

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made as of December 6, 2024, by and between, as herein defined, (a) Wilson Theodore and Lashanda Theodore, (collectively “Plaintiffs” and “Settlement Class Representatives), on behalf of the Settlement Class, and (b) Equifax Information Services, LLC (“Defendant” and “Equifax”).¹ This Agreement fully and finally compromises and settles any and all claims that are, were, or could have been asserted in the litigation styled *Theodore v. Equifax Information Services, LLC*, No. 2:24-cv-00224-EWH-LRL (E.D. Va.) (the “Lawsuit”), except as expressly provided herein.

I. RECITALS

This Agreement is made with reference to and in contemplation of the following facts and circumstances.

1.1 Plaintiffs filed their Complaint in the Lawsuit on April 3, 2024. In their Complaint, Plaintiffs allege that Equifax willfully and negligently violated the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 *et seq.*, by improperly reporting allegedly adverse information regarding Pink Energy Loans on Plaintiffs’ consumer reports. First, Plaintiffs assert a claim under 15 U.S.C. § 1681e(b), alleging that Equifax failed to follow reasonable procedures to ensure the maximum possible accuracy of Plaintiffs’ consumer reports and that including Pink Energy Loans on Plaintiffs’ consumer reports rendered them inaccurate. Second, Plaintiffs assert a related claim under 15 U.S.C. § 1681c(f), alleging that Equifax failed to include a notation or remark on consumer reports to indicate that information relating to Pink Energy Loans was disputed. Third, Plaintiffs assert a claim under 15 U.S.C. § 1681i(a), alleging that Equifax refused to conduct

¹ Section II below contains the definitions of capitalized terms utilized herein unless otherwise noted.

reasonable reinvestigations regarding the Pink Energy Loans and improperly included these loans on Plaintiffs' consumer reports. Plaintiffs' Complaint seeks actual, statutory, and/or punitive damages; injunctive relief; and attorney's fees and costs.

1.2 Prior to the filing of the Lawsuit, Plaintiffs' counsel had brought multiple actions in different venues against Defendant's competitor, TransUnion, LLC (based on the same claims), and various other alleged participants in the sale of solar power and related financing associated with "Pink Energy," a seller that has filed for bankruptcy. Plaintiffs' counsel contends that such efforts have informed their ability to negotiate and advocate this Agreement.

1.3 Equifax denies all liability and alleged wrongdoing in connection with the Lawsuit and denies that Plaintiffs' claims have any merit. Equifax filed its Motion to Dismiss the Complaint on September 20, 2024. Shortly thereafter, Plaintiffs and Equifax agreed to seek a temporary stay of the litigation to allow them time to try to resolve the Lawsuit. The Court granted the Parties' request for a stay on October 28, 2024.

1.4 After extensive arm's length negotiations in this Lawsuit and the informal exchange of information between the Parties and class list-related documents, the Parties agreed to the settlement in principle of their disputes in the Lawsuit.

1.5 The Parties recognize the expense and length of proceedings necessary to continue litigation of the Lawsuit through completion of discovery, motion practice, trial, and any appeals. The Parties have taken into account the uncertainty and risk of the outcome of further litigation and the difficulties and delays inherent in such litigation. The Parties are also aware of the burdens of proof necessary to establish liability and damages for the claims alleged in the Complaint and the defenses thereto. Based upon their investigation and motion practice, as set forth above, the Parties have determined that the settlement set forth in this Agreement is in their best interests and

that the Agreement is fair, adequate, and reasonable. The Parties have therefore agreed to settle the claims asserted in the Lawsuit pursuant to the terms and provisions of this Agreement.

1.6 By entering into this Agreement, it is the desire and intention of the Parties to effect a full, complete, and final settlement and resolution of all existing class disputes and claims that relate to or arise out of the facts and claims alleged in the Lawsuit.

NOW, THEREFORE, in consideration of the promises, covenants, and agreements set forth herein, and for other good and valuable consideration acknowledged by each of the Parties to be satisfactory and adequate, it is hereby AGREED, subject to the Court's approval as required by Federal Rule of Civil Procedure 23, that each and every Released Claim, as described in Section 7 below, shall be fully and finally settled and compromised and dismissed with prejudice, and shall be fully discharged and released, upon and subject to the following terms and conditions:

II. DEFINITIONS

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

2.1 "Affiliate" means, with respect to any Entity, any other Entity that directly or indirectly controls or is controlled by, or is under common control with, such Entity. For purposes of this definition, "control" when used with respect to any Entity means an ownership interest of at least twenty-five percent (25%) and/or the power to direct the management and policies of such Entity, directly or indirectly, whether through the ownership of voting securities, by contract, or otherwise.

2.2 "Agreement" or "Settlement Agreement" means this Settlement Agreement and Release, including all exhibits, which the Parties understand and agree set forth all material terms

and conditions of the Settlement of the Lawsuit between them and which is subject to approval by the Court.

