, the Claims Administrator shall re-send
7 the Short Notice to the forwarding address within seven (7)
8 days of receiving the returned Short Notice;
- 9 • in the event that subsequent to the first mailing of a Short Notice,
10 and at least fourteen (14) days prior to the Opt-Out and
11 Objection Deadline, a Short Notice is returned to the Claims
12 Administrator by the USPS because the address of the
13 recipient is no longer valid, i.e., the envelope is marked
14 “Return to Sender” and does not contain a new forwarding
15 address, the Claims Administrator shall perform a standard
16 skip trace, in the manner that the Claims Administrator
17 customarily performs skip traces, in an effort to attempt to
18 ascertain the current address of the particular Settlement Class
19 Member in question and, if such an address is ascertained, the
20 Claims Administrator will re-send the Short Notice within
21 seven (7) days of receiving such information. This shall be the
22 final requirement for mailing.

23 d) Publishing, on or before the Notice Commencement Date, the Short Notice,
24 Claim Form, and Long Notice on the Settlement Website, as specified in the
25 Preliminary Approval Order, and maintaining and updating the website until
26 the Claims Deadline;

27 e) A toll-free help line shall be made available to provide Settlement Class
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Members with additional information about the settlement. The Claims Administrator also will provide copies of the forms of Short Notice, Long Notice, and paper Claim Form, as well as this Settlement Agreement, upon request; and

- f) Contemporaneously with seeking Final Approval of the Settlement, Proposed Settlement Class Counsel and the 49ers shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with this provision of notice.

3.3 The Short Notice, Long Notice, and other applicable communications to the Settlement Class may be adjusted by the Claims Administrator, respectively, in consultation and agreement with the Settling Parties, as may be reasonable and not inconsistent with such approval. The Notice Program shall commence within thirty (30) days after entry of the Preliminary Approval Order and shall be completed within forty-five (45) days after entry of the Preliminary Approval Order.

3.4 Proposed Settlement Class Counsel and the 49ers' counsel shall request that after notice is completed, the Court hold a hearing (the "Final Fairness Hearing") and grant final approval of the settlement set forth herein.

3.5 The 49ers will also cause the Claims Administrator to provide notice to the relevant state and federal governmental officials as required by the Class Action Fairness Act. The cost of providing such notice shall be paid from the Settlement Fund.

4. Opt-Out Procedures

4.1 Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator. The written notice must clearly manifest a Person's intent to opt-out of the Settlement Class. To be effective, written notice must be postmarked no later than sixty (60) days after the Notice Commencement Date.

4.2 All Persons who submit valid and timely notices of their intent to opt-out of the Settlement Class, as set forth above, referred to herein as "Opt-Outs," shall not receive any benefits of

1 and/or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of
 2 the Settlement Class who do not opt-out of the Settlement Class in the manner set forth above shall be
 3 bound by the terms of this Settlement Agreement and Judgment entered thereon.

4 4.3 In the event that within ten (10) days after the Opt-Out Date as approved by the Court,
 5 there have been more than 10 timely and valid Opt-Outs submitted, the 49ers may, by notifying
 6 Proposed Settlement Class Counsel and the Court in writing, void this Settlement Agreement. If the
 7 49ers voids the Settlement Agreement pursuant to this paragraph, the 49ers shall be obligated to pay
 8 all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of
 9 Proposed Settlement Class Counsel and service awards.

10 **5. Objection Procedures**

11 5.1 Each Settlement Class Member desiring to object to the Settlement Agreement shall
 12 submit a timely written notice of his or her objection by the Objection Date. All written objections
 13 and supporting papers must be submitted ONLY TO THE COURT and (a) clearly identify the case
 14 name and number (*In Re San Francisco 49ers Data Breach Litigation*, Case No. 3:22-CV-05138), (b)
 15 be submitted to the Court either by filing them electronically or in person at any location of the United
 16 States District Court for the Northern District of California or by mailing them to the Class Action
 17 Clerk, United States District Court for the Northern District of California (San Francisco Division) at
 18 Phillip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Ave., San Francisco, CA
 19 94102, and (c) be filed or postmarked on or before the deadline established by the Court (anticipated
 20 to be 60 days after the Notice Date). All objections will be scanned into the electronic case docket,
 21 and the parties will receive electronic notices of all filings.

