

BRIGITTE HEADEN,  
Plaintiff,

v.

CONSERVICE, LLC  
Defendant.

\* IN THE CIRCUIT COURT FOR  
\* PRINCE GEORGE'S COUNTY

\* Case No. CAL20-19314

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**Settlement Agreement**

This Settlement Agreement (the "Agreement") is entered into this 11<sup>th</sup> day of August, 2022, by Plaintiff Brigitte Headen ("Representative Plaintiff"), acting individually and on behalf of the Class defined below, and Defendant Conservice, LLC ("Settling Defendant" or "Conservice")(collectively the "Parties"), by and through their undersigned counsel, in the above-captioned lawsuit.

**I. RECITALS**

1. Representative Plaintiff filed this putative class action lawsuit in the Circuit Court for Prince George's County on December 8, 2020 (the "Litigation").

2. The Litigation was brought to challenge Conservice's practices in billing Representative Plaintiff and Class Members, which Representative Plaintiff alleges was improper without a collection agency license under the Maryland Collection Agency Licensing Act.

3. Representative Plaintiff's Complaint (the "Complaint"), asserts statutory claims for declaratory judgment under the Maryland Declaratory Judgment Act, Md. Code

Ann., Cts. & Jud Pro. § 3-406; for violation of the Maryland Consumer Debt Collection Act, Md. Code Ann., Com. Law §§ 14-201 *et seq.*; for violation of the Maryland Consumer Protection Act, Md. Code Ann., Com. Law §§ 13-101 *et seq.*, and common law claims for Money Had and Received, Negligence, and Unjust Enrichment.

4. The Parties have each conducted extensive research into the applicable facts and law relating to the practices challenged by Representative Plaintiff in this case. For example, Conservice filed, and the Parties fully briefed, a motion to dismiss Representative Plaintiff's Complaint. Conservice has also provided substantial information about the practices challenged in this case in connection with mediation.

5. The Parties' mediation efforts have been extensive and have included arms-length negotiations supervised by two retired Maryland Judges over more than ten months, resulting in the settlement memorialized by this Settlement Agreement (the "Agreement"). The Parties participated in three full days of mediation over a seven (7) month period, supervised by the Hon. Carol E. Smith (Ret.); they also dedicated one full day to mediation supervised by the Hon. James R. Eyler (Ret.). In addition to these full-day mediation sessions, the parties engaged in substantial additional negotiations in between, and after, each session. Judge Eyler supervised and facilitated the negotiations following mediation which led to the ultimate terms of the settlement memorialized in this Agreement.

6. The parties recognize and acknowledge the benefits of settling this case. Class Counsel have taken into account the uncertain outcome and risks of the litigation, as well as the difficulties and delays inherent in such litigation and the likelihood of protracted appeals. Class Counsel have, therefore, determined that the settlement set forth in this Agreement is fair and reasonable and in the best interest of the Representative Plaintiff and the Class. Representative Plaintiff concurs in that determination.

7. Conservice denies all allegations of wrongdoing and liability asserted in the Complaint, or of any liability whatsoever, and maintains that it has conducted its dealings with the Representative Plaintiff and all Settlement Class Members in a lawful manner in all respects. Conservice maintains that it has a number of meritorious defenses to the Representative Plaintiff's claims, including but not limited to its defense that it was not acting as a collection agency and, therefore, was not obligated to maintain a collection agency license. Nevertheless, Conservice recognizes the risks and uncertainties inherent in litigation, the significant expense associated with defending class actions, the costs of any appeal, and the potential disruption to its business operations arising out of this litigation. It also recognizes the benefits inherent in a class wide settlement. Accordingly, Conservice believes that settlement is likewise in its best interest.

8. Counsel for the Parties agree to recommend that Strategic Claims Services (hereinafter the "Settlement Administrator"), be appointed by the Court to serve as the Settlement Administrator. The Settlement Administrator is responsible to report both to the Court and to the Parties as more fully set forth in this Agreement.

## **II. TERMS OF THE SETTLEMENT**

### **9. Definitions:**

(a) "Claim" means a Settlement Class Member's claim for payment from the Settlement Fund, which may be made as set forth in Paragraph 18(c)(1).

(b) "Claim Filing Date" means the date on which a Claim is completed and filed.

(c) "Claim Form" means the proposed form attached hereto as Exhibit 1, to be approved by the Court and to be used by Settlement Class Members who wish to make a Claim.

