

# Exhibit F

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (“Settlement Agreement”) is entered into by and between (i) Henry Schein, Inc. (“Defendant”) and (ii) Lucibel Cruz-Bermudez, and Helmut Becker (“Plaintiffs”), both individually and on behalf of the Class, in the litigation titled *Lucibel Cruz-Bermudez and Helmut Becker v. Henry Schein, Inc.*, Case No. 2:24-cv-00387-BMC, in the United States District Court for the Eastern District of New York (the “Litigation”). Defendant and Plaintiffs are collectively referred to herein as the “Parties.”

### **I. BACKGROUND AND RECITALS**

1. In September 2023, Defendant suffered a data breach impacting certain company systems (the “Data Breach” or “Data Incident”). The Data Breach was found to have compromised certain private and personally identifying information stored in Defendant’s files, which contain names, addresses, phone numbers, email addresses, photographs, dates of birth, demographic information, background information, government-issued identification numbers, Social Security numbers, driver’s license numbers, state identification numbers, passport numbers, financial information, bank account information, credit card numbers, loan information, medical history, medical treatment, insurance information, employment information, and/or IP addresses. The private and/or personally identifying information of approximately 166,432 people was accessed as a result of this Data Breach.

2. Plaintiffs filed individual complaints as a result of the Data Breach, and on February 16, 2024 Plaintiffs filed their consolidated complaint in the Litigation, alleging claims for negligence, breach of implied contract, unjust enrichment, breach of fiduciary duty, violation of the New York Deceptive Trade Practices Act, and declaratory judgment. Plaintiffs sought relief on behalf of themselves and the Class including compensatory damages and injunctive relief.

3. Prior to engaging in extensive motion practice or formal discovery, the Parties agreed to mediate to minimize the costs and time expended through litigation. Following extensive arm’s-length negotiations culminating in two mediations with experienced data breach class action mediator Bruce Friedman of JAMS, the Parties negotiated the Settlement by which the Parties agree and hereby wish to resolve all matters pertaining to, arising from, or associated in any way with the Litigation, including all claims Plaintiffs and Class Members have, had, or may have against Defendant and related persons and entities related to the Data Incident, as set forth herein.

4. The Parties have agreed to settle the Litigation on the terms and conditions set forth herein in recognition that the outcome of the Litigation is uncertain and that achieving a final result through litigation would require substantial additional risk, uncertainty, discovery, time, and expense for the Parties.

5. Defendant denies all claims of fault, wrongdoing, liability, or damages that Plaintiffs, Class Members, or anyone else have asserted in this Litigation or may assert in the future and maintains that it has meritorious defenses to all such claims. Despite Defendant’s position that it is not liable for, and has good defenses to the claims alleged in the Litigation, Defendant desires to settle the Litigation, and thus avoid the expense, risk, exposure, inconvenience, uncertainty, and

distraction of continued litigation of any action relating to the matters being fully settled and finally resolved and released in this Settlement Agreement. Neither this Settlement or Settlement Agreement, nor any negotiation or act performed or document created in relation to the Settlement or Settlement Agreement or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission of, concession of, or evidence of, any fault, wrongdoing, liability, or damages whatsoever, or any infirmity in the defenses that Defendant has asserted or may assert.

6. Class Counsel have conducted a pre-suit investigation, reviewed informal discovery materials in preparation for and during the course of the mediation, and fully evaluated the risk of future litigation. Moreover, Class Counsel have fully evaluated the available facts, applicable law, and comparable settlements related to the Litigation and have concluded that the proposed Settlement according to the terms set forth below is fair, reasonable, adequate, and beneficial to and in the best interests of Plaintiffs and the Class, recognizing: (1) the existence of complex and contested issues of law and fact; (2) the risks inherent in the Litigation; (3) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; and (4) the magnitude of the benefits derived from the proposed Settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever.

7. 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 and the best interests of the Class.

In consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and without any admission or concession of any fault, wrongdoing, liability, or damages or lack of merit in the defenses asserted by or available to Defendant and the other Released Parties, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiffs, for themselves and all Class Members, on the one hand, and Defendant on the other hand, by and through their respective counsel, that the Parties now enter into this Settlement Agreement, that the Litigation be fully and finally settled and compromised, that the Litigation be dismissed with prejudice against Defendant, and that the Releasers release the Released Parties of the Released Claims, without costs as to Released Parties, Defendant's Counsel, Plaintiffs, Plaintiffs' Counsel, or the Class, except as explicitly provided for in this Settlement Agreement, subject to the approval of the Court, on the following terms and conditions.

## II. DEFINITIONS

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

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

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

10. “**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 a date ninety (90) days after the Notice Deadline is entered. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order, as well as in the Notice, on the Settlement Website and the Claim Form.

11. “**Class**” shall mean all individuals whose Personal Information was compromised in the Data Incident and who do not elect to be excluded from the Class by filing a timely Request for Exclusion in accordance with the requirements set forth in the Preliminary Approval Order and the Notice. Excluded from the Class are: (1) the judge presiding over this Litigation, and members of his direct family; (2) Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parent companies have a controlling interest, and their current or former officers and directors; and (3) Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline. For the avoidance of doubt, membership in the Class shall be determined without regard to whether an individual submits a Claim Form or is determined to hold an Approved Claim.

12. “**Class Counsel**” shall mean Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman, PLLC and Raina Borrelli of Strauss Borrelli, PLLC.

13. “**Class List**” means a list of Class Members’ full names and current or last known contact information (U.S. Mail address, email address, or both where available), which Defendant or Defendant’s agent shall take reasonable steps to assemble and will provide to the Settlement Administrator within fourteen (14) days of the entry of the Preliminary Approval Order.

14. “**Class Member**” means an individual who falls within the definition of the Class.

15. “**Counsel**” or “**Parties’ Counsel**” means both Class Counsel and Defendant’s Counsel, collectively.

16. “**Court**” shall mean the Honorable Judge Brian M. Cogan of the United States District Court for the Eastern District of New York.

