

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement”) is entered into by and between (i) Allwell Behavioral Health Services (“Allwell”) and (ii) Lee McKittrick and Jeremy Standish, (“Plaintiffs”) both individually and on behalf of the Settlement Class, in the case of *McKittrick et al. v. Allwell Behavioral Health Services*, Case No. CH2022-0174, Muskingum County, Ohio Court of Common Pleas. Allwell and Plaintiffs are collectively referred to herein as the “Parties.” The two lawsuits are collectively referred to herein as the “Litigation.”

I. FACTUAL BACKGROUND AND RECITALS

1. On June 13, 2022, Plaintiff Jeremy Standish filed a class action lawsuit against Allwell based on a cyberattack on Allwell’s network in March 2022 (the “Incident”), alleging claims of negligence, negligence per se, breach of confidence, breach of contract, and unjust enrichment in the Southern District of Ohio.

2. On June 23, 2022, Plaintiff Lee McKittrick filed a class action lawsuit against Allwell based on the Incident, alleging claims of negligence, breach of implied contract, breach of fiduciary duty, unjust enrichment, and violations of the CSPA, 1345.01, *et seq.* in the Muskingum County Court of Common Pleas.

3. Following arms’-length negotiations, the Parties negotiated a settlement with the assistance of Hon. Morton Denlow (ret.) at a mediation on November 29, 2022, by which the Parties agree and hereby wish to resolve all matters pertaining to, arising from, or associated with the Litigation, including all claims Plaintiffs and Settlement Class Members have or may have had against Allwell and related persons and entities, as set forth herein.

4. Following the mediation which was conducted on behalf of Plaintiff McKittrick and Plaintiff Standish from the case styled *Standish v. Allwell Behavioral Health Services*, Case No. 2:22CV02468, U.S. District Court, Southern District of Ohio, Plaintiff McKittrick and Plaintiff Standish agreed that the *Standish* action would voluntarily dismiss without prejudice from the Southern District of Ohio. Plaintiff Standish then joined an amended complaint that was filed in the *McKittrick* action pending in the Muskingum County Court of Common Pleas.

5. The Amended Complaint pending in the *McKittrick* case alleges causes of action for negligence, breach of implied contract, breach of fiduciary duty, unjust enrichment, and violations of the CSPA, 1345.01, *et seq.* relating to the Data Breach that Allwell experienced in March 2022 and potentially impacted Plaintiffs’ and Class Members’ names, dates of birth, Social Security numbers, telephone numbers, bank routing numbers, bank account numbers, and drivers’ license numbers (collectively referred to in this Settlement as “Private Information”).

6. 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.

7. Allwell denies all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or anyone else have asserted in this Litigation or may assert in the future. Despite Allwell's position that it is not liable for, and has good defenses to, the claims alleged in the Litigation, Allwell 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 Agreement, nor any negotiation or act performed, or document created in relation to the Settlement Agreement, or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission of, or evidence of, any wrongdoing or liability.

8. The Parties now enter into this Settlement Agreement. Plaintiffs and Class Counsel have conducted an investigation into the facts and the law regarding the Litigation and have concluded that a settlement according to the terms set forth below is fair, reasonable, and adequate, and beneficial to and in the best interests of Plaintiffs and the Settlement Class, recognizing: (1) the existence of complex and contested issues of law and fact; (2) the risks inherent in litigation; (3) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; (4) the magnitude of the benefits derived from the contemplated 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; and (5) Plaintiffs' determination that the settlement is fair, reasonable, adequate, and will substantially benefit the Settlement Class Members.

9. 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.

10. 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, it is agreed by and among the undersigned that the Litigation be settled and compromised, and that the Releasors release the Released Parties of the Released Claims, without costs as to Released Parties, Plaintiffs, Class Counsel, or the Settlement 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:

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

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

13. “**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 Date is entered. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order, as well as in the Notice and the Claim Form.

14. “**Class,**” “**Settlement Class,**” “**Class Member,**” or “**Settlement Class Member**” shall mean each member of the Settlement Class, as defined as “All individuals who were issued notice by Allwell stating that their personal information may have been involved in the Data Breach,” who does not timely elect to be excluded from the Settlement Class or Settlement Subclass.

