

SETTLEMENT AGREEMENT

This Settlement Agreement is subject to Court Approval, and made and entered into by and between DLondon Viruet, formerly known as Diana Viruet (the “Class Plaintiff”), individually and on behalf of the Settlement Class (as defined below), by and through Settlement Class Counsel (as defined below), and Defendant Community Surgical Supply, Inc (“CSS”). Class Plaintiff and CSS may be referred to individually as a “Party” or collectively as the “Parties.”

WHEREAS, there is pending in the Superior Court of New Jersey Law Division, Ocean County, a putative Class Action captioned as *Diana Viruet, individually and on behalf of all others similarly situated v. Community Surgical Supply*, Docket No. OCN L-001215-23 (the “Litigation”), that asserts claims arising out of a security incident a third party actor executed on CSS’s systems between October 15, 2021, through December 20, 2021 (the “Incident” or “Data Incident”);

WHEREAS, Class Plaintiff alleges that CSS’s systems contained protected identifying information (“PII”) of Class Plaintiff and the Settlement Class and that CSS failed to adequately safeguard this information;

WHEREAS, Class Plaintiff has asserted claims against CSS for: (a) negligence; (b) negligence *per se*; (c) breach of confidence; (d) intrusion upon seclusion; (e) breach of implied contract; (f) unjust enrichment; and (g) violation of the New Jersey Consumer Fraud Act, N.J.S.A § 56:8-2, and Class Plaintiff have sought monetary and equitable relief;

WHEREAS, the Parties have engaged in extensive settlement discussions to settle the Litigation;

WHEREAS, as a result of the settlement discussions, the Parties agreed to settle the Litigation, without any admission of liability, on the terms set forth herein;

WHEREAS, Class Plaintiff and CSS mutually desire to settle the Litigation fully, finally, and forever on behalf of the Settlement Class, including the Class Plaintiff, for the Released Claims (as defined in ¶ 1.21 below) in accordance with the terms and conditions of the Settlement Agreement, which the Parties believe constitute a fair and reasonable compromise of the claims and defenses asserted in the Litigation, and upon final approval of the Court;

WHEREAS, Class Plaintiff and CSS agree that this Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by CSS or of the truth of any of the claims or allegations alleged in the Litigation or as a waiver of any defenses thereto;

NOW, THEREFORE, it is agreed by and among the undersigned on behalf of Class Plaintiff, Settlement Class Members and CSS that all claims asserted against CSS in the Litigation are settled, compromised and dismissed on the merits and with prejudice and, except as hereafter provided, without costs as to Class Plaintiff or CSS, subject to the approval of the Court, on the following terms and conditions:

I. DEFINITIONS

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

- 1.1. “Agreement” or “Settlement Agreement” means this agreement.
- 1.2. “Approved Claims” means Settlement Claims in an amount approved by the Claims Administrator or found to be valid through the Dispute Resolution process.
- 1.3. “Claims Administration” means the processing and payment of claims received from Settlement Class Members by the Claims Administrator.

1.4. “Claims Administrator” means a company that is experienced in administering class action claims generally and specifically those of the type provided for and made in data breach litigation, to be jointly agreed upon by the Parties and approved by the Court.

1.5. “Claims Deadline” means the postmark and/or online submission deadline for valid claims pursuant to ¶ 2.1.

1.6. “Claims Referee” means a third party designated by agreement of the Parties and approved by the Court to make final decisions about disputed claims for settlement benefits.

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

1.8. “Court” means the Superior Court of New Jersey Law Division, Ocean County.

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

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

1.11. “Final” means the occurrence of all of the following events: (i) the Settlement pursuant to this Settlement Agreement is approved by the Court; (ii) the Court has entered a Judgment (as that term is defined herein); and (iii) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorneys’ fee award or service award made in this case shall not affect whether the Judgment is “Final” as defined herein or any other aspect of the Judgment.

1.12. “Judgment” means a judgment rendered by the Court, in the form attached hereto as Exhibit E, or a judgment substantially similar to such form.

1.13. “Notice” means notice of the proposed class action settlement to be provided to Settlement Class Members pursuant to the notice plan approved by the Court in connection with preliminary approval of the Settlement.

1.14. “Notice Deadline” means the deadline for the completion of providing notice to Settlement Class Members as set forth in ¶ 3.2.

1.15. “Notice Specialist” means a company or such other notice specialist with recognized expertise in class action notice generally and data security litigation specifically, to be jointly agreed upon by the Parties and approved by the Court.

1.16. “Objection Date” means the date by which Settlement Class Members must mail their objection to the Settlement in order for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

1.17. “Opt-Out Date” means the date by which Settlement Class Members must mail their requests to be excluded from the Settlement Class in order for that request to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

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

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

1.20. “Related Entities” means CSS’s respective past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in any of the actions in the Litigation, other than any Person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Incident or who pleads nolo contendere to any such charge.

1.21. “Released Claims” shall collectively mean any and all claims and causes of action including, without limitation, any causes of action under or relying on New Jersey or other state law; Federal law; the Health Insurance Portability and Accountability Act; the Federal Trade Commission Act; negligence; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy/intrusion upon seclusion; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys’ fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, by any Settlement Class Member against any of the Released Persons based on, relating to, concerning or arising out

of the Incident and alleged compromise of personally identifiable information, protected health information, or other personal information or the allegations, facts, or circumstances described in the Litigation. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

1.22. “Released Persons” means CSS and its Related Entities and each of their past or present direct and indirect parents, subsidiaries, divisions, partners, affiliates, and insurers, and their respective present and former stockholders, officers, directors, employees, managers, agents, and each of their respective predecessors, successors, heirs, executors, trustees, administrators, assigns, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers. As used in this Paragraph, “affiliates” means entities controlling, controlled by or under common control with a Released Person.

1.23. “Settlement Claim” or “Clam means a claim for settlement benefits made under the terms of this Settlement Agreement.

1.24. “Settlement Class” means all individuals whose full name and other PII was potentially accessed during the Incident. CSS represents that the Settlement Class consists of approximately 66,115 individuals. The Settlement Class specifically excludes: (i) CSS and its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) the Judge assigned to evaluate the fairness of this settlement; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Incident or who pleads nolo contendere to any such charge.

1.25. “Settlement Class Member(s)” means a Person(s) who falls within the definition of the Settlement Class.

1.26. “Settlement Class Counsel” or “Class Counsel” means Vicki J. Maniatis, Gary M. Klinger, David K. Lietz and Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman, PLLC and Terence R. Coates, Justin C. Walker and Jonathan T. Deters of Markovits, Stock & DeMarco, LLC.

1.27. “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including Class Plaintiff, does not know or suspect to exist in his/her favor at the time of the release of the Released Persons that, if known by him or her, might have affected his or her settlement with, and release of, the Released Persons, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Class Plaintiff expressly shall have, and each of the other Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, California Civil Code §§ 1798.80 et seq., Montana Code Ann. § 28- 1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil 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.

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

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

II. SETTLEMENT BENEFITS

Subject to the terms of this Settlement Agreement, the Settlement Class shall receive the following benefits:

2.1. Compensation for Losses: CSS shall make available the following benefits to Settlement Class Members who submit a valid Claim Form, substantially similar to that attached hereto as **Exhibit A**. Settlement Class Members may choose any or all applicable claim categories below, subject to the requirements and limitations applicable to each claim. The overall compensation cap for any individual claimant for all amounts claimed under Claims A and B is \$500.00.

(a) **Claim A: Compensation for Lost Time**. Settlement Class Members will be eligible for compensation of up to 3 hours of lost time (at \$20.00 per hour) spent dealing with the Incident, provided that the claimant submits an attestation in the Claim Form affirming that the time was spent dealing with issues relating to the Incident. Payments for lost time are included within the \$500.00 cap for ordinary losses provided under Claim B below.

(b) **Claim B: Compensation for Ordinary Losses.** Settlement Class Members will be eligible for compensation for ordinary losses, as defined below, up to a total of \$500.00 per claimant, upon submission of a Claim Form and documentation supporting the amount claimed. Ordinary losses include: (i) out-of-pocket expenses incurred as a result of the Incident, including unreimbursed bank fees, long distance phone charges, cellphone charges if charged by the minute, data charges if charged based on data usage, postage, or gasoline for local travel; (ii) fees for credit reports, credit monitoring or other identity theft insurance products purchased between October 15, 2021 and the date of preliminary approval of the settlement, provided that the claimant attests under the penalty of perjury that the credit monitoring or other identity theft insurance products were purchased primarily as a result of the Incident and were not already paid for or reimbursed by a third party, and (iii) any other expenditure reasonably related to dealing with or mitigating the effects of the Data Incident. The Settlement Class Member must provide documentation that establishes the out-of-pocket expenses and charges claimed were both actually incurred and are fairly and reasonably related to the Data Incident, were not reimbursed by a third party, and which substantiates the full extent of the amount claimed. Failure to provide supporting documentation as requested on the Claim Form shall result in denial of a claim. The maximum amount any one claimant may recover under Claim B is \$500.00 (subject to a deduction for any amounts recovered by a claimant under Claim A).

(c) **Claim C: Compensation for Extraordinary Losses.** Settlement Class Members will be eligible for compensation for extraordinary losses, as defined below, upon submission of a Claim Form and documentation supporting the amount claimed. Extraordinary losses are losses associated with identity theft, medical fraud, tax fraud, other forms of fraud, and other actual misuse of personal information, provided that (i) the loss is an actual, documented and

unreimbursed monetary loss; (ii) the loss was more likely than not caused by the Incident; (iii) the loss is not already covered by one or more of the ordinary loss compensation categories under Claim B; (iv) the claimant made reasonable efforts to avoid the loss or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring or identity monitoring insurance; and (v) the loss occurred between October 15, 2021 and the Claims Deadline.

Settlement Class Members seeking reimbursement under this section must complete and submit a Claim Form to the Claims Administrator, postmarked or submitted online on or before the 75th day after the Notice Deadline as set forth in ¶ 3.2 (previously defined as the “Claims Deadline” in ¶ 1.5). The notice to the class will specify this deadline and other relevant dates described herein. The Claim Form must be verified by the Settlement Class Member with a statement that his or her claim is true and correct, to the best of his or her knowledge and belief. Disputes as to claims submitted under this paragraph are to be resolved pursuant to the provisions stated in ¶ 2.4. Any Class Representatives and any Settlement Class Member seeking reimbursement of \$750 or more must provide their name, gender, date of birth and last five digits of their Social Security Number or their full Medicare Beneficiary Identification Number to be eligible for payment under this section.