2.3 “Class Counsel” means Consumer Litigation Associates, P.C. and Kelly Guzzo, PLC.

2.4 “Class List” means the list to be provided by Equifax to the Settlement Administrator which shall contain a list of U.S. consumers who have a Pink Energy Loan reported on their Equifax credit file at any time during the Class Period. Plaintiffs and/or the state attorneys general involved in litigation relating to the Pink Energy Loans shall be responsible for providing an initial list of U.S. consumers who purchased solar panels or related products from Pink Energy, include reasonably available contact information for such consumers (i.e., full name, current address, and email address (to the extent available)), as well as any other identifying information agreed upon by the Parties, for inclusion in the Class List.

2.5 “Class Period” means January 1, 2023 through and including the date on which the Court enters a Preliminary Approval Order.

2.6 “Complaint” means Plaintiffs’ Class Action Complaint filed in the Lawsuit on April 3, 2024.

2.7 “Court” means the United States District Court for the Eastern District of Virginia, which is the district where the Lawsuit is pending.

2.8 “Effective Date” means the date when all of the conditions set forth in Section 11 of this Agreement have occurred.

2.9 “Entity” means any corporation, partnership, limited liability company, association, trust, or other organization of any type.

2.10 “Equifax” means Defendant Equifax Information Services, LLC.

2.11 “Equifax’s Counsel” means King & Spalding LLP.

2.12 “Final Approval” means the Court’s entry of a Final Approval Order and Judgment that represents a final and binding determination of all issues within its scope and has not been reversed, vacated, or modified in any way and is no longer subject to appellate review.

2.13 “Final Approval Hearing” means the hearing at which the Court will consider the fairness, adequacy, and reasonableness of the Settlement pursuant to Federal Rule of Civil Procedure 23 and whether to approve the Settlement, enter a Final Approval Order and Judgment, and make such rulings as contemplated by this Agreement. Class Counsel shall request that the Final Approval Hearing take place no earlier than 100 days following entry of a Preliminary Approval Order.

2.14 “Final Approval Order and Judgment” means an order and judgment that the Court enters after the Final Approval Hearing, which, among other things, finally approves the Agreement, certifies the Settlement Class, dismisses the Lawsuit with prejudice, and otherwise satisfies the settlement-related provisions of Federal Rule of Civil Procedure 23 in all respects. Further details regarding the content of the Final Approval Order and Judgment are set forth in Section 8.

2.15 “Judgment” means the Final Approval Order and Judgment.

2.16 “Lawsuit” means the litigation styled *Theodore v. Equifax Information Services, LLC*, No. 2:24-cv-00224-EWH-LRL (E.D. Va.).

2.17 “Notice Date” means the date by which the Settlement Administrator substantially completes initial notice to the Settlement Class in accordance with this Settlement Agreement (being 60 days after entry of a Preliminary Approval Order).

2.18 “Notice and Administration Costs” means reasonable costs and expenses incurred by the Settlement Administrator in performing its obligations set forth in Section 5 and otherwise in this Agreement.

2.19 “Objection Deadline” means the deadline, as set forth in the Preliminary Approval Order, by which written objections to the Settlement must be filed with the Court (being 90 days after entry of a Preliminary Approval Order).

2.20 “Parent” means, with respect to any Entity, any other Entity that owns or controls, directly or indirectly, at least a majority of the securities or other interests that have by their terms ordinary voting power to elect a majority of the board of directors, or a majority of others performing a similar function, of such Entity.

2.21 “Parties” means the Settlement Class Representatives, on behalf of themselves and the Settlement Class, and Equifax.

2.22 “Parties’ Counsel” means Class Counsel and Equifax’s Counsel.

2.23 “Pink Energy” means Power Home Solar, LLC d/b/a Pink Energy.

2.24 “Pink Energy Loan” means a loan issued to a consumer by Goodleap LLC, Solar Mosaic LLC, Sunlight Financial Holdings, Inc., Cross River Bank, and Dividend Solar Finance, LLC to purchase solar panels or related products from Pink Energy.

2.25 “Plaintiffs” means the plaintiffs and proposed class representatives who filed the Complaint in the Lawsuit: Wilson Theodore and Lashanda Theodore.

2.26 “Preliminary Approval Order” means an order to be entered by the Court finding that the Court will likely be able to approve the Settlement under Federal Rule of Civil Procedure 23(e)(2) and concluding that the Court will likely be able to certify the Settlement Class for

purposes of entering a Judgment. Further details regarding the content of the Preliminary Approval Order are set forth in Section 8.