15. “**Class Counsel**” shall mean Terence R. Coates, Jonathan T. Deters, and Dylan J. Gould of Markovits, Stock & DeMarco, LLC; Joseph M. Lyon of The Lyon Firm; Matthew R. Wilson of Meyer Wilson Co., LPA; and Brittany Resch of Turke & Strauss LLP.

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

17. “**Court**” shall mean any Judge Mark Fleegle of the Muskingum County Court of Common Pleas who is presiding over this Litigation.

18. “**Defendant**” shall mean Allwell Behavioral Health Services.

19. “**Defendant’s Counsel**” shall mean David E. Williamson, David J. Shannon, and Gregory P. Graham of Marshall Dennehey.

20. “**Digital Ad Notice**” is the content of the notices substantially in the form as **Exhibit B** are Banner Ads, Social Media Ads, and Search Engine Ads. This form of Notice is intended to be provided digitally to increase the reach of the Notice in this Litigation.

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

22. “**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, as well as a Service Award for the Class Representatives.

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

24. “**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 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).

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

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

- i. Certifies the Settlement Class pursuant to Ohio Rule of Civil Procedure 23;
- 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 Release 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 Final Approval Order with respect to the foregoing.

27. “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.

28. “Litigation” shall mean the action captioned *McKittrick v. Allwell Behavioral Health Services*, No. CH2022-0174, Muskingum County, Ohio Court of Common Pleas.

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

30. “Notice” means 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, C and E**, and is consistent with the requirements of Due Process. The Notice Date in this case will be 30 days after the Court enters the Preliminary Approval Order.

31. “Notice and Administrative Expenses” means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Settlement Class, locating Settlement Class Members, processing claims, determining the eligibility of any person to be a Settlement Class Member, and administering, calculating and distributing the Settlement Fund to Settlement Class Members. Administrative Expenses also includes all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

32. “Notice Deadline” means the last day by which Notice must be issued to the Settlement Class Members, and will occur thirty (30) days after receipt by the Settlement Administrator of the Settlement Class List.

33. “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a person within the Settlement Class 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 the Notice Date, or such other date as ordered by the Court. This Deadline will also be known as the Objection Date and/or Exclusion Date.

34. “Opt-Out Deadline” is the last day on which a Settlement Class Member may file a request to be excluded from the Settlement Class, which will be sixty (60) days after the Notice Deadline.

35. “Out-of-Pocket Losses” means out-of-pocket costs or expenditures that a Settlement Class Member actually incurred that are supported by Reasonable Documentation. “Out-of-Pocket Losses” include things such as the purchase of identity protection services, credit monitoring services, or ID theft insurance different than the services and benefits offered by Defendant, are fairly traceable to the Incident, and such expenses have not already been reimbursed by a third party.

36. “Participating Settlement Class Member” means a Settlement Class Member who does not submit a valid Request for Exclusion prior to the Opt-Out Deadline.

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

38. “Plaintiffs” or **“Class Representatives”** shall mean the named class representatives, Lee McKittrick and Jeremy Standish

39. “Preliminary Approval Order” shall mean the Court’s Order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing notice of the Settlement to the Settlement Class substantially in the form of the Notice set forth in this Settlement Agreement. Attached as **Exhibit D**.

40. “Private Information” means Social Security numbers, driver’s license, financial information, health insurance information, medical information, other protected health information as defined by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and additional personally identifiable information (“PII”) and protected health information (“PHI”) that Defendant collected and maintained, as those terms are defined by applicable data breach notification laws.

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 Settlement Class Members, and to each of their predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing, and anyone claiming 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 and for settlement payments to Class Members. 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 recipients of the *cy pres* distribution.

45. “Service Award” 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 Plaintiff, subject to court approval.

46. “Settlement Administrator” means, subject to Court approval, Atticus Administration, LLC, an entity jointly selected and supervised by Class Counsel and Defendant to administer the settlement.