22 5.2 Any Settlement Class Member who fails to comply with the requirements for objecting
 23 in ¶ 5.1 shall waive and forfeit any and all rights he or she may have to appear separately and/or to
 24 object to the Settlement Agreement, and shall be bound by all the terms of the Settlement Agreement
 25 and by all proceedings, orders and judgments in the Litigation. The exclusive means for any challenge
 26 to the Settlement Agreement shall be through the provisions of ¶ 5.1. Without limiting the foregoing,
 27 any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or
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1 the Judgment to be entered upon final approval shall be pursuant to appeal under the Federal Rules of
2 Appellate Procedure and not through a collateral attack.

3 **6. Releases**

4 6.1 Upon the Effective Date, each Settlement Class Member, including Plaintiffs, shall be
5 deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released,
6 relinquished, and discharged all Released Claims. Further, upon the Effective Date, and to the fullest
7 extent permitted by law, each Settlement Class Member, including Plaintiffs, shall, either directly,
8 indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be
9 permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in
10 any action in this or any other forum (other than participation in the settlement as provided herein) in
11 which any of the Released Claims is asserted.

12 6.2 Upon the Effective Date, the 49ers shall be deemed to have, and by operation of the
13 Judgment shall have, fully, finally, and forever released, relinquished, and discharged, Representative
14 Plaintiffs, each and all of the Settlement Class Members, Proposed Settlement Class Counsel, of all
15 claims, including Unknown Claims, based upon or arising out of the institution, prosecution, assertion,
16 settlement, or resolution of the Litigation or the Released Claims, except for enforcement of the
17 Settlement Agreement. Any other claims or defenses the 49ers may have against such Persons
18 including, without limitation, any claims based upon or arising out of any retail, banking, debtor-
19 creditor, contractual, or other business relationship with such Persons that are not based upon or do not
20 arise out of the institution, prosecution, assertion, settlement, or resolution of the Litigation or the
21 Released Claims are specifically preserved and shall not be affected by the preceding sentence.

22 6.3 Notwithstanding any term herein, neither the 49ers nor its Related Parties shall have or
23 shall be deemed to have released, relinquished or discharged any claim or defense against any Person
24 other than Representative Plaintiffs, each and all of the Settlement Class Members, and Proposed
25 Settlement Class Counsel.

26 **7. Plaintiffs' Counsel's Attorneys' Fees, Costs, and Expenses; Service Award to**
27 **Representative Plaintiffs**

28 7.1 The Settling Parties did not discuss the payment of attorneys' fees, costs, expenses

1 and/or service award to Plaintiffs, as provided for in ¶¶ 7.2 and 7.3, until after the substantive terms of
2 the settlement had been agreed upon, other than that the 49ers would pay reasonable attorneys' fees,
3 costs, expenses, and a service award to Plaintiffs as may be agreed to by the 49ers and Proposed
4 Settlement Class Counsel or, in the event of no agreement, then as ordered by the Court. The 49ers
5 and Proposed Settlement Class Counsel then negotiated and agreed to the payment described in ¶ 7.2.

6 7.2 Proposed Settlement Class Counsel will seek, and the 49ers has agreed not to oppose,
7 an order from the Court awarding up to 25% of the Settlement Fund to Proposed Settlement Class
8 Counsel for attorneys' fees, as well as any costs and expenses of the Litigation. Proposed Settlement
9 Class Counsel, in their sole discretion, shall allocate and distribute the amount of attorneys' fees,
10 costs, and expenses awarded by the Court among Plaintiffs' Counsel.

11 7.3 Proposed Settlement Class Counsel will seek, and the 49ers has agreed not to oppose,
12 an order from the Court awarding \$2,500 in service awards to each of the Class Representatives in this
13 case.