2.2. Credit Monitoring Services: Settlement Class Members will receive an enrollment code for two (2) years of Identity Guard Total Service from Aura upon submission of an approved Claim Form on or before the Claims Deadline. The enrollment codes will be provided within fourteen (14) days after the Effective Date, Class Members will then have a period of ninety-five (95) days after the Effective Date to enroll in and activate the service. Submission of a Claim Form is required to receive a code, and enrollment after the Effective Date is necessary commence a

Settlement Class Member's service. The Identity Guard Total Service from Aura includes, at least, the following, or similar, services: (i) credit monitoring; (ii) dark web monitoring; and (iii) identity theft insurance of up to \$1,000,000.00.

2.3. Remedial Measures/Security Enhancements: CSS has implemented information security enhancements since the Incident, and as part of this agreement, CSS will commit to continue with these security enhancements in the future. The enhancements include third party security monitoring, third party logging, network monitoring, firewall enhancements, email enhancements, and equipment upgrades. Nothing in this section shall create any contractual rights to any present or future equitable remedy requiring CSS to make or maintain any particular security processes or procedures in the future.

2.4. Dispute Resolution for Claims: The Claims Administrator, in his or her sole discretion to be reasonably exercised, will determine whether: (1) the claimant is a Settlement Class Member; (2) the claimant has provided all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support the expenses described in ¶ 2.1; and (3) the information submitted could lead a reasonable person to conclude that more likely than not the claimant has suffered the claimed losses as a result of the Incident (collectively, "Facially Valid"). The Claims Administrator may, at any time, request from the claimant, in writing, additional information as the Claims Administrator may reasonably require in order to evaluate the claim, e.g., documentation requested on the Claim Form, information regarding the claimed losses, available insurance and the status of any claims made for insurance benefits, and claims previously made for identity theft and the resolution thereof.

Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the claim is Facially Valid, the

Claims Administrator shall request additional information (“Claim Supplementation”) and give the claimant thirty (30) days to cure the defect before rejecting the claim. Requests for Claim Supplementation shall be made within thirty (30) days of receipt of such Claim Form or thirty (30) days from the Effective Date, whichever comes later. In the event of unusual circumstances interfering with compliance during the 30-day period, the claimant may request and, for good cause shown (illness, military service, out of the country, mail failures, lack of cooperation of third parties in possession of required information, etc.), shall be given a reasonable extension of the 30-day deadline in which to comply; however, in no event shall the deadline be extended to later than one year from the Effective Date. If the defect is not cured, then the claim will be deemed invalid and there shall be no obligation to pay the claim.

Following receipt of additional information requested as Claim Supplementation, the Claims Administrator shall have thirty (30) days to accept, in whole or lesser amount, or reject each claim. If, after review of the claim and all documentation submitted by the claimant, the Claims Administrator determines that such a claim is Facially Valid, then the claim shall be paid. If the claim is not Facially Valid because the claimant has not provided all information needed to complete the Claim Form and evaluate the claim, then the Settlement Administrator may reject the claim without any further action. If the claim is rejected for other reasons, then the claim shall be referred to the Claims Referee.

Settlement Class Members shall have thirty (30) days from receipt of the offer to accept or reject any offer of partial payment received from the Claims Administrator. If a Settlement Class Member rejects an offer from the Claims Administrator, the Claims Administrator shall have fifteen (15) days to reconsider its initial adjustment amount and make a final determination. If the claimant approves the final determination, then the approved amount shall be the amount to be

paid. If the claimant does not approve the final determination within thirty (30) days, then the dispute will be submitted to the Claims Referee within an additional ten (10) days.

If any dispute is submitted to the Claims Referee, the Claims Referee may approve the Claims Administrator's determination by making a ruling within fifteen (15) days. The Claims Referee may make any other final determination of the dispute or request further supplementation of a claim within thirty (30) days. The Claims Referee's determination shall be based on whether the Claims Referee is persuaded that the claimed amounts are reasonably supported in fact and were more likely than not caused by the Incident. The Claims Referee shall have the power to approve a claim in full or in part. The Claims Referee's decision will be final and non-appealable. Any claimant referred to the Claims Referee shall reasonably cooperate with the Claims Referee, including by either providing supplemental information as requested or, alternatively, signing an authorization allowing the Claims Referee to verify the claim through third party sources, and failure to cooperate shall be grounds for denial of the claim in full. The Claims Referee shall make a final decision within thirty (30) days of receipt of all supplemental information requested.

2.5. Settlement Expenses: All costs for notice to the Settlement Class as required under ¶ 3.2, Costs of Claims Administration under ¶¶ 8.1, 8.2, and 8.3, and the costs of Dispute Resolution described in ¶ 2.4, shall be paid by CSS.

2.6. Settlement Class Certification: The Parties agree, for purposes of this settlement only, to the certification of the Settlement Class. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to any Person's

or Party's position on the issue of class certification or any other issue. The Parties' agreement to the certification of the Settlement Class is also without prejudice to any position asserted by the Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

2.7. Confidentiality of Information Submitted by Settlement Class Members:

Information submitted by Settlement Class Members pursuant to ¶¶ 2.1 through 2.4 of this Settlement Agreement shall be deemed confidential and protected as such by CSS, the Claims Administrator, and the Claims Referee.

III. ORDER OF PRELIMINARY APPROVAL AND PUBLISHING OF NOTICE OF FAIRNESS HEARING

3.1. As soon as practicable after the execution of the Settlement Agreement, Settlement Class Counsel and counsel for CSS shall jointly submit this Settlement Agreement to the Court and file a motion for preliminary approval of the settlement with the Court requesting entry of a Preliminary Approval Order in the form attached hereto as Exhibit D, or an order substantially similar to such form in both terms and cost, requesting, *inter alia*:

- (a) certification of the Settlement Class for settlement purposes only pursuant to ¶ 2.6;
- (b) preliminary approval of the Settlement Agreement as set forth herein;
- (c) appointment of Alex Honeycutt of Milberg Coleman Bryson Phillips Grossman, PLLC and Terence R. Coates of Markovits Stock & DeMarco, LLC as Settlement Class Counsel;
- (d) appointment of Class Plaintiff as Class Representative;

(e) approval of a customary form of short notice to be provided to Settlement Class Members (the “Short Notice”) in a form substantially similar to the one attached hereto as Exhibit B;

(f) approval of a customary long form of notice (“Long Notice”) to be posted on the Settlement Website in a form substantially similar to the one attached hereto as Exhibit C, which, together with the Short Notice, shall include a fair summary of the parties’ respective litigation positions, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt out of the settlement, the process and instructions for making claims to the extent contemplated herein, and the date, time and place of the Final Fairness Hearing;

(g) appointment of KCC Class Action Services LLC as the Notice Specialist and Claims Administrator;

(h) approval of a claim form substantially similar to that attached hereto as Exhibit A; and

(i) appointment of KCC Class Action Services LLC to serve as Claims Referee.

The Short Notice, Long Notice, and Claim Form have been reviewed and approved by the Notice Specialist and Claims Administrator but may be revised as agreed upon by the Parties prior to submission to the Court for approval.

3.2. CSS shall pay for providing notice to the Settlement Class in accordance with the Preliminary Approval Order, and the costs of such notice, together with the Costs of Claims Administration. Attorneys’ fees, costs, and expenses of Settlement Class Counsel and Class Plaintiff Counsel, and service awards to Class Representatives, shall be paid by CSS as set forth in ¶ 7 below. Notice shall be provided to Settlement Class Members via mail to the postal address

provided when the Settlement Class Members conducted transactions with CSS or other reasonable alternative means. The notice plan shall be subject to approval by the Court as meeting constitutional due process requirements. The Claims Administrator shall establish a dedicated settlement website and shall maintain and update the website throughout the claim period, with the forms of Short Notice, Long Notice, and Claim Form approved by the Court, as well as this Settlement Agreement and other important case documents. A toll-free help line shall be made available to provide Settlement Class Members with additional information about the settlement. The Claims Administrator also will provide copies of the forms of Short Notice, Long Notice, and Claim Form approved by the Court, as well as this Settlement Agreement, upon request. At least five (5) days prior to the Final Fairness Hearing, Settlement Class Counsel and CSS's counsel shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with this provision of notice. The Short Notice, Long Notice, and Claim Form approved by the Court may be adjusted by the Notice Specialist and/or Claims Administrator, respectively, in consultation and agreement with the Parties, as may be reasonable and not inconsistent with such approval. The Notice Program shall be completed within thirty (30) days after entry of the Preliminary Approval Order.

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

3.4. CSS shall cause the Claims Administrator to provide (at CSS's expense) notice to the relevant state and federal governmental officials as required by the Class Action Fairness Act.

3.5. No later than twenty-one (21) days after entry of the Preliminary Approval Order, CSS shall provide the Notice Specialist and/or Claims Administrator with the name and last known

physical address and/or email address (to the extent available) of each Settlement Class Member (collectively, “Class Member Information”) that CSS possesses.

3.6. The Class Member Information and its contents shall be used by the Notice Specialist and/or Claims Administrator solely for the purpose of performing its obligations pursuant to this Agreement and shall not be used for any other purpose at any time. Except to administer the settlement as provided in this Settlement Agreement, or provide all data and information in its possession to the Settling Parties upon request, the Claims Administrator and Notice Specialist shall not reproduce, copy, store, or distribute in any form, electronic or otherwise, the Class Member Information.

IV. OPT-OUT PROCEDURES

4.1. Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator. The written notice must clearly manifest a Person’s intent to be excluded from the Settlement Class. Opt-outs must be exercised individually by a Class Member, not as or on behalf of a group, class, or subclass, except that the individual exclusion requests may be submitted by a Class Member’s legal representative. To be effective, written notice must be postmarked no later than sixty (60) days after the Notice Deadline.

4.2. All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class, as set forth in ¶ 4.1 above, referred to herein as “Opt-Outs,” shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. A list of Class Members submitting a timely request for exclusion shall be prepared by the Claims Administrator to be submitted to the Court with the Motion for Final Approval.