(d) “Claims Period” means the period of time beginning on the Preliminary Approval Date and ending one-hundred and sixty (160) days later.

(e) “Class Counsel” means Benjamin H. Carney, Richard S. Gordon, and Martin E. Wolf of Gordon, Wolf & Carney, Chtd. “Lead Class Counsel” shall mean Benjamin H. Carney of Gordon, Wolf & Carney, Chtd.

(f) “Class Member List” means the list of Settlement Class Members compiled by the Settling Defendant pursuant to the Preliminary Approval Order.

(g) “Class Period” shall mean December 8, 2017, through and including the date of the Preliminary Approval Order.

(h) “Court” shall mean the Circuit Court for Prince George’s County, Maryland.

(i) “Effective Date” shall mean the earliest of: (i) the date of final approval of the Settlement, if no Class Member objects to or intervenes in the settlement; (ii) thirty (30) days after the date the Court finally approves the Settlement, if a Class Member objects to the Settlement but no appeal by a Class Member is filed; (iii) the date of the final affirmance on appeal if an appeal is filed; or (iv) the final dismissal of any appeal.

(j) “Final Approval” shall mean that certain Order as entered by the Court finally approving this Settlement, certifying the Settlement Class and dismissing with prejudice all claims raised in the Litigation consistent with the Settlement.

(k) “Notice of Proposed Class Action Settlement” shall mean the notice to Settlement Class Members approved by the Court in the Preliminary Order.

(l) “Preliminary Approval Order” shall mean that certain Order entered by the Court, preliminarily approving the Settlement, provisionally certifying the Settlement Class, and approving the proposed notices to Settlement Class Members.

(m) “Preliminary Approval Date” shall mean the date the Preliminary Approval Order is signed.

(n) “Released Claims” shall mean and include any and all past and present claims, counterclaims, actions, demands, lawsuits, causes of action, rights, set-offs, costs, controversies, losses, agreements, promises, demands, and/or liabilities of any nature or description, direct or indirect, whether known or unknown or capable of being known, arising at law or in equity, by right of action or otherwise which share the factual predicate of the Complaint and were asserted or could have been asserted by Representative Plaintiff and Settlement Class Members in this litigation, including, but not limited to, suits, debts, bills, accounts, damages, judgments, executions, warranties, attorney’s fees, costs of litigation, expenses, claims and demands whatsoever, that the Representative Plaintiff, the Settlement Class Members, or their attorneys, agents, representatives, predecessors, successors and assigns have or may have against the Released Persons, for, upon, or by reason of, any matter, cause or thing, whatsoever, in law or in equity, which share the factual predicate of the Complaint and were asserted or could have been asserted by Representative Plaintiff and Settlement Class Members in this litigation. Nothing in this Agreement shall be construed to deprive Representative Plaintiff or Settlement Class Members of any defense to a claim brought against them.

(o) “Released Persons” shall mean the Settling Defendant, and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, trustees, creditors, co-venturers, nominees, managers, employees, principals, officers, directors, members, insurers, shareholders, agents, attorneys, and all persons or entities acting by, through, with, under or in concert with them.

(p) “Representative Plaintiff” shall mean Brigitte Headen, the plaintiff in the above-captioned Litigation, and shall include her administrators, executors, children, parents, agents, heirs, successors, assigns, attorneys, and anyone acting for or on behalf of them.

(q) “Settlement” means this Agreement and any amendments to this Agreement as finally approved by the Court.

(r) “Settlement Class Member” or “Settlement Class Members” shall mean those Persons, either individually or collectively, who fall within the definition of the Settlement Class, who are listed on the Class Member List produced by Conservice, and who do not elect to opt out of the Settlement Class.

(s) “Settlement Fund” shall mean the sum which is being paid by the Settling Defendant to settle this class action, together with all interest attributed thereto or earned thereon.

(t) “Settling Defendant” shall mean Conservice, LLC.

(u) “Valid Claim” means a Claim Form that (i) is timely submitted by a Settlement Class Member in accordance with the requirements of this Agreement and the Preliminary Approval Order, and (ii) contains all of the information required to confirm membership in the Settlement Class as provided in this Agreement and the Preliminary Approval Order.

10. **Settlement Class.** Solely for the purpose of this Settlement, the Parties hereby stipulate and agree that this lawsuit is maintainable as a class action under Maryland Rule 2-231(c)(3):

(a) The class shall be defined as follows:

All persons to whom Conservice sent a bill, concerning a Maryland residence, which included a service fee, for the period beginning three years prior to the filing of the Complaint and ending on the date of preliminary approval of the class action settlement.