2.27 “Released Claims” means, without limitation, any and all claims, demands, actions, causes of action, and lawsuits, whether known or unknown, seeking injunctive or declaratory relief under Federal Rule of Civil Procedure 23(b)(2), or any comparable state law or remedy, relating to (i) Equifax’s inclusion of information relating to a Pink Energy Loan in a consumer’s Equifax credit file or (ii) Equifax providing information about a consumer relating to a Pink Energy Loan to a third party, whether asserted on an individual or class basis. In the interests of clarity, individual damages claims are not herein released.

2.28 “Released Parties” means Equifax and any of its current, former, and future Affiliates, Parents, Subsidiaries, representatives, officers, agents, directors, employees, contractors, vendors, insurers, Successors, assigns, and attorneys. In the interest of clarity, no furnisher of Defendant is a Released Party.

2.29 “Service Award” means any payment made, subject to Court approval, to a Settlement Class Representative in recognition of his or her role in litigating the Lawsuit.

2.30 “Settlement” means the settlement of the Lawsuit by and between the Parties, and pursuant to the terms and conditions set forth in this Agreement.

2.31 “Settlement Administrator” means, subject to approval by the Court, American Legal Claim Services LLC. A different Settlement Administrator may be substituted if approved by order of the Court.

2.32 “Settlement Class” shall have the meaning set forth in Section 3 below.

2.33 “Settlement Class Member” means any individual within the Settlement Class.

2.34 “Settlement Class Representatives” means the Plaintiffs and proposed class representatives who filed the Complaint in the Lawsuit: Wilson Theodore and Lashanda Theodore.

2.35 “Settlement Website” means the website to be developed and operated by the Settlement Administrator, which will be accessible to Settlement Class Members and contain relevant Settlement information and documents, notice materials, and important dates.

2.36 “Subsidiary” means, with respect to any Entity, any other Entity of which the first Entity owns or controls, directly or indirectly, at least a majority of the securities or other interests that have by their terms ordinary voting power to elect a majority of the board of directors, or others performing similar functions, of the other Entity.

2.37 “Successor” means, with respect to a natural person, that person’s heirs, successors, and assigns, and, with respect to an Entity, any other Entity that through merger, buyout, assignment, or any other means or transaction, acquires all of the first Entity’s duties, rights, obligations, shares, debts, or assets.

2.38 “Unknown Claims” means any and all Released Claims that any Settlement Class Representative or Settlement Class Member does not know or suspect to exist in his or her favor as of the Effective Date and which, if known by him or her, might have affected his or her decision(s) with respect to the Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Settlement Class Representatives and Settlement Class Members shall have waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, the District of Columbia, or principle of common law or otherwise, which includes or is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO

EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Settlement Class Representatives and Class Counsel acknowledge, and each Settlement Class Member by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims was separately bargained for and was a key element of the Agreement.

III. THE SETTLEMENT CLASS

3.1 Settlement Class Definition. The “Settlement Class” is defined as the U.S. consumers who have a Pink Energy Loan reported on their Equifax credit file at any time during the Class Period. Excluded from the Settlement Class are (i) Equifax, any entity in which Equifax has a controlling interest, and Equifax’s officers, directors, legal representatives, Successors, Subsidiaries, and assigns, and (ii) any judge, justice, or judicial officer presiding over the Lawsuit and the members of their immediate families and judicial staff.

3.2 Certification Of Settlement Class For Settlement Purposes Only. Equifax denies that the elements of Federal Rule of Civil Procedure 23 are satisfied for purposes of a litigation class, denies that a litigation class would be manageable, and denies that any litigation class may be certified in the Lawsuit. However, solely for purposes of avoiding the expense and inconvenience of further litigation, Equifax does not oppose certification of the Settlement Class for settlement purposes only.

IV. SETTLEMENT BENEFITS

4.1 Injunctive Relief. As relief provided to the Settlement Class, Equifax agrees to take the following steps, which shall be incorporated into the Final Approval Order and Judgment

(or an accompanying order entered simultaneously therewith). No later than 90 days after the Effective Date, Equifax shall take reasonable steps to:

- (a) Delete any tradelines currently reporting on Settlement Class Members' Equifax credit files that pertain to a Pink Energy Loan;
- (b) Suppress tradelines pertaining to Pink Energy Loans from Settlement Class Members' credit files such that those tradelines will not be included within Settlement Class Members' credit files in the future; and
- (c) Implement internal procedures reasonably designed to suppress or delete tradelines pertaining to a Pink Energy Loan in the event Equifax receives a dispute made in accordance with the FCRA from a Settlement Class Member relating to such tradeline.

Settlement Class Members expressly recognize the possibility that tradelines pertaining to a Pink Energy Loan may be re-reported in a manner that circumvents Equifax's reasonable efforts to delete or suppress such tradelines. Although Equifax will take reasonable steps to prevent such occurrences, Settlement Class Members acknowledge that it is not per se unreasonable if such re-reporting occurs.