4.3. All Persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class in the manner set forth in ¶ 4.1 above shall be bound by

the terms of this Settlement Agreement and Judgment entered thereon, and their claims shall be released as provided for herein. A Class Member is not entitled to submit both an opt-out request and a Claim Form. If a Class Member submits both an opt-out request and a Claim Form, the Claims Administrator will send a letter explaining that the Class Member may not make both of these requests, and asking the Class Member to make a final decision as to whether to opt out or submit a Claim Form and inform the Claims Administrator of that decision within ten (10) days. If the Class Member does not respond to that communication within fourteen (14) days after it is mailed (or by the Opt-Out deadline, whichever is later), the Class Member will be treated as having opted out of the Class.

4.4. In the event that within ten (10) days after the Opt-Out Date as approved by the Court, more than five hundred (500) Persons have filed Opt-Outs, then CSS may, by notifying Settlement Class Counsel in writing, void this Settlement Agreement. If CSS voids the Settlement Agreement pursuant to this paragraph, CSS shall be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of Settlement Class Counsel and Class Plaintiff' Counsel and service awards and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation.

V. OBJECTION PROCEDURES

5.1. Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall state: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of all counsel

representing the objector; (v) a statement whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vi) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); and (vii) a list, by case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement within the last three (3) years. To be timely, written notice of an objection in the appropriate form must be filed with the Clerk of the Court no later than sixty (60) days after the Notice Deadline, and served concurrently therewith upon Settlement Class Counsel, Gary M. Klinger, Milberg Coleman Bryson Phillips Grossman, PLLC, 227 West Monroe Street, Suite 2100, Chicago, Illinois 60606; and counsel for CSS, Angelo A. Stio III, Troutman Pepper Hamilton Sanders LLP, 301 Carnegie Center, Suite 400, Princeton, New Jersey 08540.

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

VI. RELEASES

6.1. Upon the Effective Date, each Settlement Class Member, including Class Plaintiff, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Class Plaintiff,

shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted.

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

6.3. Notwithstanding any term herein, neither CSS nor the Related Parties, shall have or shall be deemed to have released, relinquished or discharged any claim or defense against any Person other than Class Plaintiff, each and all of the Settlement Class Members, Settlement Class Counsel and Class Plaintiff' Counsel.

VII. CLASS PLAINTIFF' COUNSEL'S ATTORNEYS' FEES, COSTS, AND EXPENSES; SERVICE AWARD TO CLASS PLAINTIFF

7.1. The Parties did not discuss the payment of attorneys' fees, costs, expenses and/or service award to Class Plaintiff, as provided for in ¶¶ 7.2 and 7.3, until after the substantive terms of the settlement had been agreed upon, other than that CSS would pay reasonable attorneys' fees,

costs, expenses, and service awards to Class Plaintiff as may be agreed to by CSS and Settlement Class Counsel and/or as ordered by the Court. CSS and Settlement Class Counsel then negotiated and agreed as follows:

7.2. CSS has agreed not to object to an award of up to, and Settlement Class Counsel has agreed not to seek an award of more than, \$350,000 in total for attorneys' fees and the reasonable costs and expenses to Settlement Class Counsel. Settlement Class Counsel, in their sole discretion, shall allocate and distribute the amount of attorneys' fees, costs, and expenses awarded by the Court among themselves.

7.3. Subject to Court approval, CSS has agreed to pay a service award in the amount of \$1,500 to the Class Plaintiff.

7.4. Once paid, Settlement Class Counsel shall thereafter distribute the award of attorneys' fees, costs, and expenses among Class Plaintiff Counsel and a service award to Class Plaintiff consistent with ¶¶ 7.2 and 7.3.

7.5. The amount(s) of any award of attorneys' fees, costs, and expenses, and the service award to Class Plaintiff, are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs, expenses, and/or service awards ordered by the Court to Settlement Class Counsel or Class Plaintiff shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement.

VIII. CLAIMS ADMINISTRATION

8.1. The Claims Administrator shall administer and calculate the claims submitted by Settlement Class Members under ¶ 2.1. Settlement Class Counsel and CSS shall be given reports as to both claims and distribution, and have the right to review and obtain supporting

documentation and challenge such reports if they believe them to be inaccurate or inadequate. The Claims Administrator's and Claims Referee's, as applicable, determination of the validity or invalidity of any such claims shall be binding, subject to the dispute resolution process set forth in ¶ 2.4. All claims agreed to be paid in full by CSS shall be deemed valid.

8.2. Checks for approved claims shall be mailed and postmarked within forty-five (45) days of the Effective Date, or within forty-five (45) days of the date that the claim is approved, whichever is later.

8.3. All Settlement Class Members who fail to timely submit a claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

8.4. No Person shall have any claim against the Claims Administrator, Claims Referee, CSS, Settlement Class Counsel, Class Plaintiff, Class Plaintiff's Counsel, and/or CSS's counsel based on distributions of benefits to Settlement Class Members.

IX. PAYMENT SCHEDULE

9.1. CSS shall pay costs sufficient to fund the settlement as follows:

(a) Within thirty (30) days of the Court granting preliminary approval of this Settlement Agreement, CSS shall pay all costs associated with notifying the Settlement Class Members of this Settlement Agreement in an amount estimated by the Settlement Administrator;

(b) Within thirty (30) days of the Effective Date, CSS shall pay to Class Counsel any attorneys' fees, costs, expenses, and service award pursuant to ¶¶ 7.2 and 7.3;

(c) Within thirty (30) days of the Effective Date, CSS shall pay to the Settlement Administrator an amount sufficient to satisfy the full amount of approved claims. To the extent

claims are finally approved after the deadline for the initial payment, the Settlement Administrator shall send monthly statements to counsel for CSS with additional amounts due to pay for approved claims, and CSS shall pay those additional amounts within thirty (30) days of each monthly statement. Within forty-five (45) days of the Effective Date or within forty-five (45) days of the date that the claim is approved, whichever is later, the Settlement Administrator shall send out payment for all valid claims.

X. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION

10.1. The Effective Date of the settlement shall be conditioned on the occurrence of all of the following events:

(a) the Court has entered the Order of Preliminary Approval and Publishing of Notice of a Final Fairness Hearing, as required by ¶ 3.1;

(b) CSS has not exercised its option to terminate the Settlement Agreement pursuant to ¶ 4.4;

(c) the Court has entered the Judgment granting final approval to the settlement as set forth herein; and

(d) the Judgment has become Final, as defined in ¶ 1.11.

10.2. If all of the conditions specified in ¶ 10.1 hereof are not satisfied, the Settlement Agreement shall be canceled and terminated subject to ¶ 10.4 unless Settlement Class Counsel and CSS's counsel mutually agree in writing to proceed with the Settlement Agreement.

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

10.4. In the event that the Settlement Agreement is not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or its counsel, and (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or service awards shall constitute grounds for cancellation or termination of the Settlement Agreement. Further, notwithstanding any statement in this Settlement Agreement to the contrary, CSS shall be obligated to pay amounts already billed or incurred for costs of notice to the Settlement Class, Claims Administration, and Dispute Resolution pursuant to ¶ 2.4 above and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation.

XI. MISCELLANEOUS PROVISIONS

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

11.2. The Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The settlement compromises claims that are contested and shall not be deemed an admission by any Party as to the merits of any claim or

defense. The Parties each agree that the settlement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis. It is agreed that no Party shall have any liability to any other Party as it relates to the Litigation, except as set forth herein.

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

11.4. All documents and materials, if any, provided by CSS shall be treated as confidential and returned to CSS and/or destroyed within sixty (60) days of the Effective Date. Such documents and materials, if any, may not be used for any purpose other than what they were provided for.

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

11.6. The Settlement Agreement, together with the Exhibits attached hereto, constitutes the entire agreement among the parties hereto, and no representations, warranties or inducements have been made to any party concerning the Settlement Agreement other than the representations, warranties and covenants contained and memorialized in such document. Except as otherwise provided herein, each party shall bear its own costs. This agreement supersedes all previous agreements made by the parties. Settlement Class Counsel, on behalf of the Settlement Class, is expressly authorized by Class Plaintiff to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.

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

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

11.9. The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

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

11.11. The Settlement Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of New Jersey, and the rights and obligations of the parties to the Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Jersey.

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

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

11.14. Cashing a settlement check is a condition precedent to any Settlement Class Member’s right to receive settlement benefits. All settlement checks shall be void sixty (60) days after issuance. If a check becomes void, the Settlement Class Member shall have until six months after the Effective Date to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Settlement Class Member’s right to receive monetary relief shall be extinguished, and CSS shall have no obligation to make payments to the Settlement Class Member for expense reimbursement under ¶ 2.1 or any other type of monetary relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than one hundred eighty (180) days from the Effective Date, requests for reissuance need not be honored after such checks become void.

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

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

Settlement Class Counsel

**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC**

By: *Gary M. Klinger*

Dated: 6/8/2023

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MARKOVITS, STOCK & DEMARCO, LLC

By: *Terence R. Coates*

Dated: 6/8/2023

Terence R. Coates
Justin C. Walker
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Facsimile: 513.665.0219

Counsel for Community Surgical Supply, Inc.

**TROUTMAN PEPPER HAMILTON
SANDERS LLP**

By: */s/ Angelo A. Stio III*

Dated: 7/14/2023

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EXHIBIT A
(Claim Form)

**COMMUNITY SURGICAL SUPPLY, INC. DATA INCIDENT
SETTLEMENT CLAIM FORM**

This Claim Form should be filled out and submitted by mail if you received notice that your personally identifiable information (“PII”) was potentially compromised in the Data Incident that occurred within Community Surgical Supply, Inc. between October 15, 2021, and December 20, 2021. You may enroll in complimentary credit monitoring services through Aura for a period of two years from the Effective Date of the Settlement. You may also receive a cash payment of (1) \$20 per hour (a maximum of three hours) for time lost remedying the effects of the Data Incident and/or (2) up to \$500 for reimbursement of documented ordinary expenses and/or (3) reimbursement for documented extraordinary expenses if you fill out this Claim Form.

Please refer to the Settlement Notice posted on the settlement website, [REDACTED], for more information.

**THIS CLAIM FORM MUST BE SUBMITTED ONLINE OR POSTMARKED BY: [75
DAYS AFTER NOTICE DEADLINE]**

CLASS MEMBER INFORMATION

The Claims Administrator will use this information for all communications regarding this Claim Form and the Settlement.

First Name: _____ M: _____ Last: _____

Address: _____

City: _____ State: _____ ZIP: _____ Country: _____

Phone: _____ Email (Optional): _____

SETTLEMENT BENEFITS

You may submit a claim for both identity theft protection (#1) and one or more cash payments (#2).