47. “Settlement Class” means the individuals identified on the Defendant Settlement Class List whose certain personal information may have been involved in the Data Breach. Excluded from the Settlement Class are: (1) the judge presiding over this Action, and members of his direct family; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, and employees; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

48. “Settlement Class List” means a list of each Settlement Class Member’s full name, and current or last known address, which Defendant or Defendant’s agent shall provide to the Settlement Administrator within seven (7) days of the entry of the Preliminary Approval Order.

49. “Settlement Class Member” means an individual who falls within the definition of the Settlement Class.

50. “Settlement Fund” means to be paid by, or on behalf of, Defendant six-hundred fifty thousand dollars (\$650,000.00) including any interest accrued thereon after payment, this being the full and complete limit and extent of Defendant’s obligations with respect to the Settlement.

51. “Settlement Payment” means the payment to be made via mailed check and/or electronic payment to a Participating Settlement Class Member from the Settlement Administrator from the Settlement Fund.

52. “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-E** (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, www.allwelldatasettlement.com, will be publicly viewable and contain broad 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, FAQs, Claim Form that may be submitted online through the Settlement Website or mailed to the Settlement Administrator, and the deadlines for filing a Claim, Objection, Exclusion requests, and the date of the Fairness Hearing. The Settlement Website is viewed as an important piece of the Notice Plan to Class Members. The Settlement Website will remain active until 90 days after the Effective Date.

53. “Short Form Notice” is the postcard notice that will be mailed to each available Settlement Class Member to the Settlement Class Members. Short Form Notice will include a copy of the Claim Form, in the same or substantially similar form as **Exhibit E** hereto.

54. “Taxes and Tax-Related Expenses” means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon Defendant 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

55. Establishment of Settlement Fund. Within thirty (30) days of the entry of the Preliminary Approval Order, Defendant shall cause to be deposited the costs of Notice and Administration through the date of final approval, as estimated by the Settlement Administrator into an account established and administered by the Settlement Administrator at a financial institution agreed upon by the Settlement Administrator, Defendant, and Class Counsel, to cover the Settlement Administrator’s reasonable set-up costs, notice, and early administration costs. Defendant shall cause to be deposited the balance of the Settlement Fund into the same account 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 to Defendant on or before the date of the filing of the motion for preliminary approval.

56. Qualified Settlement Fund. The Parties agree that the Settlement Fund 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 (“FDIC”). Funds may be placed in a non-interest bearing account as may be reasonably necessary during the check clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

57. 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 returned to those who paid the Settlement Fund in the event this Settlement Agreement is terminated in accordance with this Agreement.

58. Use of the Settlement Fund. As further described in this Agreement and in Exhibit C, the Settlement Fund shall be used by the Settlement Administrator to pay for the following: (1) reimbursement for Out-of-Pocket Losses, Lost Time, and *Pro Rata* Cash Compensation (2) Notice and Administration Costs; (3) Fee Award and Costs as awarded by the Court; (4) Service Award Payments approved by the Court; and (5) 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 Agreement or approved by the Court. Responsibility for effectuating payments described in this paragraph shall rest solely with the Settlement Administrator and neither Defendant nor Defendant’s agents shall have any responsibility whatsoever with respect to effectuating such payments.

59. 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 Settlement Class Representative or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Participating Settlement 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 Agreement.

IV. SETTLEMENT BENEFITS AND ADMINISTRATION

60. The Settlement Administrator will agree to make the following compensation available to Settlement Class Members who submit valid and timely claim forms from the Settlement Fund. Claims will be subject to review for completeness and plausibility by a Settlement Administrator, and Claimants will have the opportunity to seek review by the Parties’ Counsel, if they dispute the Settlement Administrator’s initial determination.

- i. **\$50 Cash Compensation (Pro Rata Cash Payment)**: After the distribution of attorneys' fees, Class Counsel's Litigation Expenses, Administrative Fees, Service Awards, Compensation for Out-of-Pocket Expenses, and Lost Time, the Settlement Administrator will make *pro rata* settlement payments of any remaining funds to each Class Member who submits a claim. This may *pro rata* increase or decrease the \$50 cash payment.
- ii. **Compensation for Out-of-Pocket Losses**: The Settlement Administrator, from the Settlement Fund, will provide compensation, up to a total of \$4,000 per person who is a member of the Settlement Class, upon submission of a claim and supporting documentation, for out-of-pocket monetary losses incurred as a result of the Incident, including, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