V. NOTICE AND SETTLEMENT ADMINISTRATION

5.1 Costs Of Notice And Administration. Equifax shall pay for Notice and Administration Costs incurred by the Settlement Administrator up to an amount of \$10,000. The Settlement Administrator shall submit to Equifax monthly invoices for payment.

5.2 Settlement Administrator's Duties. The Parties agree that Parties will retain, subject to Court approval, an independent Settlement Administrator. The Parties further agree that, subject to Court approval, they have selected American Legal Claim Services LLC to serve as the Settlement Administrator. The Settlement Administrator shall perform the functions

specified in this Agreement and any other functions approved by the Court. In addition to other responsibilities that are described elsewhere in this Agreement, the duties of the Settlement Administrator shall include:

- (a) Providing notice to Settlement Class Members identified on the Class List by Email;
- (b) Establishing and maintaining the Settlement Website;
- (c) Responding to Settlement Class Member inquiries; and
- (d) Performing any other functions that the Parties jointly agree are necessary to accomplish administration of the Settlement.

5.3 **Notice Plan.** Notice will be provided to Settlement Class Members as identified on the Class List. Plaintiffs shall be responsible for providing Settlement Class Members' contact information, including email addresses, for purposes of generating the Class List through the state attorneys general involved in litigation relating to Pink Energy, the Trustee in the Pink Energy bankruptcy and/or the third-party lenders. Notice shall consist of:

- (a) Settlement Website Notice. The Settlement Administrator shall, promptly after entry of a Preliminary Approval Order, establish the Settlement Website containing key information and documents pertaining to the Settlement and the relief to be provided herein. The Website will include (among other documents and information) a long-form notice in a format to be agreed upon by the Parties and to be presented to the Court for approval. A copy of the proposed long-form notice is attached as Exhibit A. The Website will remain live throughout the Settlement process and through 150 days after the Effective Date, and will be updated from time to time, as necessary, to reflect important events in the Settlement process.

(b) Email Notice. The Settlement Administrator shall, dependent on contact information available in the Class List, provide email notice to Settlement Class Members whose email addresses are available. Initial Email Notice shall be substantially completed by the Notice Date (being 60 days after entry of a Preliminary Approval Order).

5.4 **Class List**. Within 30 days after the Court's entry of a Preliminary Approval Order, Equifax shall provide the Class List to the Settlement Administrator.

5.5 **Notice Date**. The Settlement Administrator shall substantially complete its efforts to provide initial Email Notice to the Settlement Class, pursuant to the terms of this Settlement Agreement, within 60 days of the entry of a Preliminary Approval Order.

5.6 Neither the Parties nor the Parties' Counsel shall have any liability whatsoever with respect to any act or omission of the Settlement Administrator, or any of its designees or agents, in connection with its performance of duties under this Agreement.

5.7 The Settlement Administrator shall indemnify and hold harmless the Parties and the Parties' Counsel for any liability arising from any act or omission of the Settlement Administrator, or any of its designees or agents, in connection with its performance of its duties under this Agreement.

VI. ATTORNEY'S FEES AND SERVICE AWARDS

6.1 **Attorney's Fees**. Class Counsel will apply to the Court for Attorney's Fees incurred in connection with bringing and prosecuting the Lawsuit and effectuating this Settlement. Such motion shall be filed no later than 90 days after entry of a Preliminary Approval Order and shall seek no more than \$180,000 for the relief obtained for the Settlement Class, as described in Section 4.1 of this Agreement.

6.2 **Service Awards.** Class Counsel will apply to the Court for Service Awards to be made by Equifax to each Settlement Class Representative in recognition of their roles in litigating the Lawsuit. The Parties agree that Class Counsel will seek no more than \$5,000 in Service Awards per Settlement Class Representative.

6.3 THE SETTLEMENT CLASS REPRESENTATIVES RECOGNIZE AND UNDERSTAND THAT THE COURT MAY NOT APPROVE ANY SERVICE AWARD TO THEM WHATSOEVER AND THAT THEIR SUPPORT OF THE SETTLEMENT IS IN NO WAY CONTINGENT ON ANY SERVICE AWARD. THE SETTLEMENT CLASS REPRESENTATIVES REPRESENT AND WARRANT THAT NO PROMISES OF ANY KIND HAVE BEEN MADE TO THEM WITH RESPECT TO ANY SERVICE AWARD.

6.4 Payment of any Attorney's Fees and/or Service Awards shall occur 30 business days after entry of any order by the Court approving of such Attorney's Fees and/or Service Awards and shall be paid by Equifax via check to Class Counsel (to an account to be identified by Class Counsel).

6.5 The Parties agree that the effectiveness of this Agreement is not contingent upon the Court's approval of the payment of any requested Attorney's Fees or Service Awards. If the Court declines to approve, in whole or in part, any request for Attorney's Fees or Service Awards, all remaining provisions in this 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 payment of Attorney's Fees or Service Awards, or the amount thereof, shall be grounds for cancellation or termination of this Agreement.