1. Identity Theft Protection

You may claim identity theft protection services through Aura for a period of two years by checking the box below and submitting this form. No additional documentation is needed.

YES, please provide me with credit monitoring services.

Please provide your email address above. When the Settlement becomes effective, you will receive via email an activation code to use to enroll directly with Aura. You must both file this claim form and use the activation code

that will be sent to you to enroll in the service in order to receive the identity theft protection services.

2. Cash Payments

Three types of cash payments for damages are available. First, you may recover payment to compensate you for the time you spent addressing the Data Incident (#A). Second, you may recover certain “ordinary expenses” incurred as a result of the Data Incident (#B). Third, you may recover certain “extraordinary expenses” incurred as a result of the Data Incident (#C). These expenses or time must have been incurred during the applicable time period, which is from October 15, 2021 through **[75 days after the Notice Deadline]**. Please refer to the Settlement Notice for more information.

To help us determine if you are entitled to a settlement payment, please provide as much information as possible.

Only complete the sections for which you are making a claim for a cash payment. You may make a claim for any or all of the following types of damages:

A. Lost Time.

You may be eligible for reimbursement of up to three hours of time spent remedying or researching issues related to the Data Incident(s) (at \$20 per hour) with an attestation that the time was spent dealing with the Data Incident.

How much time did you spend? _____ (a maximum of 3 hours will be considered for reimbursement regardless of whether the time spent exceeded 3 hours)

Attestation (you must check this box to attest to the number of hours you are claiming)

I attest that I spent the number of hours claimed above making reasonable efforts to deal with the Data Incident.

Any payments made under this section will be deemed a part of the \$500 maximum for all payments made under sections A and B.

B. Documented Ordinary Expenses.

The types of ordinary expenses that you may claim include fees or other charges (e.g., unreimbursed bank fees related to fraud or identity theft, credit monitoring, etc.) and other incidental expenses (e.g., postage, long distance charges, etc.) you incurred addressing the Data Incident. The Settlement Notice further describes the types of available expenses in greater detail and the documentation required to support the expenses. Please refer to that document for more information.

Date	Description	Amount
-------------	--------------------	---------------

Documentation is required for claimed expenses. Please be sure to include documentation to expedite the processing of your claim. For example, a bank statement showing claimed fees (you may redact unrelated transactions and all but the last four digits of any account number).

Settlement Class Members may claim up to **\$500 in total for** payments made under sections A and B.

C. Documented Extraordinary Expenses

The types of extraordinary expenses that you may claim include expenses associated with identity theft, medical fraud, tax fraud, other forms of fraud, and other actual misuse of personal information, provided that (i) the loss is an actual documented and unreimbursed monetary loss; (ii) the loss was more likely than not caused by the Data Incident; (iii) the loss is not already covered by one or more of the ordinary loss compensation categories under Claim B; (iv) you made reasonable efforts to avoid the loss or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring or identity monitoring insurance; and (v) the loss occurred between October 1, 2021 and [75 days after the Notice Deadline].

The Settlement Notice describes the types of available expenses in greater detail and the documentation required to support the expenses. Please refer to that document for more information.

Date	Description	Amount

Documentation is required for claimed extraordinary expenses. Please be sure to include documentation to expedite the processing of your claim.

The information supplied in this Claim Form is true and correct to the best of my recollection. I understand that I may be asked to provide supplemental information by the Claims Administrator before my claim will be considered complete and valid.

Print Name: _____

Signature: _____ Date: _____

* * *

The deadline to submit this Claim Form and all required supporting documentation is [**75 days after the Notice Deadline**].

This Claim Form may be submitted online at [\[REDACTED\]](#) or completed and mailed to the address below. Please type or legibly print all requested information, in blue or black ink. Mail your completed Claim Form, along with any supporting documentation, by U.S. Mail to:

Community Surgical Supply, Inc. Litigation Settlement

Claims Administrator

[**Street Address**]

[**City, State, Zip Code**]

DO NOT SEND THIS CLAIM FORM TO THE COURT

EXHIBIT B
(Short Notice)

LOGIN XXXXX

PASSWORD XXXXXX

Use these codes to file a claim.

Individuals who were notified by Community Surgical Supply, Inc. that their confidential personally identifiable information (“PII”) may have been compromised in a Data Incident that occurred between October 15, 2021 and December 20, 2021 may be eligible for a payment from a class action settlement.

A New Jersey state court ordered this notice. This is not a solicitation from a lawyer.

A settlement has been reached with Community Surgical Supply, Inc. (“CSS”) in a class action lawsuit (the “Lawsuit”) arising from a data incident that occurred between October 15, 2021 and December 20, 2021 (the “Data Incident”). CSS began mailing notice letters to persons whose information was identified as being impacted on or about July 29, 2022. Following notice of the Data Incident, the Lawsuit was filed against CSS asserting claims arising from the Data Incident. CSS denies it has any liability for the claims asserted in the Lawsuits and contends that it did not engage in any improper conduct.

WHAT HAPPENED? Plaintiff alleges that CSS was the target of a Data Incident in which an unauthorized third-party accessed CSS’s systems which contained personal information. Plaintiff alleges that during the Data Incident, an unauthorized third-party gained access to personally identifiable information (“PII”) belonging to Plaintiff and other similarly situated CSS customers. The PII may have included names, Social Security numbers, driver license numbers, state-issued identification numbers, and financial account numbers.

WHO IS INCLUDED? You received this notice because CSS’s records show you are a member of the Settlement Class. The Settlement Class includes all individuals whose full name and other PII was potentially accessed during the Incident.

SETTLEMENT BENEFITS. All Settlement Class Members may elect to receive credit monitoring services through Aura for a period of two years from the Effective Date of the settlement. You must file a Claim Form requesting the service and, when the settlement becomes final, you will be provided an activation code for enrollment directly with Aura.

The settlement also provides for: (i) cash reimbursement of up to \$20 per hour (for a maximum of 3 hours) as compensation for time lost dealing with the Data Incident, (ii) up to \$500 per person for documented “ordinary expenses” incurred in responding to the Data Incident, and (iii) reimbursement for documented “extraordinary expenses” incurred in responding to the Data Incident. The maximum amount that can be claimed for lost time and ordinary expenses is \$500.00 in total.

Further detailed information about the settlement’s benefits is available on the website:

[\[REDACTED\]](#).

CLAIM FORM. You must file a Claim Form to receive the Settlement Benefits. You can file a claim online at [REDACTED], download a Claim Form at the website and mail it, or you may call [REDACTED] and ask that a Claim Form be mailed to you. You need to use the ID and Password assigned to you to file a Claim Form. The last day to postmark or file a claim online, is **[75 days after the Notice Deadline]**. To file a claim online, you must use the Login and Password provided below.

LOGIN: XXXXXX PASSWORD:XXXXXX

Further instructions on how to file a claim are on the website.

OTHER OPTIONS. If you do not want to be legally bound by the settlement, you must exclude yourself by **[60 days after the Notice Deadline]**. If you stay in the settlement, you must object to it by **[60 days after the Notice Deadline]**. A more detailed notice is available to explain how to exclude yourself or object. Please visit the website [REDACTED] or call the toll-free number for a copy of the more detailed notice. On **[DATE]**, the Court will hold a hearing on whether to approve the settlement, Settlement Class Counsel's request for attorneys' fees and reasonable costs and expenses of up to \$350,000, and service awards of \$1,5000 for the Class Plaintiff. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to. Detailed information is available at the website [REDACTED] and by calling the toll-free number below.

Questions? Call _____ or visit _____

EXHIBIT C
(Long Notice)

IN THE SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - OCEAN COUNTY

Individuals who were notified by Community Surgical Supply, Inc. that their confidential personally identifiable information (“PII”) may have been compromised in a Data Incident that occurred between October 15, 2021 and December 20, 2021 may be eligible for a payment from a class action settlement.

A New Jersey state court ordered this notice. This is not a solicitation from a lawyer.

- A settlement has been reached with Community Surgical Supply, Inc. (“CSS”) in a class action lawsuit (the “Lawsuit”) arising from a data incident that occurred between October 15, 2021 and December 20, 2021 (the “Data Incident”). CSS began mailing notice letters to those persons whose information was identified as being impacted on or about July 29, 2022. Following notice of the Data Incident, the Lawsuit was filed against CSS asserting claims arising from the Data Incident. CSS denies it has any liability for the claims asserted in the Lawsuits and contends that it did not engage in any improper conduct.
- In the Lawsuit, Plaintiff alleges that CSS was the target of a Data Incident in which an unauthorized third-party accessed CSS’s systems which contained personal information. Plaintiff alleges that during the Data Incident, an unauthorized third-party gained access to personally identifiable information (“PII”) belonging to Plaintiff and other similarly situated CSS customers. The PII may have included full names, Social Security numbers, driver license numbers or other government identification numbers, and passport numbers.
- The Settlement Class includes all individuals whose full names and other PII was potentially accessed during the Data Incident.
- All Settlement Class Members will receive the opportunity to claim two years of credit monitoring services through Aura from the Effective Date of the settlement. You must file a Claim Form requesting the service and, when the settlement becomes final, you will be provided an activation code for enrollment directly with Aura. The credit monitoring services include (i) credit monitoring (ii) dark web monitoring; and (iii) identity theft insurance of up to \$1,000,000.00.
- The settlement also provides the following (i) cash reimbursement of up to \$20 per hour (for a maximum of 3 hours) as compensation for time lost dealing with the Data Incident, (ii) up to \$500 per person for documented “ordinary expenses” incurred in responding to the Data Incident, and (iii) reimbursement for documented “extraordinary expenses” incurred in responding to the Data Incident. The maximum amount that can be claimed for lost time and ordinary losses is \$500.00 in total.
- You must file a Claim Form to receive Credit Monitoring or one or more of the compensation categories provided for under the settlement. You can file a Claim Form by accessing this website, [REDACTED], downloading a Claim Form and mailing it, or you may call [REDACTED] and ask that a Claim Form be mailed to you. The last day to postmark or file a claim online (“Claim Deadline”) is **[75 days after the Notice Deadline]**.