14 7.4 If awarded by the Court, the Settlement Administrator shall pay the attorneys' fees,
15 costs, expenses, and service awards to Plaintiffs, as set forth above in ¶¶ 7.2, 7.3, and 7.4, within 30
16 days after the Effective Date. Service awards to Class Representatives and attorneys' fees, costs, and
17 expenses will be mailed to Matthew R. Wilson, Meyer Wilson Co., LPA, 305 W. Nationwide Blvd.,
18 Columbus, OH 43215. Proposed Settlement Class Counsel shall thereafter distribute the award of
19 attorneys' fees, costs, and expenses among Plaintiffs' Counsel and service awards to Plaintiffs
20 consistent with ¶¶ 7.2 and 7.3.

21 The amount(s) of any award of attorneys' fees, costs, and expenses, and the service award to
22 Plaintiffs, are intended to be considered by the Court separately from the Court's consideration of the
23 fairness, reasonableness, and adequacy of the settlement. These payments will not in any way reduce
24 the consideration being made available to the Settlement Class as described herein. No order of the
25 Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any
26 attorneys' fees, costs, expenses, and/or service award ordered by the Court to Proposed Settlement
27 Class Counsel or Plaintiffs shall affect whether the Judgment is Final or constitute grounds for
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1 cancellation or termination of this Settlement Agreement.

2 **8. Administration of Claims**

3 8.1 The Claims Administrator shall administer and calculate the claims submitted by
4 Settlement Class Members. Proposed Settlement Class Counsel and counsel for the 49ers shall be
5 given reports as to both claims and distribution, and have the right to review and obtain supporting
6 documentation and challenge such reports if they believe them to be inaccurate or inadequate. The
7 Claims Administrator's and claims referee's, as applicable, determination of whether a Settlement
8 Claim is a Valid Claim shall be binding, subject to the dispute resolution process set forth herein. All
9 claims agreed to be paid in full by the 49ers shall be deemed valid.

10 8.2 Checks for Valid Claims and/or compensation from the Settlement Remainder shall be
11 mailed and postmarked within sixty (60) days of the Effective Date, or within thirty (30) days of the
12 date that the claim is approved, whichever is later.

13 8.3 Upon the mailing of checks as set forth in ¶ 8.2, all Settlement Class Members shall be
14 forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but
15 will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the
16 releases contained herein and the Judgment.

17 8.4 No Person shall have any claim against the Claims Administrator, claims referee, the
18 49ers, Proposed Settlement Class Counsel, Plaintiffs, and/or the 49ers' counsel based on distributions
19 of benefits to Settlement Class Members.

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

21 9.1 The Effective Date of the settlement shall be conditioned on the occurrence of all of the
22 following events:

- 23 a) the Court has entered the Order of Preliminary Approval and Publishing of
- 24 Notice of a Final Fairness Hearing, as required by provisions herein;
- 25 b) The 49ers has not exercised its option to terminate the Settlement Agreement;
- 26 c) the Court has entered the Judgment granting final approval to the settlement as
- 27 set forth herein; and
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d) the Judgment has become Final, as defined herein.

9.2 If all conditions specified in ¶ 9.1 hereof are not satisfied, the Settlement Agreement shall be canceled and terminated subject to ¶ 9.4 unless Proposed Settlement Class Counsel and the 49ers' counsel mutually agree in writing to proceed with the Settlement Agreement.

9.3 Within seven (7) days after the Opt-Out Date, the Claims Administrator shall furnish to Proposed Settlement Class Counsel and to the 49ers' counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

9.4 In the event that the Settlement Agreement or the releases set forth above are not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (b) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or service awards shall constitute grounds for cancellation or termination of the Settlement Agreement. Further, notwithstanding any statement in this Settlement Agreement to the contrary, the 49ers shall be obligated to pay amounts already billed or incurred for costs of notice to the Settlement Class, Claims Administration, and Dispute Resolution pursuant to the above and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation.