VII. RELEASES

7.1 As of the Effective Date, all Settlement Class Members and all Settlement Class Representatives, on behalf of themselves, their heirs, assigns, executors, administrators, predecessors, and Successors, and any other person purporting to claim on their behalf, hereby expressly, generally, absolutely, and unconditionally release and discharge any and all Released Claims against the Released Parties, and any of their current, former, and future Affiliates, Parents, Subsidiaries, representatives, officers, agents, directors, employees, contractors, vendors, insurers, Successors, assigns, and attorneys, except for claims relating to the enforcement of the Settlement or this Agreement.

7.2 The Parties understand that if the facts upon which this Agreement is based are found hereafter to be different from the facts now believed to be true, each Party expressly assumes the risk of such possible difference in facts, and agrees that this Agreement, including the releases contained herein, shall remain effective notwithstanding such difference in facts. The Parties agree that in entering this Agreement, it is understood and agreed that each Party relies wholly upon its own judgment, belief, and knowledge and that each Party does not rely on inducements, promises, or representations made by anyone other than those embodied herein. Notwithstanding any other provision of this Agreement (including, without limitation, this Section), nothing in this Agreement shall be deemed to in any way impair, limit, or preclude the Parties' rights to enforce any provision of this Agreement, or any court order implementing this Agreement, in a manner consistent with the terms of this Agreement.

7.3 The Parties agree that the Released Parties will suffer irreparable harm if any Settlement Class Member asserts any Released Claims against any Released Parties, and that in

that event, the Released Parties may seek an injunction as to such action without further showing of irreparable harm in this or any other forum.

7.4 Within 10 days of the Effective Date, Class Counsel and the Settlement Class Representatives shall dismiss with prejudice all claims, actions, or proceedings that are released pursuant to this Agreement.

VIII. PRESENTATION TO THE COURT

8.1 **Preliminary Approval.** No later than December 2, 2024, the Settlement Class Representatives and Class Counsel shall file a motion seeking a Preliminary Approval Order pursuant to the requirements of Federal Rule of Civil Procedure 23(e)(1). In addition to finding that the Court will likely be able to approve the Settlement under Federal Rule of Civil Procedure 23(e)(2), and concluding that the Court will likely be able to certify the Settlement Class for purposes of entering a Judgment, the Preliminary Approval Order shall include, among other things:

- (a) A procedure for Settlement Class Members to object to the Settlement, along with the Objection Deadline;
- (b) The date and time of the Final Approval Hearing;
- (c) Any pertinent information regarding notice to be provided to the Settlement Class; and
- (d) An order staying all proceedings related to class allegations in the Lawsuit except as may be necessary to implement the Settlement or comply with the terms of this Agreement.

8.2 **Final Approval.** No later than 100 days after entry by the Court of a Preliminary Approval Order, Settlement Class Representatives shall file a motion seeking final approval of the

Settlement and entry of a Final Approval Order and Judgment. In addition to finally approving the Settlement, certifying the Settlement Class, and otherwise satisfying the settlement-related provisions of Federal Rule of Civil Procedure 23 in all respects, the Final Approval Order and Judgment shall, among other things:

(a) Order Equifax to implement the injunctive relief procedures set forth in Section 4.1;

(b) Dismiss, on the merits and with prejudice, all claims in the Lawsuit (except for any Settlement Class Member's claims for actual or statutory damages for noncompliance with the FCRA under 15 U.S.C. §§ 1681o, 1681n) and permanently enjoin each and every Settlement Class Member from bringing, joining or continuing to prosecute against the Released Parties any Released Claims, and enter Judgment thereon;

(c) Retain jurisdiction of all matters relating to the modification, interpretation, administration, implementation, effectuation and enforcement of this Agreement and the Settlement, which includes, without limitation, the Court's power to enforce the bar against Settlement Class Members' prosecution of Released Claims against Released Parties pursuant to the All Writs Act, 28 U.S.C. § 1651, or any other applicable law.

IX. OBJECTIONS TO THE SETTLEMENT

9.1 Any Settlement Class Member who wishes to object to the Settlement must submit a written objection to the Court on or before the Objection Deadline, which shall be 90 days following entry of a Preliminary Approval Order.

9.2 A written objection must include:

(a) The case name and number of the Lawsuit;

(b) The name, address, and telephone number of the objecting Settlement Class Member;

(c) If the objecting Settlement Class Member is represented by an attorney, or received assistance from an attorney in drafting his or her objection, the name, address, and telephone number of the attorney;

(d) A statement of whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class;

(e) A statement of the specific grounds for the objection; and

(f) A statement of whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, and if so, whether personally or through counsel.