**Your legal rights are affected even if you do nothing.
Read this Notice carefully.**

Your Legal Rights & Options in this Settlement		
Submit a Claim	You must submit a claim to get a payment.	Deadline: [75 days after Notice Deadline]
Ask to be Excluded	This allows you to sue CSS over the claims resolved by this settlement. You will not get anything from this settlement.	Deadline: [60 days after Notice Deadline]
Object	Write to the Court about why you do not like the settlement. You can still get a payment.	Deadline: [60 days after Notice Deadline]
Do Nothing	You get no payment, will not be eligible to enroll for credit monitoring, and you give up rights.	

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still must decide whether to grant final approval of the settlement. Payments will only be made after the Court grants final approval of the settlement and after any appeals are resolved in favor of the settlement.

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BASIC INFORMATION

- **Why was this Notice issued?**

The Court authorized this notice because you have a right to know about the proposed settlement in this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the settlement. This notice explains the legal rights and options that you may exercise before the Court decides whether to approve the settlement.

Judge Valter H. Must of the Superior Court of New Jersey, Law Division, of Ocean County is overseeing settlement of these lawsuits, which are captioned as *Diana Viruet, individually and on behalf of all others similarly situated v. Community Surgical Supply, Inc.*, Docket No. OCN L-001215-23 The person who sued CSS is called the “Plaintiff.” CSS is called the “Defendant.”

- **What is this lawsuit about?**

The lawsuits claim that CSS was responsible for the Data Incident that occurred between October 15, 2021 and December 20, 2021, and assert claims against CSS for negligence, negligence pe se, breach of confidence, invasion of privacy, unjust enrichment, breach of implied contract, violations of New Jersey’ Consumer Fraud Act, and declaratory judgment. The lawsuits seek compensation for people who incurred losses as a result of the Data Incident.

CSS denies it has any liability for the claims asserted and contends that it did not engage in any improper conduct.

- **Why is this lawsuit a class action?**

In a class action, one or more people called “Class Plaintiffs” sue on behalf of all people who have similar claims. All of these people together are the “Settlement Class” or “Settlement Class Members.” In this case, the Class Plaintiff is DLondon Viruet. One court oversees the settlement of claims for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

- **Why is there a Settlement?**

By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit valid claims will get compensation and/or credit monitoring. The Class Plaintiff and her attorneys believe the settlement is fair, reasonable, and adequate and, thus, in the best interests of the Settlement Class and its members. The settlement does not mean that CSS did anything wrong.

WHO IS IN THE SETTLEMENT?

- **How do I know if I am included in the Settlement?**

You are included in the settlement if your full name and other PII was potentially accessed during the Data Incident. Specifically excluded from the Settlement Class are: (a) CSS and its respective officers and directors; (b) Settlement Class Members who timely and validly request exclusion from the Settlement Class (for more information about requesting exclusion see questions 13–15), (c) the Judge assigned to evaluate the fairness of this settlement; and (d) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

- **What if I am not sure whether I am included in the Settlement?**

If you are not sure whether you are included in the settlement, or have any other questions related to the settlement, you may:

1. Call [REDACTED];
2. Email [claims administrator email address]; or
3. Write to Community Surgical Supply, Inc. Claims Administrator, c/o Claims Administrator, [Street Address, City, State and Zip Code].

Please do not contact the Court with questions.

THE SETTLEMENT BENEFITS

• What does the Settlement provide?

Settlement Class Members will receive the opportunity to enroll in credit monitoring through Aura. The credit monitoring service will be provided for a period of two years from the Effective Date of the settlement. Settlement Class Members must submit a Settlement Claim in order to receive this service. Once the Settlement is final, Settlement Class Members who submitted a Claim Form requesting credit monitoring services will be provided an activation code to enroll directly with Aura.

The settlement also provides cash payments to people who submit valid claims for out-of-pocket expenses or time lost as a result of the Data Incident.

• What payments are available?

Settlement Class Members are eligible to receive cash reimbursement for the following categories of expenses:

- *Reimbursement for Lost Time:* Settlement Class Members may file a claim to receive a cash payment for up to three hours of lost time remedying issues related to the Data Incident, at a rate of \$20 per hour with an attestation that the time was spent dealing with the Data Incident. Any payments made for lost time will be included in the \$500 available for claims of ordinary expenses.
- *Reimbursement for Ordinary Expenses:* Settlement Class Members may file a claim to receive cash payments of up to \$500 per person (minus any payments for lost time) for ordinary expenses incurred in responding to the Data Incident. Ordinary Expenses include:
 - Unreimbursed bank fees, such as overdraft fees, charges related to the unavailability of funds, late fees, over-limit fees, or other unreimbursed charges;
 - Long distance telephone charges;
 - Cellphone minutes (if charged by the minute or the amount of data usage);
 - Internet usage charges (if charged by the minute or the amount of data usage);
 - Text messages (if charged by the message);
 - Miscellaneous expenses such as notary, fax, postage, copying and mileage; and
 - Fees associated with credit reports, credit monitoring, or other identity theft insurance products purchased between October 15, 2021 and [date of the Preliminary Approval Order].
- *Reimbursement for Extraordinary Expenses:* Settlement Class Members may file a claim to receive cash payments for extraordinary expenses incurred responding to the Data Incident. Extraordinary Expenses include expenses associated with identity theft, medical fraud, tax fraud, other forms of fraud, and other actual misuse of personal information, provided that (i)

the loss is an actual documented and unreimbursed monetary loss; (ii) the loss was more likely than not caused by the Data Incident; (iii) the loss is not already covered by one or more of the ordinary loss compensation categories (i.e., lost time or ordinary expenses); (iv) the claimant made reasonable efforts to avoid the loss or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring or identity monitoring insurance; and (v) the loss occurred between October 15, 2021 and **[75 days after the Notice Deadline]**.

Reasonable documentation must be submitted with your Claim Form showing that the Ordinary Expenses or Extraordinary Expenses were more likely than not caused by the Data Incident in order to receive reimbursement. Settlement Class Members seeking reimbursement of \$750 or more must provide their name, gender, date of birth and last five digits of their Social Security Number or their full Medicare Beneficiary Identification Number to be eligible for payment. More details are provided in the Settlement Agreement, which is available at [redacted].

HOW TO GET BENEFITS

- **How do I get benefits?**

To get cash payment(s) from the settlement or to enroll in credit monitoring provided by Aura, you must complete a Claim Form. Please read the instructions carefully, fill out the Claim Form, provide reasonable documentation (where applicable), and submit it online or mail it postmarked no later than **[75 days after the Notice Deadline]**, to:

Community Surgical Supply, Inc. Litigation Settlement

Claims Administrator

[street address]

[city, state and zip code]

You may submit a claim online or download a copy at [redacted], or you may request one by mail by calling [redacted].

- **How will claims be decided?**

The Claims Administrator will initially decide whether the information provided on a Claim Form is complete and valid. The Claims Administrator may require additional information from any claimant. If the required information is not provided timely, the claim will be considered invalid and will not be paid.

If the claim is complete and the Claims Administrator denies the claim entirely or partially, the claimant will be provided an opportunity to have their claim reviewed by an impartial Claims Referee selected by the parties.

REMAINING IN THE SETTLEMENT

- **Do I need to do anything to remain in the Settlement?**

You do not have to do anything to remain in the settlement, but if you want to enroll in identity monitoring by Aura, or request a cash payment, you must submit a Claim Form online or mail one postmarked by **[75 days after the Notice Deadline]**.

- **What am I giving up as part of the Settlement?**

If the settlement becomes final, you will give up your right to sue CSS for the claims being resolved by this settlement. The specific claims you are giving up against CSS are described in paragraph 1.21

of the Settlement Agreement. You will be releasing CSS and all related people or entities as described in Section 1.22 of the Settlement Agreement. The Settlement Agreement is available at _____.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to the law firms listed in Question 16 for free, or you can, of course, talk to your own lawyer at your own expense.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this settlement, but you want to keep the right to sue CSS about issues in this case, then you must take steps to get out of the Settlement Class. This is called excluding yourself from – or is sometimes referred to as “opting out” of – the Settlement Class.

- **If I exclude myself, can I get a payment from this Settlement?**

No. If you exclude yourself, you will not be entitled to any benefits of the settlement. You will also not be bound by any judgment in this case.

- **If I do not exclude myself, can I sue CSS for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue CSS for the claims that this settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form to ask for a payment or the credit monitoring services.

- **How do I exclude myself from the Settlement?**

To exclude yourself, send a letter that says you want to be excluded from the settlement in Class Action Case No. [redacted] captioned as *Diana Viruet, individually and on behalf of all others similarly situated v. Community Surgical Supply, Inc.* Include your name, address, and signature. You must mail your Exclusion Request postmarked by [60 days after the Notice Deadline], to: Community Surgical Supply, Inc., Litigation Settlement, Claims Administrator, [Street Address, City, State and Zip Code].

THE LAWYERS REPRESENTING YOU

- **Do I have a lawyer in this case?**

The Court appointed the following lawyers as Settlement Class Counsel: Vicki J. Maniatis, Gary M. Klinger, David K. Lietz, and Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman, PLLC and Terence R. Coates, Justin C. Walker, and Jonathan T. Deters of Markovits, Stock & DeMarco, LLC.

You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

- **How will the lawyers be paid?**

Settlement Class Counsel will request the Court’s approval of an award for attorneys’ fees and reasonable costs and expenses of up to \$350,000.00. Settlement Class Counsel will also request approval of a service award of up to \$1,500 for Plaintiff DLondon Viruet. Any amount that the Court awards for attorneys’ fees, costs, expenses, and incentive awards will be paid separately by CSS and

will not reduce the amount of payments to Settlement Class Members who submit valid claims.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the settlement or some part of it.

- **How do I tell the Court that I do not like the Settlement?**

You can object to the settlement if you do not like it or some part of it. The Court will consider your views. To do so, you must file a written objection in this case, Case No. OCN-L-001215-23 captioned as *Diana Viruet, individually and on behalf of all others similarly situated v. Community Surgical Supply, Inc.*, with the Clerk of the Court at the address below.

Your objection must include all of the following information: (i) your full name, address, telephone number, and e-mail address (if any); (ii) information identifying you as a Settlement Class Member; (iii) a written statement of all grounds for the objection; (iv) the identity of all counsel representing you; (v) a statement whether you and/or your counsel will appear at the Final Fairness Hearing; and, (vi) your signature and the signature of your duly authorized attorney or other duly authorized representative, if applicable.