Excluded from the Class are all employees, officers and directors of Conservice and its parent or subsidiary companies and predecessors and successors, and all employees of the Court.

(b) Conservice represents that the Settlement Class includes approximately 220,000 persons.

(c) The Settling Defendant and Representative Plaintiff agree solely for the purpose of this Settlement and its implementation that this Settlement may proceed as a class action, and agree to the Class as defined in Paragraph 10(a) above. If the Court fails to give Final Approval or this Agreement otherwise is terminated or cancelled, the Settling Defendant reserves all rights to object to the maintenance of the Litigation as a class action and any representation or concession made in connection with the Settlement or in this Agreement shall not be considered law of the case or any form of estoppel, waiver or any evidence whatsoever in this or any other proceeding. If this Settlement is approved, no representation or concession made in connection with the Settlement or in this Agreement shall be considered to have *res judicata* or collateral estoppel effect against the Settling Defendant or to be an admission by the Settling Defendant or to give rise to any form of estoppel or waiver by the Settling Defendant or be any evidence whatsoever against Settling Defendant in any other proceeding.

### **III. PROCEDURES FOR EFFECTUATING SETTLEMENT**

11. **Full and Final Settlement.** It is the intent and purpose of this Agreement to effect a full and final settlement of the Representative Plaintiff's and the Settlement Class' claims against the Settling Defendant. In order to effectuate that purpose, the Representative Plaintiff and the Settling Defendant agree to cooperate and use their best efforts to obtain Court approval of the Settlement.

12. **Notice Order.** Promptly after execution of this Agreement, the Representative Plaintiff on behalf of the Settlement Class shall file a motion requesting the Court to sign the Preliminary Approval Order attached as Exhibit 2. The Settling Defendant will not oppose the motion provided that it is consistent with the terms of this Agreement. The Settling Defendant, at its own expense, shall comply with the Order of the Court with respect to providing the Settlement Administrator with tenant contact information necessary to effectuate Notice to Settlement Class Members.

#### **IV. SETTLEMENT NOTICE AND ADMINISTRATION**

13. **Dissemination of Settlement Notices.** As soon as practicable, but no later than sixty (60) calendar days after the Preliminary Approval Date, the Settlement Administrator shall send or cause to be sent by E-mail, or, by first-class United States Mail to Settlement Class Members for whom Settling Defendant has not provided an E-mail address, to each person on the Class Member List a copy of the E-Mailed or Mailed Settlement Notice (Exhibits 3 and 4 hereto). Before distributing the E-Mailed and Mailed Settlement Notices, the Settlement Administrator shall attempt to validate the E-mail addresses for Settlement Class Members provided by the Settling Defendant. In the event that a valid E-mail address is not available for a particular Settlement Class Member, the Settlement Administrator shall attempt to obtain a street address update for the Settlement Class Member utilizing a National Change of Address database. If a notice is returned with



a new forwarding address provided by the U.S. Postal Service, the Settlement Administrator will re-mail the notice to the new forwarding address. If a notice is returned without a forwarding address, the Settlement Administrator shall perform “skip trace” research to attempt to identify the Settlement Class Member’s current address and then re-mail the notice to any such new address identified. If a second notice is sent to a Settlement Class Member and returned undeliverable, no further notice need be sent by the Settlement Administrator. To facilitate the Settlement Administrator’s “skip trace” research, the Settling Defendant shall provide the Settlement Administrator with any necessary and available information about Settlement Class Members to the extent that information is readily accessible to Settling Defendant.

14. **Settlement Website.** To facilitate the efficient administration of this Settlement, and to promote compensation pursuant to this Settlement, the Settlement Administrator shall establish a Settlement Website that enables Settlement Class Members to read the Long Form Settlement Notice (attached as Exhibit 5) and this Agreement; to complete a Claim Form online; and, alternatively, to print a Claim Form for completion, signature, and mailing by the Settlement Class Member to the Settlement Administrator. The Settlement Administrator shall establish the Settlement Website as soon as practicable but not later than the date that the Notice is sent or transmitted to the Class consistent with Paragraph 13. The Settlement Website shall provide a straightforward and uncomplicated means for Settlement Class Members to file a Claim Form either electronically or through a paper submission. The Settlement Website shall also explain that Settlement Class Members may opt out, as well as the manner and deadline for doing so. The Settlement Administrator shall maintain the Settlement Website, with appropriate updates, until the earlier of: (1) the termination or cancellation of this Agreement; or (2) such time as both the

Effective Date has passed and the Claims Period has expired. The Settlement Administrator shall cause the Website to be taken down and to the extent feasible not visible within ten (10) days after the occurrence of either event.