9.3 In addition to the foregoing requirements, if an objecting Settlement Class Member is represented by counsel and such counsel intends to speak at the Final Approval Hearing, the written objection must include the identity of witnesses whom the objecting Settlement Class Member intends to call to testify at the Final Approval Hearing and a detailed description of any evidence the objecting Settlement Class Member may offer at the Final Approval Hearing, as well as copies of any exhibits the objecting Settlement Class Member may introduce at the Final Approval Hearing.

9.4 Any Settlement Class Member who fails to object to the Settlement in the manner described in this Agreement shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be precluded from seeking any review of the Settlement or the terms of this Agreement by appeal or any other means.

X. EFFECTIVE DATE AND TERMINATION

10.1 **Effective Date.** The Effective Date of the Settlement shall be the first business day after all of the following conditions have occurred:

- (a) The Parties execute this Agreement;
- (b) The Court enters a Preliminary Approval Order;
- (c) Notice is provided to the Settlement Class in accordance with the Preliminary Approval Order;
- (d) The Court enters a Final Approval Order and Judgment; and
- (e) The Final Approval Order and Judgment have become final because (i) there was no objection or motion to intervene, or if so, (ii) the time for appeal, petition, rehearing, or other review of a filed objection or motion to intervene has expired; (iii) if any appeal, petition, or request for rehearing or other review has been filed, the Final Approval Order and Judgment are affirmed without material change, or the appeal is dismissed or otherwise disposed of, and no other appeal, petition, rehearing or other review is pending, and the time for further appeals, petitions, and requests for rehearing or other review has expired.

10.2 **Termination.** Either Party may elect to terminate this Agreement upon five business days written notice to the other Party if:

- (a) The Parties fail to obtain and maintain a Preliminary Approval Order consistent with the material provisions of this Agreement, and after negotiating in good faith, the Parties are unable to modify the Settlement in a manner to obtain and maintain a Preliminary Approval Order;

(b) The Court fails to enter a Final Approval Order and Judgment under the provisions of this Agreement;

(c) The settlement of the Settlement Class claims, or the Final Approval Order and Judgment, is not upheld on appeal; or

(d) The Effective Date does not occur for any reason, including but not limited to the entry of an order by any court that would require either material modification or termination of the Agreement.

10.3 Effect of Termination. If this Agreement is terminated under Section 10.2 above, the following shall occur:

(a) The Parties shall return to the status quo in the Lawsuit as if the Parties had not entered into this Agreement;

(b) Any Court orders approving certification of the Settlement Class and any other orders entered pursuant to this Agreement shall be null and void and vacated, and shall not be used in or cited by any person or entity in support of claims or defenses or in support or in opposition to a future class certification motion in connection with any further proceedings in the Lawsuit or in any other action, lawsuit, arbitration, or other proceeding involving a Released Claim; and

(c) This Agreement shall become null and void, and the fact of this Settlement and that Equifax did not oppose certification of a Settlement Class shall not be used or cited by any person or entity in support of claims or defenses or in support of or in opposition to a future class certification motion in connection with any further proceedings in the Lawsuit or in any other action, lawsuit, arbitration, or other proceeding involving a Released Claim.

XI. COVENANTS NOT TO SUE

11.1 The Settlement Class Representatives covenant and agree:

(a) Not to file, commence, prosecute, intervene in, or participate in (as class members or otherwise) any action in any jurisdiction based on or relating to any Released Claim against any of the Released Parties;

(b) Not to organize or solicit the participation of Settlement Class Members in a separate class for purposes of pursuing any action based on or relating to any Released Claim or the facts and circumstances relating thereto, against any of the Released Parties; and

(c) That the foregoing covenants and this Agreement shall be a complete defense to any Released Claim against any of the Released Parties.

XII. REPRESENTATIONS AND WARRANTIES

12.1 Each Party represents that:

(a) Such Party has the full legal right, power, and authority to enter into and perform this Agreement, subject to Court approval;

(b) Such Party is voluntarily entering into this Agreement as a result of arm's-length negotiations conducted by its counsel;

(c) Such Party is relying solely upon its own judgment, belief, and knowledge, and the advice and recommendations of its own independently selected counsel, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof;

(d) Such Party has been represented by, and has consulted with, the counsel of its choice regarding the provisions, obligations, rights, risks, and legal effects of this

Agreement and has been given the opportunity to review independently this Agreement with such legal counsel and agree to the particular language of the provisions herein;

(e) The execution and delivery of this Agreement by such Party and the consummation by such Party of the transactions contemplated by this Agreement have been duly authorized by such Party;

(f) Except as provided herein, such Party has not been influenced to any extent whatsoever in executing the Agreement by representations, statements, or omissions pertaining to any of the foregoing matters by any Party or by any person representing any party to the Agreement;

(g) Each of the Parties assumes the risk of mistake as to facts or law;

(h) This Agreement constitutes a valid, binding, and enforceable agreement;
and

(i) No consent or approval of any person or entity (other than the Court) is necessary for such Party to enter into this Agreement.