Your objection must be **postmarked** no later than [**60 days after the Notice Deadline**] to:

Clerk of Court
Ocean Bldg. 1 - 118 Washington Street
118 Washington Street
Toms River, New Jersey 08754

In addition, you must **mail** a copy of your objection and any supporting documents to the Claims Administrator at the address listed below postmarked no later than [**60 days after the Notice Deadline**]:

**Community Surgical Supply, Inc., Litigation Settlement
Claims Administrator
[Street Address]
[City, State, and Zip Code]**

You must **also mail** a copy of your objection and any supporting documents to Settlement Class Counsel and Counsel for CSS, postmarked no later than [**60 days after the Notice Deadline**]:

Settlement Class Counsel

Gary M. Klinger
**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, PLLC**
227 West Monroe Street, Suite 2100,
Chicago, Illinois 60606

Defendant's Counsel

Angelo A. Stio III
**Troutman Pepper Hamilton Sanders
LLP**
301 Carnegie Center, Suite 400
Princeton, NJ 08540

- **What is the difference between objecting and asking to be excluded?**

Objecting is telling the Court that you do not like the settlement and why you do not think it should be approved. You can object only if you do not exclude yourself from the Settlement Class. Excluding

yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to grant final approval of the settlement.

- **When and where will the Court decide whether to approve the settlement?**

The Court will hold a Fairness Hearing at [TIME] on [DATE] at [COURT NAME, STREET ADDRESS, COURTROOM NUMBER, CITY, ZIP CODE]. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check the website, _____ or call _____ to ensure the hearing has not been moved.

At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and may listen to people who have asked to speak at the hearing if such a request has been properly made. The Court will also rule on the request for an award of attorneys' fees and reasonable costs and expenses, as well as the request for a service award for the Class Plaintiff. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take so please be patient and continue to check the settlement website for updates.

- **Do I have to attend the hearing?**

No. Class Counsel will present the Settlement Agreement to the Court. You or your own lawyer are welcome to attend at your expense, but you are not required to do so. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time with the Court and mailed it according to the instructions provided in Question 18, the Court will consider it.

- **May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must file an objection according to the instructions in Question 18, including all the information required.

Your Objection must be **filed** with the Clerk of the Court no later than **[60 days after the Notice Deadline]**. In addition, you must **mail** a copy of your objection to the Claims Administrator, **[Street Address, City, State and Zip Code]**, postmarked no later than **[60 days after the Notice Deadline]**. See Question 18 for more information regarding objections.

IF YOU DO NOTHING

- **What happens if I do nothing?**

If you do nothing, you will get no monetary benefits from this settlement and you will not have the opportunity to enroll in Aura's credit monitoring service, if the settlement is finally approved. Once the settlement is granted final approval and the judgment becomes final, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against CSS related to the legal issues in this case, ever again.

You must exclude yourself from the settlement if you want to retain the right to sue CSS for any of the claims resolved by this settlement.

GETTING MORE INFORMATION

- **How do I get more information?**

This Notice only provides a summary of the proposed settlement. Complete details about the settlement can be found in the Settlement Agreement available at [REDACTED].

You may also:

1. Write to: CSS Litigation Settlement, Claims Administrator, [Street Address, City, State and Zip Code].
2. Visit the settlement website at [REDACTED].
3. Call the toll-free number [REDACTED].

EXHIBIT D
(Proposed - Preliminary Approval Order)

**DIANA VIRUET,
on behalf of themselves and all others
similarly situated,**

Plaintiff,

v.

COMMUNITY SURGICAL SUPPLY, INC.,

Defendant.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY**

Docket No. OCN L-001215-23

**[PROPOSED] ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT,
APPROVING FORMS OF NOTICE AND NOTICE PLAN, AND DIRECTING
IMPLEMENTATION OF THE NOTICE PLAN**

The Court, having considered Plaintiff's Unopposed Motion for Preliminary Approval of the Class Action Settlement (the "Motion"), the supporting memorandum, the Parties' Settlement Agreement, dated [Date]¹, the proposed Short Notice, Long Notice, and Claim Form, and being otherwise fully advised in the premises, finds and orders as follows:

PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT

1. The Settlement Agreement, attached to the Motion for Preliminary Approval as Exhibit 1, is incorporated fully herein by reference. The definitions used in the Settlement Agreement are adopted in this Order and shall have the same meaning ascribed in the Settlement Agreement.
2. The Court has jurisdiction over the claims at issue in this Litigation, Plaintiff DLondon Viruet FKA Diana Viruet ("Plaintiff") and Defendant Community Surgical Supply ("CSS" or "Defendants" and together with Plaintiff, the "Parties").
3. This Order is based on New Jersey Rule 4:32-2.
4. The Court finds that the Parties' Settlement as set forth in Exhibit 1 to the Motion for Preliminary Approval is fair, reasonable, and adequate, and was entered into after extensive, arm's-

¹ The capitalized terms used in this [Proposed] Order shall have the same meaning as defined in the Settlement Agreement.

length negotiations, such that it is hereby preliminarily approved and notice of the Settlement should be provided to the Settlement Class Members, pursuant to New Jersey Rule 4:32-2(b)(1).

5. Plaintiff alleged that CSS experienced a targeted cyberattack (the “Data Incident”) on its network that occurred between October 15, 2021 and December 20, 2021. Class Action Complaint (“Complaint”) ¶ 19.² On or about July 29, 2022, CSS began mailing letters to customers whose information was identified by CSS as being impacted by the Data Incident. *Id.* The cyberattack was allegedly caused when a third-party criminal(s) accessed CSS’ systems on October 15, 2021. *Id.* ¶¶ 19, 47. As a result of the Data Incident the personal identifiable information (“PII”) of Plaintiff and Class Members, including but not limited to, full names, addresses, Social Security numbers, driver’s license numbers or other government identification numbers, and passport numbers was compromised. *Id.* ¶ 49. Subsequently, this lawsuit was filed asserting claims for: (1) negligence; (2) negligence *per se*; (3) breach of confidence; (4) intrusion upon seclusion; (5) unjust enrichment; (6) breach of implied contract; (f) unjust enrichment; and (g) violations of New Jersey Consumer Fraud Act, N.J.S.A. § 26:8-2; (the “Litigation”).

6. Plaintiff summarizes the relevant terms of the proposed Settlement as follows:

a. The Settlement provides three separate forms of monetary relief: (1) Claim A- Compensation for lost time; (2) Claim B- Compensation for ordinary losses; and (3) Claim C- Compensation for extraordinary losses.

i. Claim A - Compensation for Lost Time: Settlement Class Members are eligible for compensation eligible for compensation of up to three (3) hours of lost time (at \$20.00 per hour) spent dealing with the Data Incident, provided that the claimant submits an attestation in the Claim Form affirming that the lost time was spent dealing with issues relating to the Data Incident. Payments for lost time are included within the \$500.00 cap for ordinary losses provided under

² Unless otherwise indicated, capitalized terms used herein have the same meaning as in the Settlement Agreement.

Claim B below.

ii. Claim B - Compensation for Ordinary Losses: Settlement Class Members are eligible for compensation for ordinary losses, as defined below, up to a total of \$500.00 per claimant (minus any payments for lost time), upon submission of a Claim Form and documentation supporting the amount claimed. Ordinary losses include: (i) out-of-pocket expenses incurred as a result of the Data Incident, including unreimbursed bank fees, long distance phone charges, cellphone charges if charged by the minute, data charges if charged based on data usage, postage, or gasoline for local travel; (ii) fees for credit reports, credit monitoring or other identity theft insurance products purchased between October 15, 2021 and the date of preliminary approval of the settlement, provided that the claimant attests under the penalty of perjury that the credit monitoring or other identity theft insurance products were purchased primarily as a result of the Data Incident and were not already paid for or reimbursed by a third party; and (iii) any other expenditure reasonably related to dealing with or mitigating the effects of the Data Incident. The Settlement Class Member must provide documentation that establishes the out-of-pocket expenses and charges claimed were both actually incurred and are fairly and reasonably related to the Data Incident, were not reimbursed by a third party, and which substantiates the full extent of the amount claimed. Failure to provide supporting documentation as requested on the Claim Form will result in denial of a claim. The maximum amount any one claimant may recover under Claim B is \$500.00 (subject to a deduction for any amounts recovered by a claimant under Claim A).

iii. Claim C - Compensation for Extraordinary Losses: Class Members will be

eligible for compensation for extraordinary losses, as defined below, upon submission of a Claim Form and documentation supporting the amount claimed. Extraordinary losses are losses associated with identity theft, medical fraud, tax fraud, other forms of fraud, and other actual misuse of personal information, provided that: (i) the loss is an actual, documented and unreimbursed monetary loss; (ii) the loss was more likely than not caused by the Data Incident; (iii) the loss is not already covered by one or more of the ordinary loss compensation categories under Claim B; (iv) the claimant made reasonable efforts to avoid the loss or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring or identity monitoring insurance; and (v) the loss occurred between October 15, 2021 and the Claims Deadline.

- b. In addition to the potential monetary benefits, Settlement Class Members will receive an enrollment code for two (2) years of Identity Guard Total Service from Aura upon submission of an approved Claim Form on or before the Claims Deadline. The enrollment codes will be provided within fourteen (14) days after the Effective Date, Class Members will then have a period of ninety-five (95) days after the Effective Date to enroll in and activate the service. Submission of a Claim Form is required to receive a code, and enrollment after the Effective Date is necessary to commence a Settlement Class Member's service. The Identity Guard Total Service from Aura includes, at least, the following, or similar, services: (i) credit monitoring; (ii) dark web monitoring; and (iii) identity theft insurance of up to \$1,000,000.00.
- c. Moreover, CSS has implemented information security enhancements since the Data Incident, and as part of this agreement, CSS will commit to continue with these security enhancements in the future. The enhancements include third party security monitoring,

third party logging, network monitoring, firewall enhancements, email enhancements, and equipment upgrades.

CLASS CERTIFICATION

7. For the purposes of settlement only, and pursuant to New Jersey Rule New Jersey Rule 4:32-2(a), the Court provisionally certifies the class, defined as follows:

All individuals whose full names and other PII was potentially accessed during the Data Incident. Specifically excluded from the Settlement Class are: (i) CSS and its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) the Judge assigned to evaluate the fairness of this settlement; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

8. The Court provisionally finds, pursuant to New Jersey Rule 4:32-1(a), for purposes of this settlement only that: (1) the Settlement Class is so numerous that joinder of all Settlement Class Members is impracticable; (2) there are questions of law and fact common to the Settlement Class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the Settlement Class; (4) the representative parties will fairly and adequately protect the interests of the Settlement Class.