15. The Settlement Notice and Settlement Website also shall include an E-mail address that the Settlement Class Members can use to request that the Settlement Administrator mail them a hardcopy Claim Form. The online and hardcopy Claim Forms serve as vehicles for Settlement Class Members to receive compensation for Valid Claims pursuant to the Settlement.

16. The Parties agree that the Settlement Notice, Claim Form, and Settlement Website provide information sufficient to inform Settlement Class Members of the essential terms of this Agreement, appropriate means for obtaining additional information regarding the Agreement and the Litigation, appropriate information about the procedure for challenging or excluding themselves from the Settlement, if they should wish to do so, and appropriate means for and information about submitting a claim for compensation pursuant to the Settlement. The Parties also agree that the dissemination of the Settlement Notice in the manner specified in this Agreement and the attached Preliminary Approval Order satisfies the notice requirements of due process and Maryland Rule 2-231.

17. Within one-hundred and five (105) days after the Preliminary Approval Date, the Settlement Administrator shall provide the Parties with a declaration of compliance with this plan of notice, including a statement of the number of persons to whom the Settlement Notice was mailed.

18. **Class Relief.**

Subject to the approval and further orders of the Court, the Settling Defendant agrees to pay the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) into a Settlement Fund for the benefit of Settlement Class Members, as set forth herein.

(a) **Deposit of Settlement Fund in Escrow.** Within ten (10) calendar days after the date the Preliminary Approval Date, the Settling Defendant agrees to wire transfer the sum of \$2,500,000.00 into an interest bearing escrow account at Fulton Bank designated by the Settlement Administrator. This account will require the signature of the Settlement Administrator to authorize the release of funds. All interest accrued on the funds deposited under this section, shall be added to the corpus of the Settlement Fund. In the event that the Court does not grant Final Approval of this Settlement, or the Agreement is terminated or cancelled, the Settlement Administrator shall within five (5) days after the denial of Final Approval, termination, or cancellation, wire transfer the Settlement Fund and all accrued interest, less any documented administrative expenses incurred by the Settlement Administrator, to an account designated by the Settling Defendant without any further action by the Court.

(b) **Contribution of Settlement Fund.** The following adjustments shall be made to and subtracted from the Settlement Fund:

(1) **Costs of Administration.** Except as otherwise specified in this Agreement, all amounts due to the Settlement

Administrator and other costs of notice and administration under this Agreement, and all costs and expenses of the Settlement Fund, shall be incurred by and paid from the Settlement Fund.

(2) **Attorney's Fees and Expenses.** Payment of Class Counsel's attorney's fees and costs and expenses of litigation as approved by the Court shall be made from the Settlement Fund within ten (10) calendar days of the Effective Date. Settling Defendant agrees not to oppose or comment negatively on a motion for attorneys' fees of up to forty percent (40%) of the Settlement Fund plus litigation expenses; and

(3) **Incentive Payment.** Payment of an incentive payment to the Named Plaintiff, Brigitte Headen, in such amount as may be allowed and approved by the Court shall be made from the Settlement Fund within ten (10) calendar days of the Effective Date. Settling Defendant agrees not to oppose or comment negatively upon a motion for an incentive payment in an amount not to exceed \$15,000.00.

(c) **Balance of Settlement Fund.** The net balance of the Settlement Fund remaining after the subtraction of the Court approved attorneys' fees and expenses and incentive payment described in Paragraph 18(b) may be transferred to another escrow account maintained by the Settlement Administrator for the purposes of distribution, and shall be distributed as follows:

(1) **Claims Administration Process.** Settlement Class Members who submit Valid Claims by the claims filing deadline described on the settlement website (“Claims Deadline”) are “Authorized Claimants.” Subject to Court approval, each Authorized Claimant shall be entitled to receive a Settlement Payment. Described below are the administrative procedures that will apply to determine eligibility.