Settlement Class Members with Monetary Losses must submit documentation supporting their claims. This can include receipts or other documentation not "self-prepared" by the claimant that document the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

- iii. **Compensation for Lost Time**: The Settlement Administrator, from the Settlement Fund, will provide compensation for up to 5 hours of lost time, at \$25.00/hour (\$125 cap), for time spent mitigating the effects of the Incident. Class Members may submit claims for up to 5 hours of lost time with only an attestation demonstrating that they spent the claimed time responding to issues raised by the Incident. This attestation may be completed by checking a box next to the sentence: "I swear and affirm that I spent the amount of time noted in response to the Allwell data security incident." Claims for lost time can be combined with claims for out-of-pocket losses but are subject to the \$4,000.00 cap.

61. Settlement Administration Fees: The Settlement Fund amount provided by Defendant, or on behalf of Defendant, will pay the entirety of the settlement administration fees, including the cost of notice. The Parties agree to solicit competitive bids for the settlement administration fees and to rely upon postcard notice, all in order to contain the Notice and Administrative Expenses while still providing effective notice to the Class. Settlement Administration Fees shall be paid through the Settlement Fund and are limited to the common fund amount.

62. Defendant agrees to provide confirmatory discovery on establishing the appropriateness of the Settlement terms as contemplated under Civ.R. 23, including, but not limited to, a full class list that identifies each Class Member and their address.

63. Upon the Effective Date, and receipt of payee instructions and a Form W-9 for the payee, Defendant or its insurer shall pay to the Settlement Administrator the Settlement Fund to satisfy the payments in Paragraph 59 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 Settlement 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 Settlement Fund 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 Section 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 Settlement Fund, except insofar as such obligations are explicitly provided for in this Settlement Agreement.

65. Once a Settlement Administrator is mutually agreed to by the Parties and after the settlement is preliminarily approved by the Court, the Settlement Administrator will provide notice in a manner mutually agreed upon by the Parties.

66. After the Court enters an order approving the final Settlement Agreement, the Settlement Administrator shall provide the requested relief to all Settlement Class Members that made a valid 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 (i) 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; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

V. SETTLEMENT CLASS NOTICE, OPT-OUTS, AND OBJECTIONS

68. **Notice.** Within twenty-one (21) days after the date of the Preliminary Approval Order, Defendants shall provide the Settlement Class List to the Settlement Administrator. Within thirty (30) days after receipt of Settlement Class List, the Settlement Administrator shall disseminate Notice to the Settlement Class Members. Notice shall be disseminated via U.S. mail to all Settlement Class Members and also via e-mail to Settlement Class Members whose personal e-mail addresses are known. Class Counsel may direct the Settlement Administrator to send reminder notices to Settlement Class Members at any time prior to the Claims Deadline. The

process to issue Notice as described in this paragraph and the creation and maintenance of the Settlement Website www.allwelldatasettlement.com shall constitute the “Notice Plan.”

69. Final Approval Hearing. The Notice must set forth the time and place of the Final Approval Hearing (subject to change) and state that any Settlement Class Member who does not file a timely and adequate objection in accordance with this Paragraph 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.

70. Opt-Outs. The Notice shall explain the procedure for Settlement 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 in the communication. The Notice must state that any Settlement Class Member who does not file a timely Request for Exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

71. Objections. The Notice shall explain the procedure for Settlement Class Members to object to the Settlement or Fee Application by submitting written objections to the Court no later than the Objection Deadline. A written objection must include (i) the name of the proceedings; (ii) the Settlement Class Member’s full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection; (iv) the identity of any attorneys representing the objector; (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (vi) a statement identifying all class action settlements objected to by the Settlement Class Member in the previous 5 years; and (vii) the signature of the Settlement Class Member or the Settlement Class Member’s attorney.

VI. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

72. Certification of the Settlement Class. For purposes of this Settlement only, the Parties stipulate to the certification of the Settlement Class, which is contingent upon both the Court entering the Final Approval Order of this Settlement and the occurrence of the Effective Date.