SETTLEMENT CLASS COUNSEL AND THE CLASS PLAINTIFF

9. Plaintiff DLondon Viruet is hereby provisionally designated and appointed as the Class Plaintiff. The Court provisionally finds that the Class Plaintiff is similarly situated to absent Settlement Class Members and has claims typical of the Settlement Class, and, therefore, will be an adequate Class Plaintiff.

10. The Court finds that Vicki J. Maniatis, Gary M. Klinger, David K. Lietz, and Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman, PLLC and Terence R. Coates, Justin C. Walker, and Jonathan T. Deters of Markovits, Stock & DeMarco, LLC are experienced and adequate counsel and are provisionally designated as Settlement Class Counsel.

NOTICE TO SETTLEMENT CLASS

11. The forms of Notice, including the Short Notice (also known as the Postcard Notice), Long Notice, and Claim Form, attached as Exhibits B, C, and A, respectively, to the Settlement Agreement are constitutionally adequate and are hereby approved. The Notice contains all essential elements required to satisfy state statutory requirements and due process under New Jersey Rule 4:32-2(b)(2), the New Jersey State Constitution, the United States Constitution, and other applicable laws. The Court further finds that the form, content, and method of providing the Settlement Class Notice, as described in the Settlement Agreement, including the exhibits thereto: (a) constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated to apprise Settlement Class Members of the pendency of the action, the terms of the Settlement, their rights under the Settlement, including, but not limited to, their rights to object to or exclude themselves from the Settlement; and (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members.

12. The Notice program set forth in the Settlement Agreement, and described below, satisfies the requirements of New Jersey Rule 4:32-2(b)(2) provides the best notice practicable under the circumstances, and is hereby approved.

13. The Claims Administrator is directed to carry out the Notice program as set forth in the Settlement Agreement.

EXCLUSIONS AND OBJECTIONS

14. Settlement Class Members who seek to be excluded from the Settlement Class must sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator, set forth in the Notices. The written notice must clearly manifest a Person's intent to be excluded from the Settlement Class. The notice must be exercised individually by a Settlement Class Member, not as or on behalf of a group, class, or subclass, except that the individual exclusion request may be submitted by a Settlement Class Member's legal representative. The written notice must be postmarked no later than sixty (60) days from the Notice Deadline.

15. All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class, referred to herein as “Opt-Outs,” will not receive any benefits of and/or be bound by the terms of the Settlement Agreement. A list of Settlement Class Members submitting a timely request for exclusion shall be prepared by the Claims Administrator to be submitted to the Court with the Motion for Final Approval.

16. All Settlement Class Members who do not request to be excluded from the Settlement Class shall be bound by the terms of the Settlement Agreement and the Final Approval Order and Judgment entered thereon, and their claims shall be released. A Settlement Class Member is not entitled to submit both an opt-out request and a Claim Form. If a Settlement Class Member submits both an opt-out request and a Claim Form, the Claims Administrator will send a letter explaining that the Settlement Class Member may not make both of these requests, and asking the Settlement Class Member to make a final decision as to whether to opt out or to submit a Claim Form and to inform the Claims Administrator of that decision within ten (10) days. If the Settlement Class Member does not respond to that communication within fourteen (14) days after it is mailed (or by the Opt-Out Date, whichever is later), the Settlement Class Member will be treated as having opted out of the Class.

17. If, within ten (10) days after the Opt-Out Date, as approved by the Court, more than five hundred (500) Persons have filed Opt-Outs, then CSS may, by notifying Settlement Class Counsel in writing, void the Settlement Agreement. If CSS voids the Settlement Agreement, CSS shall be obligated to pay all settlement expenses already incurred, excluding any attorneys’ fees, costs, and expenses of Settlement Class Counsel, service awards and shall not, at any time, seek recovery of same from any other party to the Litigation.

18. Settlement Class Members may object to the Settlement, the Attorneys’ Fees Request, or the Service Award Request. A Settlement Class Member who seeks to object to the Settlement must submit timely written notice of his or her objection. This Notice shall state: (i) the objector’s full name, address, telephone number, an email address (if any); (ii) information identifying the objector as

Settlement Class Member, including, proof that the objector is a member of the Settlement Class (e.g. copy of notice, copy of original notice of the Data Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of all counsel representing the objector; (v) a statement whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vi) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); and (vii) a list, by case name, court, and docket number, of all other cases in which the objector and/or the objector counsel's has filed an objection to any proposed class action settlement within the last three (3) years. To be timely, written notice of an objection in the appropriate form must be filed with the Clerk of the Court no later than sixty (60) days after the Notice Deadline, and served concurrently therewith upon Settlement Class Counsel, Gary M. Klinger, Milberg Coleman Bryson Phillips Grossman, PLLC, 227 West Monroe Street, Suite 2100, Chicago, Illinois 60606; and counsel for CSS, Angelo A. Stio III, Troutman Pepper Hamilton Sanders LLP, 301 Carnegie Center, Suite 400, Princeton, New Jersey 08540.

19. Any Settlement Class Member who fails to comply with the requirements for objecting to the Settlement shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement, and the Settlement Class Member shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the means described above. Without limiting the foregoing, any challenge to the Settlement Agreement, the Preliminary Order Approving the Class Action Settlement Agreement, and the Final Approval Order and Judgment shall be pursuant to appeal under the New Jersey Rules of Appellate Procedure and not through a collateral attack.

ADMINISTRATION OF THE SETTLEMENT

20. The Class Plaintiff, Settlement Class Counsel, and CSS have created a process for

assessing the validity of claims and a payment methodology to Settlement Class Members who submit timely, valid Claim Forms. The Court hereby preliminarily approves the Settlement benefits to the Settlement Class, and the plan for distributing Settlement benefits as described in Section 8 of the Settlement Agreement.

21. The Court appoints KCC Class Action Services LLC as the Notice Specialist and Claims Administrator.

22. The Court directs that the Claims Administrator effectuate the distribution of Settlement benefits according to the terms of the Settlement Agreement, should the Settlement be finally approved.

23. Settlement Class Members who qualify for Settlement benefits and who wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Notice.

24. If the Final Approval Order and Judgment is entered, all Settlement Class Members who fail to submit a claim in accordance with the requirements and procedures specified in the Notice, and who do not timely exclude themselves from the Settlement Class, shall be forever barred from receiving any payments or benefits pursuant to the Settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

25. CSS shall pay the entirety of settlement administration costs and expenses associated with providing Notice to Settlement Class Members, including the costs of claims administration, costs of notice, and costs of dispute resolution.

FINAL FAIRNESS HEARING

26. A Final Fairness Hearing shall be held on [REDACTED], 2023 at [REDACTED] to be noticed on the Settlement Website.

27. The Court may require or allow the Parties and any objectors to appear at the Final

Fairness Hearing by telephone or videoconference.

28. At the Final Fairness Hearing, the Court will determine whether (1) this action should be finally certified as a class action for settlement purposes pursuant New Jersey Statutes Ann. New Jersey Rule 4:32-2; (2) the Settlement should be finally approved as fair, reasonable, and adequate; (3) the action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (4) Settlement Class Members should be bound by the Releases set forth in the Settlement Agreement; (5) Settlement Class Counsel's application for attorneys' fees and expenses should be approved; and (6) the Class Plaintiff's request for a service award should be approved.

29. Plaintiff's Motion for Final Approval shall be filed with the Court no later than (14) days before the Final Fairness Hearing.

30. Plaintiff's Motion for attorneys' fees and expenses shall be filed with Court no later than fourteen (14) days prior to the Opt-Out and Objection Deadline.

TERMINATION

31. This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions, if the Settlement is not finally approved by the Court or is terminated in accordance with paragraph 10.1 of the Settlement Agreement.

32. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, unless Settlement Class Counsel and CSS' counsel mutually agree in writing to proceed with the Settlement Agreement, and neither the Settlement Agreement, nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

33. This Order shall have no continuing force or effect if Final Approval and Judgment is not entered and shall not be construed or used as an admission, concession, or declaration by or against CSS of any fault, wrongdoing, breach, liability, or the certifiability of any class.

34. If the Settlement is not finally approved by the Court or is terminated in accordance with

paragraph 10.1 of the Settlement Agreement, the Parties shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court, so as to avoid prejudice to any Party or its counsel, and (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

Summary of Deadlines

35. The preliminarily approved Settlement shall be administered according to its terms pending the Final Fairness Hearing. Deadlines arising under the Settlement and this Order include, but are not limited to:

EVENT	DATE
Notice Deadline	No later than 30 days after the entry of the Preliminary Approval Order
Deadline for Class Members to Opt-Out of Settlement	No later than 60 days after Notice Deadline
Deadline for Class Members to Object to Settlement	No later than 60 days after Notice Deadline
Deadline for Class Members to Submit Timely, Valid Claims for Monetary Relief	No later than 75 days after Notice Deadline
Deadline for Plaintiff to File Motion for Final Approval	No later than 14 days prior to Final Fairness Hearing
Deadline for Plaintiff to File Motion for Attorneys' Fees, Expenses, and Service Award for the Class Plaintiff	No later than 14 days prior to Opt-Out and Objection Deadlines
Final Fairness Hearing	Will be held on _____, 2023 at _____

ORDERED this _____ day of _____, 2023.

Judge

EXHIBIT E
(Proposed - Final Approval Order)

**DIANA VIRUET,
on behalf of themselves and all others
similarly situated,**

Plaintiff,

v.

COMMUNITY SURGICAL SUPPLY, INC.,

Defendant.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY**

Docket No. OCN L 001215 23

[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT

On _____, this Court entered an order granting preliminary approval (the “Preliminary Approval Order”) of the settlement (the “Settlement”) between Plaintiff DLondon Viruet FKA Diana Viruet (“Plaintiff”), on her own behalf and on behalf of the Settlement Class (as defined below), and Defendant Community Surgical Supply (“CSS,” and together with Plaintiff, the “Parties”), as memorialized in the Settlement Agreement, which is Exhibit A to Plaintiff’s Motion for Preliminary Approval of Class Action Settlement;³

On _____, pursuant to the notice requirements set forth in the Settlement Agreement and in the Preliminary Approval Order, the Settlement Class was notified of the terms of the proposed Settlement Agreement, of the right of the Settlement Class Members to opt-out, and the right of Settlement Class Members to object to the Settlement Agreement and to be heard at a final approval hearing;

On _____, the Court held a final approval hearing to determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate for the release of the claims contemplated by the Settlement Agreement; and (2) whether judgment should be entered dismissing this action with prejudice. Prior to the final approving hearing, a declaration of compliance with the provisions of the Settlement Agreement and Preliminary Approval Order relating

³ The capitalized terms used in this Final Approval Order and Judgment shall have the same meaning as defined in the Settlement Agreement.

to notice was filed with the Court as required by the Preliminary Approval Order. Therefore, the Court is satisfied that Settlement Class Members were properly notified of their right to appear at the final approval hearing in support of or in opposition to the proposed Settlement Agreement, the award of attorneys' fees and costs to Settlement Class Counsel, and the payment of a service award to the Class Plaintiff.