12.2 The Settlement Class Representatives represent and warrant that they have not assigned or otherwise transferred any interest in any of the Released Claims against any of the Released Parties, and further covenant that they will not assign or otherwise transfer any interest in any of the Released Claims against any of the Released Parties.

12.3 The Settlement Class Representatives represent and warrant that they have no surviving claim or cause of action against any of the Released Parties with respect to any of the Released Claims.

XIII. NO ADMISSION OF WRONGDOING

13.1 This Agreement is made for the sole purpose of attempting to consummate a Settlement of the Lawsuit on a class-wide basis. This Agreement compromises claims which are contested in good faith, and it shall not be deemed an admission by any of the Parties as to the merits of any claim or defense.

13.2 This Agreement, whether or not consummated, any communications and negotiations relating to this Agreement or the Settlement, and any proceedings taken pursuant to this Agreement:

(a) Shall not be offered or received against Equifax as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by Equifax with respect to the truth of any fact alleged by any Settlement Class Representative or any Settlement Class Member or the validity of any claim that has been or could have been asserted in the Lawsuit or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Lawsuit or in any litigation, or of any liability, negligence, fault, breach of duty, or wrongdoing of Equifax;

(b) Shall not be offered or received against Equifax as evidence of a presumption, concession, or admission of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by Equifax;

(c) Shall not be offered or received against Equifax as evidence of a presumption, concession, or admission with respect to any liability, negligence, fault, breach of duty, or wrongdoing, or in any way referred to for any other reason as against Equifax, in any other civil, criminal, or administrative action, or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Agreement;

provided, however, that if this Agreement is approved by the Court, the Parties may refer to it to effectuate the liability protection granted them hereunder;

(d) Shall not be construed against Equifax as an admission or concession that the consideration to be given hereunder represents the amount that could be or would have been recovered after trial in the Lawsuit;

(e) Shall not be construed as or received in evidence as an admission, concession, or presumption against any Settlement Class Representative or any Settlement Class Member that any of their claims are without merit, or that any defenses asserted by Equifax have any merit, or that damages recoverable in the Lawsuit would not have exceeded the relief provided to the Settlement Class in this Settlement; provided, however, that if this Agreement is approved by the Court, Equifax may refer to it to enforce the release of claims granted to it hereunder; and

(f) Shall not be used by the Settlement Class Representatives or Class Counsel to argue or present any argument that Equifax could not contest class certification and/or proceeding collectively on any grounds if the Lawsuit were to proceed or to establish any of the elements of class certification in any litigated certification proceedings, whether in the Lawsuit or in any other judicial proceeding in which Equifax is a party.

13.3 The negotiation, terms, and entry of the Parties into this Agreement shall remain subject to the provisions of Federal Rule of Evidence 408, any and all state statutes of a similar nature, and the mediation privilege.

13.4 Notwithstanding the foregoing, Equifax may use, offer, admit, or refer to this Agreement and to the Settlement reached herein where necessary to defend itself in any other

action, or in any judicial, administrative, regulatory, arbitrative, or other proceeding, and as necessary to comply with regulatory and/or disclosure obligations.

XIV. CAFA NOTICE

14.1 Equifax will serve the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, no later than 10 days after the filing of a motion for preliminary approval with the Court.

XV. MISCELLANEOUS PROVISIONS

15.1 Further Steps. The Parties agree that they each shall undertake any further required steps to effectuate the purposes and intent of this Agreement.

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

15.3 Fair and Reasonable. The Parties and the Parties' Counsel believe this Agreement is a fair and reasonable compromise of the disputed claims and in the best interest of the Parties. The Parties have arrived at this Agreement as a result of extensive arms-length negotiations.

15.4 Dispute Resolution. The Parties agree to meet and confer in good faith in regard to any dispute relating to the Settlement or to administration of the Settlement. Any dispute that cannot be resolved by the Parties shall be submitted to the Court for resolution.

15.5 Confidentiality. The Parties agree that the terms of this Settlement shall remain confidential and not be disclosed until the Agreement is publicly filed in connection with the Settlement Class Representatives' and Class Counsel's motion seeking a Preliminary Approval Order. Nothing in this Section shall be construed to preclude Class Counsel from communicating

with the Settlement Class Representatives. Further, nothing in this Section shall be construed to preclude Equifax from disclosing information regarding this Settlement with: (a) its accountants, auditors, insurers, and attorneys; (b) its subscribers for business-related purposes; (c) as required by law, statute, rule, regulation, order, or any other requirement or determination of any court, governmental entity or regulatory entity; or (d) as may be authorized by Class Counsel in writing.

15.6 Exhibits. The exhibits to this Agreement are expressly incorporated by reference and made part of the terms and conditions set forth herein.