73. Preliminary Approval. Following execution of this Agreement, Class Counsel shall file a motion for preliminary approval of the Settlement, in a form agreeable to the Parties, within thirty (30) days thereof or a date thereafter that is agreeable to the Parties and the Court.

74. Final Approval. Class Counsel shall move the Court for a Final Approval Order of this Settlement, to be issued following the Final Approval Hearing; within a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Deadline.

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

76. Modification. The terms and provisions of this 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 Agreement and its implementing documents (including all exhibits hereto) without further notice to the Settlement 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 Settlement Class Members under this Agreement.

77. 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) the Final Approval Order is modified or reversed in any material respect by any appellate or other court, the Parties shall have 60 days from the date of such non-occurrence during which the Parties shall work together in good faith in considering, drafting, and submitting reasonable modifications to this 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 Agreement on seven days written notice to the other Party. For avoidance of any doubt, neither Party may terminate the Agreement while an appeal from an order granting approval of the Settlement is pending.

78. Termination. Defendant may also unilaterally terminate this Agreement on seven (7) days written notice to Class Counsel if more than the agreed-upon number of individuals (more than 600 Class Members) submit valid Requests for Exclusion, as agreed to by the Parties and as communicated to the Court *in camera*.

79. Effect of Termination. In the event of a termination as provided in Paragraphs 78 or 79, this Agreement and the Settlement shall be considered null and void; all of the Parties' obligations under the Agreement shall cease to be of any force and effect and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement or the Settlement. Further, in the event of such a termination, the certification of the Settlement Class shall be void. Defendant reserves the right to contest class certification for all purposes other than this Settlement. Any orders preliminarily or finally approving the certification of any class

contemplated by the Settlement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity in support of claims or defenses or in support or in opposition to a class certification motion. In addition: (a) the fact that Defendant did not oppose certification of a class under the Settlement shall not be used or cited thereafter by any person or entity, including in a contested proceeding relating to class certification and (b) in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved.

VIII. RELEASES

80. Upon Final Approval of this Settlement Agreement, Settlement Class Members release, acquit, and forever discharge Defendant and its agents, subsidiaries, parents, and affiliates, and their respective employees, officers, directors, shareholders, partners, members, managers, owners, heirs, executors, predecessors, successors, assigns, insurers (including excess insurers and reinsurers), and/or sureties ("Released Parties") from any claims, demands, actions, or causes of action that each Class Member has, had, or may ever have, now or in the future, known or unknown, arising out of or in any way related to the Incident and/or Released Parties' recordkeeping or data security policies and practices, whether or not those claims, demands, actions, or causes of action have been pleaded or otherwise asserted, including any and all damages, losses, or consequences thereof ("Released Claims").

81. 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.

82. Mutual Understanding. 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.

83. Release of Class Representatives and Class 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 Settlement 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 Action, the Settlement Agreement, or the Settlement claims process (provided, however, that this release and discharge shall not include claims relating to the enforcement of the terms of the Settlement or this Agreement).

84. Bar to Future Suits. Upon entry of the Final Approval Order, the Settlement Class Representatives and other Settlement Class Members shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against Defendant or based on any actions taken by any of the Released Parties that are authorized or required by this 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 Settlement Class Representatives and Class Counsel or based on any actions taken by Settlement Class Representatives and Class Counsel that are authorized or required by this Agreement or by the Final Approval Order. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this section.

IX. SERVICE AWARD PAYMENTS

85. Service Award Payments. At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a Fee Application that will include a request for Service Award Payments for the Settlement Class Representatives in recognition for their contributions to this Action not to exceed \$5,000.00 per representative. The Settlement Administrator shall make the Service Award Payments to the Settlement 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 ten (10) days after the Effective Date.

86. No Effect on Agreement. In the event the Court declines to approve, in whole or in part, the Service Award Payments in the amount requested, the remaining provisions of 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 amount of the service awards shall constitute grounds for termination of this Agreement.