(a) The Settlement Administrator shall establish a designated page of the Settlement Website on which the Claim Form may be completed and submitted electronically, and which will permit a click through electronic signature. An electronic receipt and confirmation number shall be displayed following the electronic completion of the Claim Form. A Claim Form submitted electronically through the Settlement Website shall be considered complete when each item of information requested in the Claim Form has been completed and an electronic receipt displayed. A Claim Form submitted other than through the Settlement Website shall be considered complete when each item of information requested in the Claim Form is entered in writing and the Claim Form is timely postmarked or delivered to the Settlement Administrator before the expiration of the Claims Period. Each Settlement Class Member wishing to receive a Settlement Payment must submit a Claim Form that

provides their name, their email address (if any), and any unique claimant ID code and/or other information required by the Settlement Administrator to confirm that the individual requesting the Settlement Payment is a Settlement Class Member. In addition, a Claim Form shall not be complete unless the Settlement Class Member provides their mailing address and selects whether to receive their Settlement Payment in the form of a paper check, or an electronic debit or gift card (electronic debit or gift cards are “Electronic Payments.”)

(b) The Settlement Administrator shall implement procedures to review each Claim Form submitted to determine whether the submission is a Valid Claim. The Settlement Administrator shall make this determination by confirming that the information provided in the Claim Form matches the business records to be provided by Settling Defendant identifying the members of the Settlement Class and any additional validation information (such as a unique claimant ID code) utilized by the Settlement Administrator for purposes of preventing fraudulent submissions. Claim Forms submitted by persons who are not Settling Class Members shall be rejected.

(c) In order to be considered timely and valid, a Claim Form must be electronically submitted or postmarked

to the Settlement Administrator no later than one-hundred and sixty (160) days after the Preliminary Approval Date. The Class Notice shall specify this deadline and other relevant dates described herein.

(d) The Settlement Administrator's determination of the validity or invalidity of any such claims or Claim Forms shall be final and binding. No person shall have any claim against the Settlement Administrator, Plaintiff, Plaintiff's Counsel, Settling Defendant and/or Settling Defendant's Counsel based on distributions of benefits to Settlement Class Members.

(2) **Distribution of Settlement Payments.**

Payments to Settlement Class Members who timely submit a Valid Claim shall be made from the Settlement Fund, after the adjustments as provided in Paragraphs 18(b) (the "Net Settlement Fund"). Each Settlement Class Member who timely submits a Valid Claim shall be entitled to an equal payment (the "Settlement Payment") from the Net Settlement Fund calculated as follows:

$$\text{Net Settlement Fund} \div \text{Number of Valid Claims} = \text{Settlement Payment per valid claimant.}$$

(4) **Method of Distribution.**

(a) Only the Settlement Class Members who submit Valid Claims shall be entitled to a Settlement Payment from the Net Settlement Fund. The Settlement

Payment to each Settlement Class Member who submits a Valid Claim shall be in the form of a check or an Electronic Payment. Initial Settlement Payments shall be issued to Settlement Class Members by the Settlement Administrator within forty-five (45) days after the expiration of the Claims Period, or within forty-five (45) days after the Effective Date, whichever is later.

(b) The Settlement Administrator shall notify Authorized Claimants that requested Electronic Payment and provide them a reasonable opportunity to update their electronic payment information (or request payment by check) prior to disbursement of the Settlement Payment. Once that period has expired and the Settlement Administrator issues payment to the Authorized Claimant using the confirmed electronic payment information, no reissuance of the Electronic Payment may be requested.

(c) For Authorized Claimants who elect to receive a Settlement Payment by check, paper checks in the amount of the Settlement Payment will be mailed. All settlement checks shall be void one hundred and eighty (180) days after issuance and shall include language to that effect. If a check issued to an Authorized Claimant cannot be used for any reason (for example, the check is lost) the Authorized Claimant shall have until one hundred and eighty (180)



days after issuance of the initial check to request re-issuance. After one hundred eighty (180) days from the issuance of the initial check to an Authorized Claimant, requests for re-issuance shall not be honored.

(d) In the event that the funds in the Net Settlement Fund are not fully exhausted after all checks issued pursuant to the distribution prescribed above have expired and become void, due to uncashed checks or otherwise, the Settlement Administrator shall calculate whether the Net Settlement Fund is sufficient to make a second distribution of \$1.00 or more to each of the Authorized Claimants who received electronic debit or gift cards or negotiated the checks distributed pursuant to the procedures identified above (the “Participating Settlement Class Members”) and whether sufficient funds remain in the Net Settlement Fund to finance any outstanding Costs of Administration plus the Settlement Administrator’s anticipated Costs of Administration for such a Second Distribution (the “Second Distribution Costs”). The Settlement Administrator shall make this calculation pursuant to the following formula:

$$\frac{(\textit{Remaining Net Settlement Fund} - \textit{Second Distribution Costs})}{\textit{Participating Settlement Class Members}} =$$

*Potential Second Distribution Payment*

If the Potential Second Distribution Payment equals or exceeds \$1.00, Participating Settlement Class Members shall be entitled to receive that amount – the “Second Distribution Payment” – from the Net Settlement Fund. If the Potential Second Distribution Payment is less than \$1.00, then Participating Settlement Class Members shall not be entitled to receive the Potential Second Distribution Payment.

The Second Distribution Payment, if any, shall be in the form selected by Participating Settlement Class Members in their Claim Form, unless the Participating Settlement Class Member has requested the Settlement Administrator to change the form of payment to another available form (for example, a Participating Settlement Class Member who requested a check as part of a Valid Claim could request that the Settlement Administrator make the Second Distribution Payment via an electronic debit card). Second Distribution Payments, if any, shall be issued to Participating Settlement Class Members by the Settlement Administrator within thirty (30) days after making the calculations required under this subparagraph. All checks for Second Distribution Payments shall be void one hundred and eighty (180) days after issuance and shall include language to that effect. If a Second Distribution

Payment check issued to an Authorized Claimant cannot be used for any reason (for example, the check is lost) the Authorized Claimant shall have until one hundred and eighty (180) days after issuance of the initial Second Distribution Payment check to request re-issuance. After one hundred eighty (180) days from the issuance of the initial Second Distribution Payment check to an Authorized Claimant, requests for re-issuance shall not be honored.

(e) In the event that no Second Distribution Payment is made, the Settlement Administrator shall deduct any unpaid settlement administration costs from the sums remaining in the Net Settlement Fund and shall cause any remaining balance to be transferred to the Settling Defendant no later than 30 days after the Settlement Administrator determines that no Second Distribution Payment shall be made. In the event that a Second Distribution Payment is made, the Settlement Administrator shall deduct any unpaid settlement administration costs from the sums remaining in the Net Settlement Fund after the Second Distribution Payment is made, and shall cause any remaining balance of the Net Settlement Fund to be transferred to the Settling Defendant no later than 240 days after Second Distribution Payments are issued.

19. **Mediation Expenses.** Conservice shall pay, separate and apart from the Settlement Fund, all mediation fees due to the Hon. James R. Eyler and the Hon. Carol Smith.

20. **Cooperation.** The Settling Defendant and Class Counsel shall cooperate with the Settlement Administrator to the extent reasonably necessary to assist and facilitate the Settlement Administrator in carrying out its duties and responsibilities. The Settling Defendant and Class Counsel also shall reasonably cooperate with each other so that both sides may adequately monitor all aspects of this Agreement.

21. **Mediation.** The Parties agree that they shall mediate any dispute relating to the interpretation or implementation of this Agreement with the Hon. James Eyler (the “Mediator”) and that the Mediator’s decision shall be binding.

22. **Release.** On the Effective Date, and in consideration of the payment of the Settlement Fund, the sufficiency of which is hereby acknowledged, the Representative Plaintiff and the Settlement Class Members for themselves and for each of their respective present, former, and future administrators, executors, children, parents, agents, successors, assigns, attorneys, and anyone acting for or on behalf of them, shall, without the necessity of any action whatsoever, be deemed to have fully, finally, unconditionally, and forever released, relinquished, and discharged all Released Claims against all Released Persons, and shall not institute any claim against any other Person that relates to or arises out of the Released Claims.

## V. **CONDITIONS OF SETTLEMENT**

23. **Opt-Out Option.** Any potential Settlement Class Member may elect to be excluded from this Settlement and from the Class by opting out of the Class. Any potential Settlement Class Member who desires to be excluded from the Class must give

written notice to the Settlement Administrator of the election to be excluded on or before the date specified in the Notice of Proposed Class Action Settlement.

24. **Dismissal of Lawsuit.** The Representative Plaintiff shall file in the Lawsuit a Stipulation of Dismissal with Prejudice as to the Settling Defendant thirty (30) days after the Effective Date of this Agreement.

25. **Approval of the Court.** This Agreement is subject to receiving approval by the Court. If the Court does not enter a Preliminary Order or grant Final Approval to this Agreement as written in all material respects, or if the Final Approval is not finally upheld after any appeals or remands therefrom in all material respects, then this Agreement shall be cancelled and terminated, unless counsel for both Parties, within ten (10) days from the receipt of a ruling or written notice of circumstances giving rise to termination, agree in writing to either extend the ten (10) day period or proceed. Any dispute as to whether a failure to approve is material shall be determined by the Hon. James R. Eyler, whose determination shall be final and non-appealable.

26. **Termination of Agreement.** Other than as expressly set forth elsewhere in this Agreement, this Agreement shall be terminable only upon the mutual agreement of the Representative Plaintiff on the one hand, and the Settling Defendant on the other hand.

27. **Effect of Termination of Agreement.** If this Agreement is terminated or cancelled as set forth herein, all of the Parties hereto shall be deemed to have reverted to their respective status as of the date of this Agreement, and they shall proceed in all respects as if this Agreement had not been executed and the related orders had not been entered, preserving in that event all of their respective claims and defenses in the Litigation.

## **VI. MISCELLANEOUS PROVISIONS**

28. **Amendments.** This Agreement may be amended or modified only by a written instrument signed by Class Counsel and the Settling Defendant.

29. **Entire Agreement.** This Agreement constitutes the entire agreement among the Parties hereto, and no representations, warranties, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, and covenants contained and memorialized in this Agreement or its exhibits. Except as otherwise provided herein, each Party shall bear its own costs.

30. **Plaintiff's Authority.** Class Counsel, on behalf of the Representative Plaintiff, are expressly authorized to take all appropriate actions required or permitted to be taken by the Representative Plaintiff pursuant to this Agreement to effectuate its terms, and are also expressly authorized to enter into any modifications or amendments to this Agreement on behalf of the Representative Plaintiff.

31. **Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts shall be deemed to be one and the same instrument. Counsel for the Parties hereto shall exchange among themselves original executed counterparts, and a complete set of original executed counterparts shall be filed with the Court in connection with the motion to approve the settlement.

32. **Binding Nature.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto.

33. **Construing Agreement.** This Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it may have been drafted initially by counsel for one of the Parties. It is acknowledged that all Parties have contributed substantially to the preparation of this Agreement.

34. **Applicable Law.** All the terms of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Maryland and applicable federal law.

35. **Advice of Counsel.** Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such counsel with respect to its decision to enter into this Agreement. The individuals whose signatures are affixed to this Agreement in a personal or representative capacity represent that they are competent to enter into this Agreement and are doing so freely and without coercion by any other Party or non-party hereto.

36. **Successors.** This Agreement shall inure to the benefit of the respective heirs, successors, and assigns of the Parties, and each and every one of the Released Persons shall be deemed to be intended third-party beneficiaries of this Agreement.

37. **Attorney's Fees.** Unless otherwise expressly set forth herein, each of the Parties shall bear its own attorney's fees, costs, and expenses in connection with the matters set forth in the Agreement, including, but not limited to, the Litigation and the negotiation and preparation of this Agreement.

38. **Tax Consequences.** Defendant makes no representations or warranties regarding the legal effect or tax consequences of this Agreement, or of any such filing or reporting by Defendant. Neither Representative Plaintiff nor Class Members received or relied upon any tax advice from Defendant or its representatives and attorneys. Nothing in this Agreement shall be construed to assign responsibility to Defendant for any tax liabilities of Representative Plaintiff or Class Members.

39. **No Interpretation of Captions or Headings.** The captions and headings within this Agreement are for ease of reference only and are not intended to create

any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

40. **Severability.** If any provision of the Agreement or the application thereof is held invalid by a court, arbitrator, or government agency of competent jurisdiction, the Parties agree that such a determination of invalidity shall not affect other provisions or applications of the Agreement which can be given effect without the invalid provisions and thus shall remain in full force and effect or application.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized attorneys, as of the day and year written below.

Date: August 11, 2022

FOR THE REPRESENTATIVE PLAINTIFF  
AND SETTLEMENT CLASS:

FOR SETTLING DEFENDANT:

Conservice, LLC



By: \_\_\_\_\_  
Benjamin H. Carney, Lead Counsel

DocuSigned by:  
*Sabrina Patterson*  
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By: \_\_\_\_\_  
Sabrina Patterson, Authorized Agent