17. “**Defendant**” shall mean Henry Schein, Inc.

18. “**Defendant’s Counsel**” shall mean Rahul Mukhi and Jonathan S. Kolodner, of Cleary Gottlieb Steen & Hamilton LLP.

19. “**Effective Date**” shall mean the date when the Settlement Agreement becomes Final, which is 35 days after the Court’s grant of the Final Approval Order assuming no appeals have been filed, notwithstanding any appeals of the Fee Award and Expenses. If an appeal is filed, the Effective Date will become 35 days from when the appeal is denied and a final judgment is entered in the Litigation.

20. **“Escrow Account”** shall mean the account to be established by the Settlement Administrator and designated for purposes of this Settlement, and into which the Settlement Fund will be paid pursuant to Paragraph 54 of the Settlement Agreement, and in which the Settlement Fund shall be held in escrow under the control of the Escrow Agent, acting as an agent for Plaintiffs and the Class, subject to the terms of this Settlement Agreement.

21. **“Escrow Agent”** shall mean Western Alliance Bank, which has been selected by Class Counsel to be responsible for overseeing and safeguarding the Settlement Fund and for acting as an agent for the Class, in accordance with the terms of the Settlement Agreement.

22. **“Escrow Agreement”** shall mean an agreement to be entered into between Class Counsel and the Escrow Agent in a form to be agreed to by Defendant’s Counsel, governing the Escrow Agent’s responsibilities and obligations with respect to the Escrow Account.

23. **“Fee and Expense Application”** shall mean the motion to be filed by Class Counsel, in which they seek approval of an award of attorneys’ fees and litigation expenses.

24. **“Fee Award and Expenses”** means the amount of attorneys’ fees and reimbursement of litigation expenses awarded by the Court to Class Counsel.

25. **“Final”** means the Final Approval Order has been entered on the docket, and: (1) the time to appeal from such order has expired and no appeal has been timely filed; (2) if such an appeal has been filed, it has been finally resolved and has resulted in an affirmation of the Final Approval Order; or (3) the Court following the resolution of the appeal enters a further order or orders approving the Settlement on the material terms set forth herein, and either no further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s). For the avoidance of doubt, whether the Final Approval Order is Final shall be determined without regard to any appeals of the Fee Award and Expenses that may occur.

26. **“Final Approval Hearing”** means the hearing before the Court where Plaintiffs will request a judgment to be entered by the Court approving the Settlement Agreement and approving the Fee Award and Expenses.

27. **“Final Approval Order”** shall mean an order entered by the Court that:

- i. Certifies the Class pursuant to Federal Rule of Civil Procedure 23 for settlement purposes only;
- ii. Finds that 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;
- iii. Dismisses Plaintiffs’ claims pending before it with prejudice and without costs, except as explicitly provided for in this Settlement Agreement;

- iv. Approves the Releases provided in Section VIII and orders that, as of the Effective Date, the Released Claims will be released as to Released Parties;
- v. Reserves jurisdiction over the Settlement and this Settlement Agreement; and
- vi. Finds that there is no just reason for delay of entry of the Final Approval Order with respect to the foregoing.

28. “**Frequently Asked Questions**” or “**FAQs**” are questions and answers to those questions that are frequently posed by Class Members about class action settlements and specifically about this Settlement that will be posted on the Settlement Website.

29. “**Litigation**” shall mean the action captioned *Lucisbel Cruz-Bermudez and Helmut Becker v. Henry Schein, Inc.*, Case No. 2:24-cv-00387-BMC, in the United States District Court for the Eastern District of New York.

30. “**Long Form Notice**” is the content of the notice substantially in the form of **Exhibit B** is the detailed, long form notice that will be posted on the Settlement Website that will include robust details about the Settlement.

31. “**Notice**” means publication notice and the direct notice of this proposed Settlement, which is to be provided substantially in the manner set forth in this Settlement Agreement and **Exhibits B and D** and is consistent with the requirements of due process.

32. “**Notice Deadline**” means the last day by which Notice must be issued to the Class Members and by which the Long Form and Short Form Notices will be posted to the Settlement Website, and will occur thirty (30) days after the Court enters the Preliminary Approval Order.

33. “**Notice and Administrative Expenses**” means all of the expenses reasonably incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Class, locating Class Members, processing claims, determining the eligibility of any person to be a Class Member, administering and resolving deficiencies in submitted claims, and calculating and distributing the Settlement Fund to Class Members. Administrative Expenses also include all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Settlement Agreement. Notice and Administrative Expenses shall be paid through and using the Settlement Fund, and for the avoidance of doubt, shall not constitute an amount additional to the value of the Settlement Fund as defined herein.

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

35. “**Opt-Out Deadline**” is the last day on which a Class Member may file a request to be excluded from the Class, which will be sixty (60) days after the Notice Deadline. Class Members’ opt-out requests may also be referred to herein as a Request for Exclusion.

36. “**Out-of-Pocket Losses**” means out-of-pocket costs or expenditures that a Class Member actually incurred as a direct result of the Data Incident and that are supported by reasonable documentation. “Out-of-Pocket Losses” include things such as 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 Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

37. “**Parties**” shall mean Plaintiffs and Defendant, collectively.

38. “**Plaintiffs,**” “**Class Representatives,**” or “**Class Plaintiffs**” shall mean the named class representatives Lucisbel Cruz-Bermudez and Helmut Becker.

39. “**Preliminary Approval Order**” shall mean the Court’s Order preliminarily approving the Settlement Agreement, certifying the Class for settlement purposes only, and directing notice of the Settlement to the Class in a form substantially similar as that attached as **Exhibit C**.

40. “**Personal Information**” may include Plaintiffs’ and Class Members’ names, addresses, phone numbers, email addresses, photographs, dates of birth, demographic information, background information, government-issued identification numbers, Social Security numbers, driver’s license numbers, state identification numbers, passport numbers, financial information, bank account information, credit card numbers, loan information, medical history, medical treatment, insurance information, employment information, and IP addresses.

41. “**Released Claims**” shall have the meaning ascribed to it as set forth in Section VIII of this Settlement Agreement.

42. “**Released Parties**” shall have the meaning ascribed to it as set forth in Section VIII of this Settlement Agreement.

43. “**Releasors**” shall refer, jointly and severally, and individually and collectively, to Plaintiffs, the Class Members, and to each of their former, present, and future agents, insurers, attorneys, representatives, predecessors, successors, heirs, executors, administrators, and assigns, and any legal or natural persons who claim or may claim by, through, or on behalf of them.

44. “**Remainder Funds**” means any funds that remain in the Settlement Fund after all deductions from the Settlement Fund provided for in this agreement. Often in class actions settlements, some number of Class Members submitting valid claims and who are then issued a settlement check fail to cash and/or deposit their Settlement Payments. The funds remaining in the Settlement Fund after Settlement Payments have been distributed and the time for cashing and/or depositing checks has expired will be Remainder Funds. The Remainder Funds will be sent to one

or more court-approved charitable organizations as a *cy pres* distribution. The Parties will jointly recommend the entity or entities to the Court that will be the recipient(s) of the *cy pres* distribution.

45. “**Service Awards**” shall have the meaning ascribed to it as set forth in Section IX of this Settlement Agreement. The Service Awards requested in this matter will be \$5,000 to each of the Plaintiffs, subject to Court approval.

46. “**Settlement**” means the resolution to the Litigation as set forth in this Settlement Agreement.

47. “**Settlement Administrator**” means, subject to Court approval, Kroll Settlement Administration, an entity jointly selected by Class Counsel and Defendant and supervised by Class Counsel to administer and distribute the Settlement Fund from the Escrow Account according to the terms of this Settlement Agreement.

48. “**Settlement Administrator Agreement**” shall mean an agreement to be entered into between Class Counsel and the Settlement Administrator in a form to be agreed to by Defendant’s Counsel, governing the Settlement Administrator’s responsibilities and obligations with respect to the Settlement Fund.

49. “**Settlement Fund**” means the non-reversionary amount to be paid by, or on behalf of Defendant, in the amount of \$2,900,000.00 for the benefit of the approximately 166,432 Class Members. The Settlement Fund includes any interest accrued thereon after payment to the Settlement Administrator. This represents the full and complete limit and extent of Defendant’s obligations with respect to the Settlement, but for any security enhancements Defendant has implemented or will implement as described below in Paragraph 68.

50. “**Settlement Payment**” means the payment to be made via mailed check and/or electronic payment from the Settlement Fund to any Class Members who submit valid Claim Forms to the Settlement Administrator.

51. “**Settlement Website**” means a website established and administered by the Settlement Administrator, which shall contain information about the Settlement, including electronic copies of **Exhibits A-D** (or any forms of these notices that are approved by the Court), this Settlement Agreement, and all Court documents related to the Settlement. The Settlement Website will be publicly viewable and contain information about the Settlement, including but not limited to, copies of the Complaint filed in this matter, a copy of the Long Form Notice, Short Form Notice, the publication notice, FAQs, Claim Form that may be submitted online through the Settlement Website or mailed to the Settlement Administrator, the deadlines for filing a Claim, objection, Request for Exclusion, Fee and Expense Application, and the date of the Final Approval Hearing. The Settlement Website will remain active until 90 days after the Effective Date.

52. “**Short Form Notice**” is the postcard notice attached as **Exhibit D** that will be mailed to Class Members on the Class List.



53. **“Taxes and Tax-Related Expenses”** means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, withholdings, interest, or penalties and interest thereon) 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 or tax detriments that may be imposed upon Defendant or Defendant’s Counsel with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund.

### **III. SETTLEMENT FUND**

54. **Establishment of Settlement Fund.** Within forty-five (45) days after the entry of the Preliminary Approval Order, Defendant shall deposit or cause to be deposited the Notice and Administrative Expenses through the date of the Final Approval Order, as estimated by the Settlement Administrator, into the Escrow Account established and administered by the Settlement Administrator at the Escrow Agent and pursuant to the Settlement Administrator Agreement and the Escrow Agreement, to cover the Settlement Administrator’s reasonable set-up costs, notice, and early administration costs. Defendant shall deposit or cause to be deposited the balance of the Settlement Fund (*i.e.* \$2,900,000.00 less the Notice and Administrative Expenses) into the same Escrow Account established and administered by the Settlement Administrator at the Escrow Agent and pursuant to the Settlement Administrator Agreement and the Escrow Agreement, within ten (10) days of the Effective Date. The Settlement Administrator shall provide wiring instructions and a properly completed and duly executed IRS Form W-9, along with any other necessary forms, to Defendant within ten (10) days of the entry of the Preliminary Approval Order.

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

56. **Custody of Settlement Fund.** The Settlement Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or the balance is returned to those who paid the Settlement Fund in the event this Settlement Agreement is terminated in accordance with Paragraphs 79–81.

57. **Use of the Settlement Fund.** As further described in this Settlement Agreement and in **Exhibit A**, the Settlement Fund shall be used by the Settlement Administrator to pay for the following: (1) Notice and Administrative Expenses; (2) Fee Award and Expenses, as approved and awarded by the Court; (3) documented Out-of-Pocket Losses; (4) Cash Fund Payments (as defined *infra*); (5) Service Awards; and (6) transfer of Remainder Funds to the extent any exist following the preceding administration of payments. No amounts may be withdrawn from the Settlement Fund unless expressly authorized by this Settlement Agreement or approved by the Court. Responsibility for administering the Settlement Fund or effectuating payments described in this Paragraph shall rest solely with the Settlement Administrator in cooperation with the Escrow Agent, and in accordance with the Settlement Administrator Agreement and the Escrow Agreement. Neither Defendant, Defendant's Counsel, nor Defendant's agents shall have any responsibility whatsoever with respect to effectuating such payments.