10. Miscellaneous Provisions

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

1 the terms and conditions of this Settlement Agreement.

2 10.2 The Settling Parties intend this settlement to be a final and complete resolution of all
3 disputes between them with respect to the Litigation. The settlement compromises claims that are
4 contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or
5 defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling
6 Parties, and reflects a settlement that was reached voluntarily after consultation with competent legal
7 counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be
8 appropriate, any contention made in any public forum that the Litigation was brought or defended in
9 bad faith or without a reasonable basis. It is agreed that no Party shall have any liability to any other
10 Party as it relates to the Litigation, except as set forth herein.

11 10.3 Neither the Settlement Agreement, nor the settlement contained herein, nor any act
12 performed or document executed pursuant to or in furtherance of the Settlement Agreement or the
13 settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the
14 validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the
15 Released Persons; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of,
16 any fault or omission of any of the Released Persons in any civil, criminal or administrative
17 proceeding in any court, administrative agency or other tribunal. Any of the Released Persons may file
18 the Settlement Agreement and/or the Judgment in any action that may be brought against them or any
19 of them in order to support a defense or counterclaim based on principles of *res judicata*, collateral
20 estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim
21 preclusion or issue preclusion or similar defense or counterclaim.

22 10.4 The Settlement Agreement may be amended or modified only by a written instrument
23 signed by or on behalf of all Settling Parties or their respective successors-in-interest.

24 10.5 This Agreement contains the entire understanding between the 49ers and Plaintiffs
25 regarding the payment of the Litigation settlement and supersedes all previous negotiations,
26 agreements, commitments, understandings, and writings between the 49ers and Plaintiffs in
27 connection with the payment of the Litigation settlement. Except as otherwise provided herein, each
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1 party shall bear its own costs.

2 10.6 Proposed Settlement Class Counsel, on behalf of the Settlement Class, is expressly
3 authorized by Plaintiffs to take all appropriate actions required or permitted to be taken by the
4 Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly
5 authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of
6 the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement
7 Agreement and to ensure fairness to the Settlement Class.

8 10.7 Each counsel or other Person executing the Settlement Agreement on behalf of any
9 party hereto hereby warrants that such Person has the full authority to do so.

10 10.8 The Settlement Agreement may be executed in one or more counterparts. All executed
11 counterparts and each of them shall be deemed to be one and the same instrument. A complete set of
12 original executed counterparts shall be filed with the Court.

13 10.9 The Settlement Agreement shall be binding upon, and inure to the benefit of, the
14 successors and assigns of the parties hereto.

15 10.10 The Court shall retain jurisdiction with respect to implementation and enforcement of
16 the terms of the Settlement Agreement, and all parties hereto submit to the jurisdiction of the Court for
17 purposes of implementing and enforcing the settlement embodied in the Settlement Agreement.

18 10.11 As used herein, “he” means “he, she, or it;” “his” means “his, hers, or its,” and “him”
19 means “him, her, or it.”

20 10.12 All dollar amounts are in United States dollars (USD).

21 10.13 Cashing a settlement check is a condition precedent to any Settlement Class Member’s
22 right to receive settlement benefits. All settlement checks shall be void ninety (90) days after issuance
23 and shall bear the language: “This check must be cashed within ninety (90) days, after which time it is
24 void.” If a check becomes void, the Settlement Class Member shall have until six months after the
25 Effective Date to request re-issuance. If no request for re-issuance is made within this period, the
26 Settlement Class Member will have failed to meet a condition precedent to recovery of settlement
27 benefits, the Settlement Class Member’s right to receive monetary relief shall be extinguished, and the
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49ers shall have no obligation to make payments to the Settlement Class Member for expense reimbursement or any other type of monetary relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than one hundred eighty (180) days from the Effective Date, requests for re-issuance need not be honored after such checks become void.

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

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

AGREED TO BY:

By: /s/ Anderson Berry

By: /s/ Marcus McCutcheon

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