Pursuant to New Jersey Rules 4:32-1 and 4:32-2, and having given an opportunity to be heard to all requesting persons in accordance with the Preliminary Approval Order, having heard the presentation of Settlement Class Counsel and counsel for CSS, having reviewed all of the submissions presented with respect to the proposed Settlement Agreement, having determined that the Settlement Agreement is fair, reasonable, and adequate, having considered the application made by Settlement Class Counsel for attorneys' fees and costs and expenses, and the application for service awards to the Class Plaintiff, and having reviewed the materials in support thereof, and good cause appearing:

IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of this action and over all claims raised therein and all Parties thereto, including the Settlement Class.
2. The Settlement Agreement was entered into in good faith following arm's length negotiations and is non-collusive. As a result of after extensive, arm's-length negotiations the Parties agreed to settle the Litigation without any admission of liability on the terms set forth herein.
3. The Settlement Agreement is, in all respects, fair, reasonable, and adequate, is in the best interests of the Settlement Class, and is, therefore, approved. The Court finds that the Parties faced significant risks, expenses, delays, and uncertainties, including as to the outcome and potential appeal, of continued litigation of this complex matter, which further supports the Court's finding that the Settlement Agreement is fair, reasonable, adequate and in the best interests of the Settlement Class Members. The Court finds that the uncertainties of continued litigation in both the trial and appellate courts, as well as the expense associated with it, weigh in favor of approval of the settlement reflected in the Settlement

Agreement.

4. This Court grants final approval of the Settlement Agreement, including, but not limited to, the releases in the Settlement Agreement, including all Released Claims, and the plans for implementation and distribution of the settlement benefits. The Court finds that the Settlement Agreement is in all respects fair, reasonable, and in the best interest of the Settlement Class. Therefore, all Settlement Class Members who have not opted out of the Settlement Class are bound by this Final Approval Order and Judgment, approving the Settlement Agreement.

5. The Parties shall effectuate the Settlement Agreement in accordance with its terms. The Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth herein and shall have the full force of an Order of this Court.

OBJECTIONS AND OPT-OUTS

6. [REDACTED] objections were filed by Settlement Class Members. The Court has considered all objections and finds the objections do not counsel against Settlement Agreement approval, and the objections are hereby overruled in all respects.

7. All Settlement Class Members who have not objected to the Settlement Agreement in the manner provided in the Settlement Agreement are deemed to have waived any objections by appeal, collateral attack, or otherwise.

8. A list of those putative Class Members who have timely and validly elected to opt out of the Settlement Agreement and the Settlement Class (the "Opt-Out Members"), and who are therefore are not bound by the Settlement Agreement and this Final Approval Order and Judgment has been submitted to the Court in the Declaration of [REDACTED], filed in advance of the final approval hearing. That list is attached as Exhibit A to this Order. The Opt-Out Members listed in Exhibit A are not bound by the Settlement Agreement and this Final Approval Order and Judgment and shall not be entitled to any of the benefits afforded to the Settlement Class Members under the Settlement Agreement.

1. CLASS CERTIFICATION

9. For purposes of the Settlement Agreement and this Final Approval Order and Judgment only, the Court hereby finally certifies the class (the “Settlement Class”);

All individuals whose full names and other PII was potentially accessed during the Data Incident. Specifically excluded from the Settlement Class are: (i) CSS and its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) the Judge assigned to evaluate the fairness of this settlement; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

10. The Court readopts and incorporates herein by reference its preliminary conclusions as to the satisfaction of New Jersey laws as set forth in New Jersey Rules 4:32-1 and 4:32-2, and the Preliminary Approval Order, and notes again that because this certification of the Settlement Class is in connection with the Settlement Agreement rather than litigation, the Court need not address any issues of manageability that may be presented by certification of the class proposed in the Settlement Agreement.

11. The Court grants final approval to the appointment of Plaintiff DLondon Viruet as Class Plaintiff. The Court concludes that the Class Plaintiff has fairly and adequately represented the Settlement Class and will continue to do so.

12. The Court grants final approval to the appointment of Vicki J. Maniatis, Gary M. Klinger, David K. Lietz, and Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman, PLLC and Terence R. Coates, Justin C. Walker, and Jonathan T. Deters of Markovits, Stock & DeMarco, LLC as Settlement Class Counsel. The Court concludes that Settlement Class Counsel has adequately represented the Settlement Class and will continue to do so.

NOTICE TO THE CLASS

13. The Court finds that the Notice Program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was necessary to protect the interests of the

class and the parties, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and their right to object and to appear at the final approval hearing or to exclude themselves from the Settlement Agreement, and satisfied the requirements of the New Jersey Rules 4:32-2(b)(2), the New Jersey State Constitution, the United States Constitution, and other applicable law.

AWARD OF ATTORNEYS' FEES AND SERVICE AWARDS

14. The Court has considered Settlement Class Counsel's Motion for service awards and for attorneys' fees, costs, and expenses. The Court awards Settlement Class Counsel the sum of \$350,000 as an award of attorneys' fees, costs and expenses to be paid in accordance with the Settlement Agreement, and the Court finds this amount of fees and costs to be fair and reasonable.

15. The Court grants Settlement Class Counsel's request for service awards to the Class Plaintiff and awards \$1,500 to Plaintiff DLondon Viruet. The Court finds that this payment is justified by her service to the Settlement Class. This payment shall be paid in accordance with the Settlement Agreement.

OTHER PROVISIONS

16. The Parties to the Settlement Agreement shall carry out their respective obligations thereunder.

17. Within the time period set forth in the Settlement Agreement, the benefits provided for in the Settlement Agreement shall be made available to the various Settlement Class Members submitting Valid Claim Forms, on approved Claims, pursuant to the terms and conditions of the Settlement Agreement.

18. Upon the Effective Date, (i) each Settlement Class Member, including Class Plaintiff, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released,

relinquished, and discharged all Released Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Class Plaintiff, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted; and (ii) CSS shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged, Class Plaintiff, each and all of the Settlement Class Members, Settlement Class Counsel and Class Plaintiff's Counsel, of all claims, including Unknown Claims, based upon or arising out of the institution, prosecution, assertion, settlement, or resolution of the Litigation or the Released Claims, except for enforcement of the Settlement Agreement. Any other claims or defenses CSS may have against such Persons including, without limitation, any claims based upon or arising out of any retail, banking, debtor-creditor, contractual, or other business relationship with such Persons that are not based upon or do not arise out of the institution, prosecution, assertion, settlement, or resolution of the Litigation or the Released Claims are specifically preserved and shall not be affected by the preceding sentence. Neither CSS nor the Related Parties, shall have or shall be deemed to have released, relinquished or discharged any claim or defense against any Person other than Class Plaintiff, each and all of the Settlement Class Members, Settlement Class Counsel and Class Plaintiff's Counsel.

19. Released Claims" shall collectively mean any and all claims and causes of action including, without limitation, any causes of action under or relying on New Jersey or other state law; Federal law; the Health Insurance Portability and Accountability Act; the Federal Trade Commission Act; negligence; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy/intrusion upon seclusion; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any

and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, by any Settlement Class Member against any of the Released Persons based on, relating to, concerning or arising out of the Incident and alleged compromise of personally identifiable information, protected health information, or other personal information or the allegations, facts, or circumstances described in the Litigation. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in the Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

20. "Released Persons" means CSS and its Related Entities and each of their past or present direct and indirect parents, subsidiaries, divisions, partners, affiliates, and insurers, and their respective present and former stockholders, officers, directors, employees, managers, agents, and each of their respective predecessors, successors, heirs, executors, trustees, administrators, assigns, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers. As used in this Paragraph, "affiliates" means entities controlling, controlled by or under common control with a Released Person.

21. "Unknown Claims" means any of the Released Claims that any Settlement Class Member, including Class Plaintiff, does not know or suspect to exist in his/her favor at the time of the release of the Released Persons that, if known by him or her, might have affected his or her settlement with, and release of, the Released Persons, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Class Plaintiff expressly shall have, and each of the other Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also

any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, California Civil Code §§ 1798.80 et seq., Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil 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.

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

22. Neither the Final Approval Order and Judgment, nor the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Persons; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Any of the Released Persons may file the Settlement Agreement and/or the Final Approval Order and Judgment in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of

claim preclusion or issue preclusion or similar defense or counterclaim.

23. This Final Approval Order and Judgment and the Settlement Agreement, and all acts, statements, documents, or proceedings relating to the Settlement Agreement are not, and shall not be construed as, used as, or deemed to be evidence of, an admission by or against CSS of any claim, any fact alleged in the Litigation, any fault, any wrongdoing, any violation of law, or any liability of any kind on the part of CSS or of the validity or certifiability for litigation of any claims that have been, or could have been, asserted in the action.

24. The Court hereby dismisses the Complaint and all claims therein on the merits and with prejudice, without fees or costs to any Party, except as provided in this Final Approval Order and Judgment. Consistent with Paragraph 10.1 of the Settlement Agreement, if the Effective Date, as defined in the Settlement Agreement, does not occur for any reason, (i) the Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or its counsel, and (ii) this Final Approval Order and Judgment, the Preliminary Approval Order, and the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Final Approval Order and Judgment, the Preliminary Approval Order, or the Settlement Agreement shall be treated as vacated *nunc pro tunc*.

25. This Court shall retain the authority to issue any order necessary to protect its jurisdiction from any action, whether in state or federal court.

26. Without affecting the finality of this Final Approval Order and Judgment, the Court will retain jurisdiction over the subject matter and the Parties with respect to the interpretation and implementation of the Settlement Agreement for all purposes.

ENTERED:

DATED: _____, 2023

By: _____
Judge Valter H. Must