58. **Taxes and Representations.** Taxes and Tax-Related Expenses relating to the Settlement Fund, if any, shall be considered Notice and Administrative Expenses and shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties and their counsel for Taxes and Tax-Related Expenses (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty, and have no responsibility, with respect to the tax treatment by any Class Representative or any Class Member of any payment or transfer made pursuant to this Settlement Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Settlement Agreement.

#### **IV. SETTLEMENT BENEFITS AND ADMINISTRATION**

59. The Settlement Administrator shall make the following compensation available to Class Members who submit valid and timely claim forms. Claims will be subject to review for completeness and plausibility by the Settlement Administrator, and Claimants will have the opportunity to seek review by the Parties' Counsel, if they dispute the Settlement Administrator's initial determination. Class Members may submit claims for one or more of the following:

- i. **Compensation for Out-of-Pocket Losses:** The Settlement Administrator, from the Settlement Fund, will provide compensation, up to a total of \$4,000.00 per Class Member, upon submission of a claim and supporting documentation, for Out-of-Pocket Losses.

Class Members submitting claims for Out-of-Pocket Losses must submit documentation supporting their claims and demonstrating that such Out-of-Pocket Losses were incurred as a direct result of the Data Incident. This can include receipts or other documentation that document the costs incurred but does not include documentation that is "self-prepared" by the Class Member. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient

to receive reimbursement, but can be considered to add clarity or support to other submitted documentation.

- ii. **Cash Fund Payment:** All Class Members are eligible to make a claim for a cash fund payment (“Cash Fund Payment”), regardless of whether they make a claim for Out-Of-Pocket Losses. The amount of the Cash Fund Payment is estimated to be \$50 per claimant. This amount of the cash payment may increase or decrease based upon the number of claims approved. The *pro rata* Cash Fund Payments will evenly distribute the net amount of the \$2,900,000.00 Settlement Fund, after payment of all Approved Claims for Out-of-Pocket Losses, Notice and Administrative Expenses, Taxes and Tax-Related Expenses, any award of attorneys’ fees, litigation expenses, Service Awards, and any other amounts expressly authorized by this Settlement Agreement or approved by the Court, to each Class Member who submits an Approved Claim.

60. **Settlement Administration Fees:** Notice and Administrative Expenses, including the cost of Notice, will be paid entirely from the Settlement Fund. Notice and Administrative Expenses shall be paid through the Settlement Fund and are limited to the Settlement Fund amount.

61. **Order of Distribution.** The Settlement Administrator must use the funds available in the Settlement Fund (after payment of Notice and Administrative Expenses, Taxes and Tax-Related Expenses, and any award of attorneys’ fees, litigation expenses, and Service Awards) to make payments for Approved Claims in this order: Out-of-Pocket Losses, followed by Cash Fund Payments. In the event that the aggregate value of the Approved Claims for Out-of-Pocket Losses exceeds the amount of the Settlement Fund after payment of Notice and Administrative Expenses, Taxes and Tax-Related Expenses, and any award of attorneys’ fees, litigation expenses, and Service Awards, then the value of all Approved Claims for Out-of-Pocket Losses shall be reduced proportionately on a *pro rata* basis, until the aggregate value of the Approved Claims for Out-of-Pocket Losses is equal to the remaining value of the Settlement Fund. In no event shall the Settlement Fund be increased for any reason.

62. Defendant will reasonably cooperate with administration of the Settlement and seeking approval by the Court thereof, including, but not limited to, by taking reasonable steps to assemble and provide the Class List.

63. Defendant or its agent shall pay to the Settlement Administrator the Settlement Fund pursuant to Paragraph 54. Provided that Final Approval of this Settlement Agreement is granted by the Court without material change, material amendment, or material modification, the Settlement Fund will be used to satisfy Approved Claims for Class Members in exchange for a full, fair, and complete release of all Released Parties from Released Claims, and dismissal of the Litigation with prejudice.

64. The Defendant’s contribution to the Settlement Fund, as provided for in Paragraphs 49 and 54, represents the total extent of Defendant’s monetary obligations under the Settlement Agreement. Defendant’s contribution to the Settlement Fund shall be fixed under this Settlement Agreement and shall be final. Defendant shall have no obligation to make further payments into the

Settlement Fund and shall have no financial responsibility or obligation relating to the Settlement beyond the contribution to the Settlement Fund provided for in Paragraphs 49 and 54. Defendant shall have no responsibility for, interest in, or liability whatsoever with respect to the maintenance, investment, or distribution of the Settlement Fund, the determination, administration, or calculation of claims, the payment or withholding of Taxes and Tax-Related Expenses, the payment of the Fee Award and Expenses, the administration of the Settlement, or any losses incurred in connection with such matters. No person shall have any claim under any circumstances against Defendant or any other Released Parties based on any determinations, distributions, or rejections of claims in connection with the Settlement, the Settlement Agreement, or the Settlement Fund.

65. The Settlement Administrator will provide Notice in the manner required by the Preliminary Approval Order following issuance of such Preliminary Approval Order.

66. After the Court enters the Final Approval Order, the Settlement Administrator shall provide the requested relief to all Class Members with an Approved Claim, subject to the procedure set forth herein.

67. The Parties, Class Counsel, and Defendant's Counsel shall not have any liability whatsoever with respect to: (1) any act, omission or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (2) the management, investment or distribution of the Settlement Fund; (3) the formulation, design or terms of the disbursement of the Settlement Fund; (4) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (5) any losses suffered by or fluctuations in the value of the Settlement Fund; or (6) the payment or withholding of any Taxes and Tax-Related Expenses.

68. **Security Enhancements**: Following the Data Incident, Defendant implemented or continued the implementation of a number of security enhancements designed to avoid future cybersecurity incidents. Within thirty (30) days after the date of the Preliminary Approval Order, Defendant shall provide Class Counsel with a confidential declaration or affidavit attesting to such measures that have been and are expected to be implemented.

## **V. CLASS NOTICE, OPT-OUTS, AND OBJECTIONS**

69. **Notice**. Within fourteen (14) days after the date of the Preliminary Approval Order, Defendant shall provide the Class List to the Settlement Administrator. Notice shall be disseminated via U.S. mail to all Class Members, via e-mail to Class Members whose personal e-mail addresses are known, and by publication via media outlets. Notice shall be completed within 30 days of the date of the Preliminary Approval Order (the "Notice Deadline"). The process to issue Notice as described in this Paragraph and the creation and maintenance of the Settlement Website shall constitute the "Notice Plan."

70. **Final Approval Hearing**. The Notice must set forth the time and place of the Final Approval Hearing (subject to change) and state that any Class Member who does not file a timely and adequate objection in accordance with this Settlement Agreement waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement.

71. **Opt-Outs.** The Notice shall explain the procedure for Class Members to exclude themselves or “opt-out” of the Settlement by submitting a Request for Exclusion to the Settlement Administrator postmarked no later than the Opt-Out Deadline. The Request for Exclusion must include the name of the proceeding, the individual’s full name, current address, personal signature, and the words “Request for Exclusion” or a comparable statement that the individual does not wish to participate in the Settlement. The Notice must state that any 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.

72. **Objections.** The Notice shall explain the procedure for Class Members to object to the Settlement or Fee and Expense Application by submitting written objections to the Court no later than the Objection Deadline. For an objection to be a valid objection under the Settlement, it must be in writing, postmarked by the Objection Deadline, filed with/or mailed to the Court and the Settlement Administrator and must include: (1) the name of the proceeding; (2) the Class Member’s full name, current mailing address, email address, and telephone number; (3) a statement of the specific grounds for the objection, as well as any documents supporting the objection; (4) the identity of any attorneys representing the objector; (5) a statement regarding whether the Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (6) a statement identifying all class action settlements objected to by the Class Member in the previous five (5) years; and (7) the signature of the Class Member or the Class Member’s attorney.

73. **Claim Validation, Cure, and Deficiency Process.** After the Settlement Administrator reviews all claims submitted under this Settlement, it will send a summary to the Parties’ Counsel identifying the number of valid claims and invalid claims. For invalid claims, the Settlement Administrator will send Class Members submitting such claims a deficiency notice giving the Class Members twenty-one (21) days to cure any deficiencies. The cost of the deficiency process is included in the Notice and Administrative Expenses. After all claims have been fully processed, including reviewing all claims that have been cured through the deficiency process, the Settlement Administrator will send a list of all valid claims to the Parties’ Counsel.

## **VI. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION**

74. **Certification of the Class.** For purposes of this Settlement only, the Parties stipulate to the certification of the Class under Fed. R. Civ. P. 23, which is contingent upon both the Court entering the Final Approval Order of this Settlement and the occurrence of the Effective Date. For the avoidance of doubt, Defendant maintains that Plaintiffs would be unable to satisfy the requirements under Fed. R. Civ. P. 23 for certification and maintenance of a class in a litigated class action. For purposes of this Settlement only, the Parties also stipulate to the appointment of the Class Representatives as the class representatives of the Class in this Litigation and to the appointment of Class Counsel as the counsel to the Class in this Litigation pursuant to Fed. R. Civ. P. 23(g).

75. **Preliminary Approval.** Following execution of this Settlement Agreement, Class Counsel shall file a motion for a Preliminary Approval Order, in a form agreeable to the Parties.

76. **Final Approval.** Class Counsel shall move the Court for a Final Approval Order of this Settlement; within a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Deadline.

77. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Settlement Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Settlement Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Settlement Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Plan 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.

## **VII. MODIFICATION AND TERMINATION**

78. **Modification.** The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that after entry of the Preliminary Approval Order the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all exhibits hereto) without further notice to the Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Class Members under this Settlement Agreement.

79. **Settlement Not Approved.** If: (1) the Court does not issue the Preliminary Approval Order or Final Approval Order; (2) the Effective Date does not occur; or (3) any court alters or modifies the Final Approval Order in any material respect, the Parties shall have sixty (60) days from the date of such event to work together in good faith in considering, drafting, and submitting reasonable modifications to this Settlement Agreement to address any issues identified by the Court or that otherwise caused the Preliminary Approval Order or Final Approval Order not to issue or the Effective Date not to occur. If such efforts are unsuccessful, either Party may at their sole discretion terminate this Settlement Agreement on seven (7) days' written notice to the other Party. For avoidance of any doubt, neither Party may terminate the Settlement Agreement while an appeal from an order granting approval of the Settlement is pending.

80. **Termination.** Defendant may unilaterally terminate this Settlement Agreement on seven (7) days' written notice to Class Counsel if more than 4,993 Class Members submit valid Requests for Exclusion.

81. **Effect of Termination.** In the event of a termination as provided in Paragraph 79 or 80, this Settlement Agreement and the Settlement shall be considered null and void except that the Parties must comply with the obligations in this Paragraph and Paragraphs 90-91, all of which shall survive termination. Except as provided in this Paragraph or Paragraphs 90-91, all of the Parties' obligations under the Settlement Agreement shall cease to be of any force and effect and

the Parties shall return to the status quo ante in the Litigation as if the Parties had not entered into this Settlement Agreement. Further, in the event of such a termination, any certification of the Class for settlement purposes shall be void. In the event of such a termination, all of the Parties' respective pre-Settlement Agreement claims and defenses will be preserved, to the extent such claims and defenses would have been preserved in the absence of the Settlement and Settlement Agreement. In the event of the termination of the Settlement Agreement, within seven (7) days after the occurrence of such termination, the Settlement Administrator and Escrow Agent shall return to Defendant, in accordance with the terms of the Settlement Administrator Agreement and the Escrow Agreement, all monies held in the Escrow Account, including interest earned, but less any Notice and Administrative Expenses properly incurred prior to the date of the termination of the Settlement Agreement. Under those circumstances, Class Counsel shall undertake to return those amounts by taking all steps necessary to cause the Settlement Administrator and the Escrow Agent to make the foregoing repayments. Any return of monies to Defendant pursuant to the terms of this Settlement Agreement shall be made via wire transfer to Defendant, with wire instructions to be provided by Defendant.

## **VIII. RELEASES**

82. Upon Final Approval of this Settlement Agreement, the Releasors settle, release, acquit, and forever discharge Defendant and its past or present agents, subsidiaries, parents, divisions, and affiliates, and their respective past or present employees, officers, directors, shareholders, partners, members, managers, owners, heirs, executors, predecessors, successors, assigns, insurers (including excess insurers and reinsurers), vendors, attorneys, experts, advisors, consultants, contractors, auditors, accountants, administrators, fiduciaries, representatives, suppliers, sureties, trustees, and/or underwriters ("Released Parties") from any and all claims, demands, rights, actions, potential actions, causes of action, liabilities, duties, damages, losses, diminutions of value, obligations, agreements, judgments, suits, fees, attorneys' fees, debts, expenses, costs, sanctions, decrees, penalties, remedies, matters, controversies and issues of any kind or nature, whether known or unknown, whether accrued or unaccrued, that each Releasor now has, had previously, or may ever have, now or in the future, arising out of or in any way related to the Data Incident whether or not those claims, demands, rights, actions, or causes of action have been pleaded or otherwise asserted in the Litigation or in any federal, state, or foreign court, tribunal, forum, or proceeding, including any and all damages, losses, or consequences thereof, including but not limited to any claims arising under federal, state or foreign law, common law, bankruptcy law, statute, rule or regulation ("Released Claims"). For the avoidance of doubt, Released Claims include unknown claims that could have been raised in the Litigation or in any other federal, state, or foreign court, tribunal, forum or proceeding, and that Plaintiffs, any Class Member, or any Releasor do not know or suspect to exist at the time of the Settlement Agreement, which, if known by him, her, or it, might affect his, her, or its agreement to release the Released Parties or the Released Claims or might affect his, her, or its decision to agree, request to be excluded, object, or not to object to the Settlement. It is a material element to Defendant and the other Released Parties' participation in this Settlement and Settlement Agreement that Defendant and the other Released Parties obtain the fullest possible release from liability as to any Releasor relating to the Released Claims, and it is the intention of the Parties that any liability of the Released Parties relating to the Released Claims be eliminated.

83. Each Releasor waives any and all defenses, rights, and benefits that may be derived from the provisions of applicable law in any jurisdiction that, absent such waiver, may limit the extent or effect of the release contained in this Settlement Agreement.

84. **Release of Class Representatives and Plaintiffs' Counsel.** Upon the Effective Date, Defendant and its representatives, officers, agents, directors, principals, affiliates, employees, insurers, and attorneys shall be deemed to have released, acquitted, and forever discharged the Class Representatives and Class Counsel from any and all claims or causes of action 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 injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys' fees, costs, interest or expenses), whether known or unknown, that arise out of, are based upon, or relate to prosecution of the Litigation, the Settlement Agreement, or the Settlement claims process (provided, however, that this Paragraph shall not apply to any claims relating to the enforcement of the terms of the Settlement or this Settlement Agreement).

85. **Bar to Future Suits.** Upon entry of the Final Approval Order, the Releasors shall be permanently barred and enjoined from asserting, commencing, or prosecuting in any forum any Released Claims against the Released Parties in any proceeding, including based on any actions taken by any of the Released Parties that are authorized or required by this Settlement Agreement or by the Final Approval Order. Likewise, Defendant and its representatives, officers, agents, directors, principals, affiliates, employees, insurers, and attorneys shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against Class Representatives and Class Counsel or based on any actions taken by Class Representatives and Class Counsel that are authorized or required by this Settlement Agreement or by the Final Approval Order. It is further agreed that the Settlement Agreement may be pleaded as a complete defense to any proceeding subject to this Paragraph.

86. **Waiver of California Civil Code Section 1542 and Equivalents.** The Parties hereby acknowledge that they may hereafter discover facts different from, or in addition to, those which they now claim or believe to be true with respect to the claims released herein, and agree that this Settlement Agreement shall be and remain effective in all respects notwithstanding the discovery of such different or additional facts with respect to the claims released herein. In furtherance of the releases given above, the Parties hereby acknowledge that they are knowingly and voluntarily waiving, and that all Class Members shall be deemed to be waiving, and by operation of the Final Approval Order shall be deemed to have waived, their rights under Section 1542 of the California Civil Code to the full extent that they may lawfully waive all such rights and benefits pertaining to the subject matter hereof, that the consequences of such waiver have been explained to them by legal counsel, and the Parties acknowledge that they are familiar with the provisions of Section 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.**

Furthermore, Plaintiffs herein acknowledge that the effect and import of the provisions of Section 1542 of the California Civil Code have been explained to them by their own counsel. Plaintiffs further acknowledge and agree that this waiver of rights under Section 1542 of the California Civil Code has been separately bargained for and is an essential and material term of this Settlement Agreement and, without such waiver, this Settlement Agreement would not have been entered into. Further, the Parties hereby acknowledge that they are knowingly and voluntarily waiving, and that all Class Members shall be deemed to be waiving, and by operation of the Final Approval Order shall be deemed to have waived, their rights under the law of any state, the District of Columbia, or territory of the United States, federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code, to the full extent that they may lawfully waive all such rights and benefits pertaining to the subject matter hereof, that the consequences of such waiver have been explained to them by legal counsel, and the Parties acknowledge that they are familiar with the provisions which are similar, comparable or equivalent to Section 1542 of the California Civil Code. Furthermore, Plaintiffs herein acknowledge that the effect and import of the provisions similar, comparable, or equivalent to Section 1542 of the California Civil Code have been explained to them by their own counsel. Plaintiffs further acknowledge and agree that this waiver of rights under the provisions similar, comparable, or equivalent to Section 1542 of the California Civil Code has been separately bargained for and is an essential and material term of this Settlement Agreement and, without such waiver, this Settlement Agreement would not have been entered into.

**IX. ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

87. **Attorneys' Fees and Expenses.** Within forty-five (45) after the Notice Deadline, Class Counsel will file, and Defendant will not oppose provided it is consistent with this Paragraph, 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 Settlement Fund for fees, and for their reasonable litigation expenses. Before the disbursement or payment of the Fee Award and Expenses under this Settlement Agreement to the trust account of Milberg Coleman Bryson Phillips Grossman LLC ("Milberg"), Milberg shall provide to the Settlement Administrator a properly completed and duly executed IRS Form W-9. Fee Award and Costs (plus any interest accrued thereon) shall be paid by the Settlement Administrator, in the amount approved by the Court, no earlier than the Effective Date, and no later than thirty (30) days after the Effective Date. If the Court does not grant a Final Approval Order, or if the Effective Date does not occur, or if the Settlement Agreement is terminated, then any award of attorneys' fees and expenses, including the Fee Award and Expenses, is no longer payable and to the extent already distributed to Class Counsel shall be returned by Class Counsel to the Settlement Fund and ultimately Defendant in accordance with Paragraph 81. If the amount of the Fee Award and Expenses is reduced or reversed on appeal, Class Counsel and all other Plaintiffs' counsel to whom Class Counsel has distributed payments shall make all necessary refunds and repayments into the Settlement Fund no later than thirty (30) days after Class Counsels' receipt of notice of an order that reversed or reduces any award of attorneys' fees or expenses, which shall be distributed by the Settlement Administrator pursuant to the manner directed by the Court.

88. **Service Awards.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a Fee and Expense Application that will include a request for a Service Award for each of the Class Representatives not to exceed \$5,000.00 in recognition for his or her contributions to this Litigation. Within three (3) days after filing the Fee and Expense Application, the Fee and Expense Application shall be posted on the Settlement Website. The Settlement Administrator shall make the Service Award payments to the Class Representatives from the Settlement Fund. Such Service Award payments shall be paid by the Settlement Administrator in the amount approved by the Court no later than thirty (30) days after the Effective Date.

89. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the payment of Service Awards and/or attorneys' fees and litigation expenses in the amounts requested, the remaining provisions of this Settlement Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court concerning the amount of the Service Awards and/or attorneys' fees and litigation expenses shall constitute grounds for termination of this Settlement Agreement.

#### **X. NO ADMISSION OF LIABILITY**

90. **No Admission of Liability.** The Parties understand and acknowledge that this Settlement and Settlement Agreement constitute 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 Settlement or Settlement 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, wrongdoing, or damages of any kind whatsoever, or of any lack of meritorious defenses.

91. **No Use of Agreement.** Neither the Settlement, Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of it: (1) is, or may be deemed to be, or may be used as, an admission of or evidence of the validity of any claim made by Plaintiffs or on behalf of the Class; or (2) is or may be deemed to be, or may be used as, an admission of or evidence of any fault or omission by Defendant in the Litigation or in any proceeding in any court, administrative agency, or other tribunal or forum.

#### **XI. MISCELLANEOUS**

92. **Class Action Fairness Act.** Pursuant to the Class Action Fairness Act, no later than ten (10) days after the Settlement Agreement is filed with the Court, Defendant's counsel shall serve proper notice of the Settlement upon the United States Attorney General and each State Attorney General.

93. **Publicity.** The Parties agree that they shall not publicize (via press release or otherwise) this Settlement, Settlement Agreement, Settlement Fund or Settlement Payment, the amount or sum of individual Class Representatives' or Class Members' shares or the events and negotiations surrounding this Settlement Agreement in any way except by joint pleadings or unopposed motions filed with the Court, in Defendant's securities filings or disclosures, as required by law, or as required by order of a court or governmental authority. Subject to prior

approval from Defendant, which shall not be unreasonably withheld, Class Counsel and Plaintiffs' Counsel may post information on their law firm websites about the Settlement that is consistent with the notice program and Settlement. If any Party believes a statement is made in violation of this provision, the Parties shall meet-and-confer informally in an effort to resolve the dispute. If the dispute cannot be resolved informally, it shall be submitted to the Court for resolution.

94. **Confidentiality of Discovery Material.** The Parties, Parties' Counsel, and any retained or consulting experts, agree that each of them remain subject to the Stipulated Protective Order entered in this Litigation (ECF No. 24), with respect to any discovery materially produced formally or informally thereunder.

95. **Plaintiffs Shall Not Seek Exclusion from Class.** Plaintiffs shall not request exclusion from the Class, shall not object to the Settlement, and shall not encourage or otherwise influence any Class Member to request exclusion from the Class or to object to the Settlement.

96. **Other Litigation.** Plaintiffs and Class Members shall not cooperate with, provide support or assistance to, or encourage any plaintiff in any other pending or future action against Defendant or any Released Parties related to any of the allegations or claims alleged, or that could have been alleged, in the Litigation, in any federal, state, or foreign court, tribunal, forum, or proceeding.

97. **No Collateral Attack.** This Settlement Agreement shall not be subject to collateral attack, including by any Class Member or any recipient of Notice of the Settlement after issuance of the Final Approval Order.

98. **Integration of Exhibits.** All exhibits to this Settlement Agreement are a material part of the Settlement and are incorporated and made a part of the Settlement Agreement. Notwithstanding the foregoing, in the event of a conflict or inconsistency between the terms of this Settlement Agreement and the terms of any exhibit attached hereto, the terms of this Settlement Agreement shall prevail.

99. **Entire Agreement.** This Settlement Agreement, including all exhibits hereto, shall constitute the entire agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications, and understandings among the Parties. This Settlement Agreement may not be changed, modified, or amended except in writing signed by all Parties or their successors-in-interest, subject to Court approval. A Party shall not be deemed to have waived any provision of the Settlement Agreement except by a writing signed by that Party or its successor-in-interest, and a waiver by a Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement. The Parties contemplate that, subject to Court approval or without such approval where legally permissible and where such changes are non-material, the exhibits to this Settlement Agreement may be modified by subsequent written agreement of counsel for the Parties prior to dissemination of the Notice to the Class.

100. **No Other Representations or Warranties.** The Parties warrant that, in entering into this Settlement Agreement, they relied solely upon their own knowledge and investigation,

and not upon any promise, representation, warranty, or other statement by any other Party, not expressly contained in this Settlement Agreement or any of the incorporated documents.

101. **Resolution.** The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them which have been asserted, could have been asserted, or could be asserted by Plaintiffs or Class Members with respect to the Data Breach and the Litigation. The Parties each agree that the Settlement and this Settlement Agreement were negotiated in good faith and at arm's length and reflect a Settlement that was reached voluntarily after consultation with legal counsel of their choice. The Parties agree not to assert in any forum that the Litigation was defended by Defendant in bad faith or without a reasonable basis. The Parties shall assert no claims of any violation of Fed. R. Civ. P. 11 relating to the prosecution, defense, or the Settlement of this Litigation. Moreover, none of the Parties shall seek any cost-shifting against another Party.

102. **No Prior Assignment.** Plaintiffs and Class Counsel represent and warrant that none of the Plaintiffs' claims or causes of action referred to in this Litigation or this Settlement Agreement has been assigned, encumbered, or in any manner transferred in whole or in part.

103. **Successors.** This Settlement and Settlement Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their successors, heirs, executors, and assigns.

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

105. **Construction.** For the purpose of construing or interpreting this Settlement Agreement, the Parties agree that this Settlement Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed for or against any Party on those grounds.

106. **Headings.** The headings contained in this Settlement Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of the Settlement Agreement.

107. **Singular and Plurals.** As used in this Settlement Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.

108. **Cooperation of Parties.** The Parties to this Settlement Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Settlement Agreement.

109. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Settlement Agreement, the Parties shall meet and confer with each other in good faith prior to seeking Court intervention.

110. **Governing Law.** The Settlement Agreement shall be construed in accordance with, and be governed by, the laws of the State of New York, without regard to the principles thereof regarding choice of law.

111. **Counterparts.** This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically through e-mail of an Adobe PDF shall be deemed an original.

112. **Notices.** All notices to Class Counsel provided for herein shall be sent by overnight mail and email to:

Gary M. Klinger  
**MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC**  
227 W. Monroe Street, Suite 2100  
Chicago, IL 60606  
*gklinger@milberg.com*

All notices to Defendant provided for herein shall be sent by overnight mail and email to:

Rahul Mukhi  
**CLEARY GOTTLIEB STEEN & HAMILTON LLP**  
One Liberty Plaza  
New York, NY 10006-1470  
*rmukhi@cgsh.com*

The notice recipients and addresses designated above may be changed by written notice to the other Party.

113. **Authority.** Any person executing this Settlement Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party or Parties on whose behalf he or she signs this Settlement Agreement to all of the terms and provisions of this Settlement Agreement.

By: \_\_\_\_\_  
Kelly Murphy  
Henry Schein, Inc.

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

By: \_\_\_\_\_  
Rahul Mukhi  
Cleary Gottlieb Steen & Hamilton LLP

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

*Counsel for Defendant*

By: \_\_\_\_\_  
Lucisbel Cruz-Bermudez

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

By: \_\_\_\_\_  
Helmut Becker

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

By: \_\_\_\_\_  
Raina Borrelli  
*Counsel for Plaintiffs and the Class*

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

By: \_\_\_\_\_  
Gary M. Klinger  
*Counsel for Plaintiffs and the Class*

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

110. **Governing Law.** The Settlement Agreement shall be construed in accordance with, and be governed by, the laws of the State of New York, without regard to the principles thereof regarding choice of law.

111. **Counterparts.** This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically through e-mail of an Adobe PDF shall be deemed an original.

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227 W. Monroe Street, Suite 2100  
Chicago, IL 60606  
*gklinger@milberg.com*

All notices to Defendant provided for herein shall be sent by overnight mail and email to:

Rahul Mukhi  
**CLEARY GOTTLIEB STEEN & HAMILTON LLP**  
One Liberty Plaza  
New York, NY 10006-1470  
*rmukhi@cgsh.com*

The notice recipients and addresses designated above may be changed by written notice to the other Party.

113. **Authority.** Any person executing this Settlement Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party or Parties on whose behalf he or she signs this Settlement Agreement to all of the terms and provisions of this Settlement Agreement.

By: *Kelly Murphy*  
Kelly Murphy  
Henry Schein, Inc.

Date: 9/12/2024

By: \_\_\_\_\_  
Rahul Mukhi  
Cleary Gottlieb Steen & Hamilton LLP

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

*Counsel for Defendant*

110. **Governing Law.** The Settlement Agreement shall be construed in accordance with, and be governed by, the laws of the State of New York, without regard to the principles thereof regarding choice of law.

111. **Counterparts.** This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically through e-mail of an Adobe PDF shall be deemed an original.

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Gary M. Klinger  
**MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC**  
227 W. Monroe Street, Suite 2100  
Chicago, IL 60606  
*gklinger@milberg.com*

All notices to Defendant provided for herein shall be sent by overnight mail and email to:

Rahul Mukhi  
**CLEARY GOTTLIEB STEEN & HAMILTON LLP**  
One Liberty Plaza  
New York, NY 10006-1470  
*rmukhi@cgsh.com*

The notice recipients and addresses designated above may be changed by written notice to the other Party.

113. **Authority.** Any person executing this Settlement Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party or Parties on whose behalf he or she signs this Settlement Agreement to all of the terms and provisions of this Settlement Agreement.

By: \_\_\_\_\_  
Kelly Murphy  
Henry Schein, Inc.

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

By: *Rahul Mukhi*  
Rahul Mukhi  
Cleary Gottlieb Steen & Hamilton LLP

Date: 9/13/2024

*Counsel for Defendant*