X. ATTORNEYS' FEES, COSTS, EXPENSES

87. Attorneys' Fees and Costs and Expenses. Within forty-five (45) after the Notice Date, Class Counsel will file a Fee Application for an award of attorneys' fees to be paid from the Settlement Fund not to exceed one-third (33.33%) of the Settlement Fund for fees, or \$216,666.66, and the litigation expenses shall not exceed \$15,000.00. Prior to the disbursement or payment of the Fee Award and Costs under this Agreement to the IOLTA trust account of Markovits, Stock & DeMarco, LLC ("MSD"), MSD 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 later than seven (7) days after the Effective Date.

XI. NO ADMISSION OF LIABILITY

88. No Admission of Liability. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or

defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

89. No Use of Agreement. Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) 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 (ii) 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 Action or in any proceeding in any court, administrative agency, or other tribunal.

XII. MISCELLANEOUS

90. Publicity. The Parties agree that they shall not publicize this Settlement, Settlement Fund or Settlement Payment, the amount or sum of individual Settlement Class Representatives' or Settlement Class Members' shares or the events and negotiations surrounding this Agreement in any way except by joint pleadings or unopposed motions filed with the Court, if required. Subject to prior approval by Defendant's Releasees, which shall not be unreasonably withheld, Class Counsel may post information on their law firm websites about the Settlement that is consistent with the Notice Plan. 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.

91. Integration of Exhibits. The exhibits to this Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Agreement.

92. Entire Agreement. This 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 Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. 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 Agreement may be modified by subsequent agreement of counsel for the Parties prior to dissemination of Notice to the Settlement Class.

93. 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 agreement shall refer to calendar days unless otherwise specified.

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

95. Cooperation of Parties. The Parties to this 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 Agreement.

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

97. Governing Law. The Agreement shall be construed in accordance with, and be governed by, the laws of the State of Ohio, without regard to the principles thereof regarding choice of law.

98. Counterparts. This 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.

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

Terence R. Coates
MARKOVITS, STOCK & DEMARCO, LLC
119 East Court Street, Suite 530
Cincinnati, OH 45202
tcoates@msdlegal.com

All notices to Defendant provided for herein, shall be sent by overnight mail and email to David E. Williamson, and via email only to David J., Shannon, per their contact information below:

MARSHALL DENNEHEY
David E. Williamson
Email: DEWilliamson@mdwecg.com
312 Elm Street, Suite 1850
Cincinnati, OH 45202
David J. Shannon
Email: DJShannon@mdwecg.com

The notice recipients and addresses designated above may be changed by written notice.

100. Authority. Any person executing this 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 Agreement to all of the terms and provisions of this Agreement.

By: _____
David E. Williamson
David J. Shannon
Marshall Dennehey

Date: _____

Counsel for Defendant

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

Date: _____

By: _____
Matthew Wilson
Meyer Wilson Co., LPA

Date: _____

Counsel for Plaintiffs and the Settlement Class

SETTLEMENT TIMELINE

<u>Grant of Preliminary Approval</u>	
Settlement Administrator provides W-9 to Allwell	On or before the date of the filing of the motion for preliminary approval
Allwell provides list of Settlement Class Members to the Settlement Administrator	+7 days after Preliminary Approval
Long Form and Short Form Notices Posted on the Settlement Website	+14 days after Preliminary Approval
Notice Date	+30 days after Preliminary Approval
Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Award	+46 days after Notice Date
Objection Deadline	+60 days after Notice Date
Exclusion Deadline	+60 days after Notice Date
Claims Deadline	+90 days after Notice Date
Settlement Administrator Provide List of Objections/Exclusions to the Court and Settlement Administrator	+70 days after Notice Date
Initially Approved Claims List	+35 days after Claims Deadline
Initially Rejected Claims List	+35 days after Claims Deadline
Parties' Challenge to Any Claims	+ 35 days from Initially Approved Claims List
<u>Final Approval Hearing</u>	
	+150 days after Preliminary Approval Order (at minimum)
Motion for Final Approval	-14 days before Final Approval Hearing Date
Settlement Administrator Provide Notice of Opt-Outs and/or Objections	-14 days before Final Approval Hearing Date
<u>Final Approval</u>	
Effective Date	+35 days after Final Approval Order
Payment of Attorneys' Fees and Expenses Class Representative Service Award	+30 days after Effective Date
Settlement Website Deactivation	+90 days after Effective Date