15.7 Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties with respect to the Settlement and no representations, warranties, or inducements have been made to any Party concerning this Agreement other than the representations, warranties, and covenants expressly contained and memorialized herein.

15.8 Severability. Should any part, term, or provision of this Agreement be declared or determined by any court or tribunal to be illegal or invalid, the Parties agree that the Court may modify such provision to the extent necessary to make it valid, legal, and enforceable. In any event, such provision shall be severable and shall not limit or affect the validity, legality, or enforceability of any other provision hereunder.

15.9 Successors and Assigns. This Agreement shall be binding upon, and inures to the benefit of, the heirs, executors, Successors, and assigns of the Parties hereto.

15.10 Competency of Parties. The Parties, and each of them, acknowledge, warrant, represent and agree that in executing and delivering this Agreement, they do so freely, knowingly and voluntarily, that they had an opportunity to and did discuss its terms and their implications with legal counsel, that they are fully aware of the contents and effect of the Agreement and that

such execution and delivery is not the result of any fraud, duress, mistake or undue influence whatsoever.

15.11 Modification or Amendment. No modification of or amendment to this Agreement shall be valid unless it is in writing and signed by all Parties hereto, or their Successors.

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

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

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

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

15.15 Dates. Where this Agreement provides for a deadline or event to occur a certain number of days following another deadline or event, the Parties may agree, or the Court may order, that any such date be modified as appropriate to account for weekends or holidays.

15.16 No Waiver. The failure of any of the Parties to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, or any other provision, nor in any way to affect the validity of this Agreement or any part hereof, or the right of any of the Parties thereafter to enforce that provision or each and every other provision. No waiver of any breach of this Agreement shall constitute or be deemed a waiver of any other breach.

15.17 Survival. The Parties agree that the terms set forth in this Agreement shall survive the signing of this Agreement.

15.18 Notices/Communications.

(a) All notices to Class Counsel provided for in this Agreement shall be sent by e-mail and First Class mail to the following:

Leonard A. Bennett
Thomas Domonoske
Mark C. Leffler
Adam W. Short
John Maravalli
CONSUMER LITIGATION ASSOCIATES, P.C.
763 J. Clyde Morris Blvd., Ste. 1-A
Newport News, Virginia 23601
lenbennett@clalegal.com
tom@clalegal.com
adam@clalegal.com
john@clalegal.com

Kristi C. Kelly
KELLY GUZZO, PLC
3925 Chain Bridge Road, Suite 202
Fairfax, VA 22030
kkelly@kellyguzzo.com

(b) All notices to Equifax or Equifax's Counsel provided for in this Agreement

shall be sent by e-mail and First Class mail to the following:

Zachary A. McEntyre
Peter Starr
KING & SPALDING LLP
1180 Peachtree Street, N.E.
Atlanta, GA 30309
zmcentyre@kslaw.com
pstarr@kslaw.com

(c) All notices to the Settlement Administrator provided for in this Agreement

shall be sent by e-mail and First Class mail to the following:

American Legal Claims Services LLC
8011 Philips Hwy
Suite 5
Jacksonville, FL 32256
Jeff.pirrung@americanlegalclaims.com

(d) The above notice recipients and addresses designated in this Section may

be changed by written notice posted to the Settlement Website.

15.19 Governing Law. All terms and conditions of this Agreement shall be governed by and interpreted according to the laws of Virginia, without reference to its conflict of law provisions, except to the extent the federal law of the United States requires that federal law governs.

15.20 No Precedential Value. The Parties agree and acknowledge that this Agreement carries no precedential value.

15.21 Retention of Jurisdiction. The administration and consummation of the Settlement as embodied in this Agreement shall be under the authority of the Court, and the Court shall retain jurisdiction over the Settlement and the Parties for the purpose of enforcing the terms of this

Agreement. The Court also shall retain exclusive jurisdiction over any determination of whether any subsequent suit is released by the Settlement Agreement.

15.22 Counterparts. This Agreement may be executed in one or more counterparts and, if so executed, the various counterparts shall be and constitute one instrument for all purposes and shall be binding on each of the Parties that executed it; provided, however, that none of the Parties shall be bound unless and until all Parties have executed this Agreement. For convenience, the signature page(s) may be collected and annexed to one or more documents to form a complete counterpart. True and correct photocopies or electronic images (such as PDFs) of executed copies of this Agreement may be treated as originals.

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

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by themselves or by their duly authorized counsel:

**Class Counsel on behalf of the Settlement
Class Representatives (who have specifically
assented to the terms of this Settlement
Agreement) and the Settlement Class:**

Equifax Information Services LLC

Name:
Firm: Consumer Litigation Associates, P.C.
Date:

Name:
Title:
Date:

Name:
Firm: Kelly Guzzo, PLC
Date: