EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

RICHARD BUTLER and TIMOTHY KNOTTS, individually and on behalf of all others similarly situated, Plaintiff, v. FAIRMONT FEDERAL CREDIT UNION. Defendant.	**Civil Case No. 1:25-cv-00094-JPB**

SETTLEMENT AGREEMENT

This Settlement Agreement,[1] dated as of the Signing Date, is made and entered into by and among the following Parties: Plaintiffs Richard Butler and Timothy Knotts ("Plaintiffs"), individually and on behalf of the Settlement Class, and Defendant Fairmont Federal Credit Union, by and through their respective counsel of record. This Settlement Agreement is subject to Court approval and is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims, upon and subject to the terms and conditions hereof.

I. THE LITIGATION

Plaintiffs alleges in the above-captioned case that from between September 30, 2023 and October 18, 2023, unauthorized cybercriminals gained access to Defendant's inadequately protected servers (the "Data Incident"), resulting in the exposure of approximately 187,038 individuals' highly-sensitive and confidential, protected health information ("PHI") and personally identifiable information ("PII") (collectively, "Private Information").

[1] Capitalized terms used throughout this Agreement are defined in Section.1.

In or around September 2025, Defendant began sending notification letters to potentially impacted individuals, including Plaintiffs and members of the Settlement Class. Ultimately, according to Defendant's records, approximately 187,038 individuals received notice from Defendant that their Private Information may have been potentially affected by the Data Incident.

On September 16, 2025, Plaintiffs, individually and on behalf of all others similarly situated, filed a class action complaint in the U.S. District Court for the Northern District of West Virginia (Case No. 1:25-cv-00094-JPB). Thereafter, the State Court Actions and State Court Tag-Along Actions (both defined below) were filed in West Virginia state court. Simultaneously with this Litigation, the State Court Tag-Along Actions and State Court Actions were consolidated under the applicable West Virginia rules of procedure, the State Court Lead Counsel (defined below) was appointed as interim lead counsel and was granted the decision-making authority to prosecute and resolve the claims of the State Court Plaintiffs on behalf of the putative classes in the consolidated State Court Actions and State Tag-Along Actions.

Defendant filed a motion to dismiss seeking to dismiss the entirety of Plaintiffs' complaint based on lack of Article III standing and failure to state a claim. Dckt. No. 13. After the Parties fully briefed the motion, the Court issued its ruling on March 12, 2026, whereby it largely denied Defendant's motion, only dismissing Plaintiffs' unjust enrichment claim. Dckt. No. 28.

After receiving the Court's ruling on the motion to dismiss, the Parties began to engage in earnest in Confidential Settlement Communications Subject to F.R.E. 408. As a result of these communications, the Parties agreed to mediate their dispute before Steve Jaffe on April 24, 2026. While that mediation did not result in a settlement, the Parties continued to discuss the possibility of resolution and ultimately signed a term sheet memorializing their agreement on May 7, 2026. The Parties then filed a status report with Court providing notice of the Settlement with the Court on May 15, 2026. It is the Parties' intent to resolve the claims asserted in this Litigation and the

consolidated State Court Actions, all of which arise out of and relate to the Data Incident and contain substantively identical and overlapping putative classes.

The agreed-upon terms of the Parties' settlement are memorialized in this Settlement Agreement, which was negotiated at arm's-length, in good faith and without collusion, by capable and experienced counsel, with full knowledge of the facts, the law, and the inherent risks in the Litigation, and with the active involvement of the Parties.

II. CLAIMS AND BENEFITS OF SETTLING

Plaintiffs believe the claims asserted in the Litigation have merit. Plaintiffs and Settlement Class Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to litigate this action against Defendant through motion practice, trial, and potential appeals. They have also considered the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation, especially in complex class actions. Settlement Class Counsel, in consultation with Plaintiffs, have determined that the Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

III. DENIAL OF ALLEGATIONS OF WRONGDOING AND LIABILITY

Defendant denies any and all allegations of wrongdoing, liability, and inadequate security with respect to Plaintiffs, other Releasing Persons, or any other Person, and disclaims all liability relating to and arising out of the Litigation and the Data Incident. Defendant enters this Settlement Agreement solely to avoid further expense, inconvenience, and burden. Defendant denies that any Person has any right or claim whatsoever against Defendant arising from the Data Incident beyond those expressly set forth and released in this Settlement Agreement. Defendant also denies the suitability of the Litigation for litigation or certification as a class action, other than for purposes of settlement as set forth herein.

Nonetheless, without waiver and while reserving all rights, Defendant has considered the uncertainty and risks inherent in any litigation and concluded that contesting the Litigation further

could be protracted and expensive, so it is desirable and beneficial that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement. This Settlement Agreement is for settlement purposes only. Neither this Settlement Agreement, nor any steps taken to carry out the terms herein, nor the fact of settlement or any settlement negotiations, are intended to be, nor may be deemed or construed to be, an admission or concession of liability, of the validity of any claim or defense, or of any point of fact or law on the part of any Party, nor may be offered or received in evidence as an admission, concession, presumption, or inference of any wrongdoing, fault, violation of law, or liability of any kind by Defendant, in any proceeding whatsoever.

IV. TERMS OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by Plaintiffs, individually and on behalf of the Settlement Class, Settlement Class Counsel, and Defendant that, subject to the approval of the Court, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice as to the Parties and the Settlement Class Members, upon and subject to the terms and conditions of this Settlement Agreement, as follows:

1. Definitions

As used in this Settlement Agreement and in the attached exhibits, the following terms shall have the meanings specified below:

1.1 "Agreement" or "Settlement Agreement" means this agreement.

1.2 "Approved Claim" means the timely submission of a Claim Form by a Settlement Class Member that has been approved by the Settlement Administrator.

1.3 "Attorneys' Fees and Expenses Award" means the amount awarded by the Court to be paid to Settlement Class Counsel from the Settlement Fund, such amount to be in full and

complete satisfaction of Settlement Class Counsel's claim or request for payment of attorneys' fees, costs, disbursements, and compensation in the Litigation.

1.4 "CAFA Notice" means a notice of the proposed Settlement in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.*, to be served upon the appropriate state official in each state where a member of the Settlement Class resides and the appropriate federal official. The CAFA Notice shall be prepared and issued by the Settlement Administrator and be paid from the Settlement Fund.

1.5 "Claim Form" means the form(s) Settlement Class Members must submit to be eligible for reimbursement under the terms of the Settlement, which is attached hereto as **Exhibit 1**.

1.6 "Claims Period" means the sixty (60) day period following the Notice Commencement Date by which Settlement Class Members must file Claims online, or if by mail, the date by which the Claim must be postmarked.

1.7 "Settlement Class Counsel" means Gerald D. Wells, III of Lynch Carpenter LLP and Troy Giatras and Matthew Stonestreet of the Giatras Law Firm.

1.8 "Class Member Information" means the name, last known postal address, and email address (if known) of each member of the Settlement Class that Defendant has in its possession.

1.9 "Class Representatives" or "Plaintiffs" means Richard Butler and Timothy Knotts.

1.10 "Complaint" means the Class Action Complaint filed at ECF No. 1 in the Litigation.

1.11 "Costs of Settlement Administration" means all actual costs associated with or arising from Settlement Administration, the Notice Program, the administration of opt-outs, and the administration of objections. All Costs of Settlement Administration shall be paid solely from the Settlement Fund.

1.12 "Court" means the United States District Court for the Northern District of West Virginia.

1.13 "Data Incident" means the data security incident, occurring between September 30, 2023 and October 18, 2023, during which unauthorized actors accessed the Private Information of the Settlement Class through Defendant's information technology systems.

1.14 "Defendant" or "FFCU" means Fairmont Federal Credit Union.

1.15 "Defendant's Declaration" means the confidential declaration Defendant agrees to provide to Settlement Class Counsel for Plaintiffs and for the Court's *in camera* inspection pursuant to Section 9.1.

1.16 "Effective Date" shall have the meaning specified in Section 9.2.

1.17 "Final Approval Hearing" shall have the meaning specified in Section 3.5.

1.18 "Final Judgment Order" means the order of the Court that approves this Settlement Agreement, provides for the release of the Released Claims, makes such other final rulings as are contemplated by this Settlement Agreement, and orders final judgment of all claims in the Litigation. The Final Judgment Order may or may not include approving payment of any Service Award and Settlement Class Counsel's Attorneys' Fees and Expenses Award.

1.19 "Litigation" means the litigation filed in the Northern District of West Virginia as *Butler v. Fairmont Federal Credit Union,* Case No. 1:25-cv-00094-JPB.

1.20 "Long Notice" means the long form notice of settlement to be posted on the Settlement Website, substantially in the form of **Exhibit 3** to this Settlement Agreement.

1.21 "Net Settlement Fund" means the Settlement Fund less (1) Notice Costs and Administrative Costs; (2) Attorneys' Fees and Expenses awarded by the Court; (3) Service Awards awarded by the Court; and (4) costs associated with procurement of Identity Defense Services. The amounts remaining in the Net Settlement Fund after these deductions shall be used to pay for benefits to Settlement Class Members.

1.22 "Notice Program" means the plan described in Section 3 for disseminating notice to members of the Settlement Class of the terms of this Settlement Agreement and the Final Judgment Order.

1.23 The "Notices" means the Long Notice (**Exhibit 3**) and the Short Notice (**Exhibit 2**).

1.24 The "Notice Commencement Date" means twenty-five (25) days after the entry of the Preliminary Approval Order.

1.25 "Objection Date" means the date by which Settlement Class Members' objections to the settlement must be postmarked by mailing them to the Court for that objection to be timely. The objector or his or her counsel may also file, no later than the Objection Date, the written objection with the Court through the Court's ECF system. The Objection Date shall be set by the Court in the Preliminary Approval Order. The Parties propose an Objection Date that is sixty (60) days after the Notice Commencement Date.

1.26 "Opt-Out(s)" means all Persons who submit valid and timely notices of their intent to opt out of the Settlement Class and not be a Settlement Class Member, as described in Section 4.

1.27 "Opt-Out Date" means the date by which requests by members of the Settlement Class for exclusion from the Settlement Class must be postmarked by mailing them to the Settlement Administrator for such requests to be effective. The Opt-Out Date shall be set by the Court in the Preliminary Approval Order. The Parties propose an Opt-Out Date that is sixty (60) days after the Notice Commencement Date.

1.28 "Opt-Out List" means the list created by the Settlement Administrator including all timely and valid requests for exclusion, as described in Section 9.4.

1.29 "Parties" means Plaintiffs and Defendant.

1.30 "Person(s)" 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.

1.31 "Personal Identifiable Information" or "PII" means names together with driver's license or state identification numbers, and Social Security numbers (whether partial or full).

1.32 "PHI" means protected health information.

1.33 "Private Information" means together PII and PHI.

1.34 "Preliminary Approval Order" means the Court's order preliminarily approving this Settlement Agreement and ordering that notice be provided to the Settlement Class. The Parties' proposed form of Preliminary Approval Order is attached to this Settlement Agreement as **Exhibit 4.**

1.35 "Released Claim(s)" shall mean a full and complete release of any and all claims for relief, lawsuits, charges, complaints, debts, liens, contracts, agreements, promises, liabilities, demands, damages, losses, rights, benefits, obligations, attorneys' fees, costs or expenses of any kind or nature whatsoever, in law, equity or otherwise, arising before, as of or after the Effective Date, whether known or unknown, which were or could have been asserted in the Litigation or that otherwise arise out of or relate to the Data Incident (as defined herein), whether based on contract, tort, statute, or any other legal theory, in each case, against FFCU and its present and former parents, subsidiaries, divisions, departments, affiliates, predecessors, successors and assigns, and any and all of their past, present, and future directors, officers, executives, officials, principals, stockholders, heirs, agents, insurers, reinsurers, members, attorneys, accountants, actuaries, fiduciaries, advisors, consultants, representatives, partners, joint venturers, licensees, licensors, independent contractors, subrogees, trustees, executors, administrators, clients, customers, data owners, associated third parties, predecessors, successors and assigns, and any other person acting on behalf of any of the foregoing in their capacity as such ("Released Parties"). It is the intent of

the Parties that the Released Parties only receive a release for the issues that gave rise to this Litigation and the State Court Actions (defined below). Stated another way, the release provided herein is limited to the Data Incident and in no way impacts any claims by any individual regarding any other data incident involving Defendant or any other Released Party. Released Claims shall not include the right of any Releasing Person or any Released Person to enforce the terms of this Settlement Agreement and shall not include the claims of individuals who have timely and validly opted out of the Settlement Class pursuant to Section 4.1.

1.36 "Released Person(s)" means FFCU and its present and former parents, subsidiaries, divisions, departments, affiliates, predecessors, successors and assigns, and any and all of their past, present, and future directors, officers, executives, officials, principals, stockholders, heirs, agents, insurers, reinsurers, members, attorneys, accountants, actuaries, fiduciaries, advisors, consultants, representatives, partners, joint venturers, licensees, licensors, independent contractors, subrogees, trustees, executors, administrators, clients, customers, members who are not Settlement Class Members, data owners, associated third parties, predecessors, successors and assigns, and any other person acting on behalf of any of the foregoing in their capacity as such. The Released Persons who are not Parties to this Settlement Agreement are intended third-party beneficiaries of this Settlement Agreement and may enforce its terms, including the releases provided herein.

1.37 "Releasing Person(s)" means each and every Settlement Class Member, including without limitation the Plaintiffs, and the State Court Plaintiffs, as well as each and every Settlement Class Member's respective heirs, beneficiaries, devisees, transferees, legatees, executors, administrators, trustees, conservators, guardians, administrators, estates, representatives, agents, predecessors, predecessors-in-interest, successors, successors-in-interest, and assigns.

1.38 "Service Award" shall have the meaning specified in Section 7.2.

1.39 "Settlement" means the settlement set forth in this Settlement Agreement.

1.40 "Settlement Administration" means the distribution of notice, and processing of claims and distribution of payments to Settlement Class Members by the Settlement Administrator.

1.41 "Settlement Administrator" means Kroll LLC ("Kroll"), a company experienced in administering class action settlement payments generally and specifically those of the type provided for and made in data-breach litigation. The Settlement Administrator shall be chosen by Settlement Class Counsel, with the consent of Defendant whose authorization shall not be unreasonably withheld.

1.42 "Settlement Benefits" means the benefits provided under this Settlement and shall include the Settlement Fund and the Settlement Enhancements as defined in Section 1.45. To receive any portion of the Settlement Fund, Settlement Class Members must submit a valid and timely claim to the Settlement Administrator ("Valid Claim"). The Parties stipulate and agree that all Settlement Class Members shall automatically receive the benefit of the Enhancements regardless of whether they elect to receive any portion of the Settlement Fund. Settlement Class Members may submit claims for a Cash Payment and/or Identity Defense Services. If a Settlement Class Member does not submit a Valid Claim, the Settlement Class Member releases his or her claims against the Released Parties without receiving any portion of the Settlement Fund

1.43 "Settlement Class" means all individuals in the United States whose Private Information was potentially impacted in the data security incident publicly disclosed by Defendant on or about April 30, 2025 ("Data Incident"). Class. Excluded from the Settlement Class are: (i) Defendant and its officers and directors; (ii) the judges and court personnel currently assigned to the Litigation or the State Court Actions, and the members of their immediate families; (iii) any natural person or entity that perpetrated or participated in the Data Incident; and (iv) all Persons who validly and timely request exclusion from the Settlement Class. Defendant has represented that the Settlement Class consists of approximately 187,038 individuals. Defendant will provide the approved Settlement Administrator with a "Class List" of

all Settlement Class Members and their contact information to the extent reasonably available to FFCU. The Parties will work cooperatively to negotiate and agree upon a process for confirming the number of Settlement Class Members. If the number of Settlement Class Members increases by more than 1% of this number, Plaintiffs shall have the right to terminate the proposed settlement.

1.44 "Settlement Class Member(s)" means all Persons within the defined Settlement Class who do not timely and validly opt out of the Settlement Class pursuant to Section 4.1.

1.45 "Settlement Enhancements" means the enhanced cyber security measures, including additional training, it enacted as a result of the Data Breach and this Litigation ("Enhancements"). FFCU shall provide the Enhancements for a period of five years from the date the Court grants preliminary approval of the Settlement. The Enhancements are in addition to the Settlement Fund and costs associated with the Enhancements shall be borne solely by Defendant and shall not be reduced from the Settlement Fund. Defendant agrees to provide to Counsel for Plaintiffs and for the Court's *in camera* inspection a confidential declaration detailing these Enhancements. Defendant further agrees that Plaintiff's counsel shall review the language contained in any such declaration prior to its submission to the Court. This declaration shall include an estimated value of these Enhancements.

1.46 "Settlement Fund" means an amount equal to One Million Seven Hundred Eighty-Three Thousand Eight Hundred Fifty-Seven and Sixty-Four Cents ($1,783,857.64), which shall be used to pay for: (i) Approved Claims to Settlement Class Members as provided in Section 2; (ii) Costs of Settlement Administration including CAFA notices; (iii) any Service Award approved by the Court; and (iv) any Attorneys' Fees and Expenses Award approved by the Court.

1.47 "Settlement Payment" means the payment funded or caused to be funded by Defendant to establish the Settlement Fund, as described in Section 2.1.

1.48 "Settlement Website" shall have the meaning specified in Section 3.3(c).

1.49 "Short Notice" means the short notice of the proposed class action settlement, substantially in the form of **Exhibit 2** to this Settlement Agreement, sent via email to members of the Settlement Class for whom Defendant possesses email addresses, and via single postcard to members of the Settlement Class for whom Defendant possesses only postal addresses. The Short Notice will direct recipients to the Settlement Website where recipients may view the Long Notice. The Short Notice will also inform the Settlement Class, *inter alia*, of the Opt-Out Date and Objection Date.

1.50 "Signing Date" means the date of the final Party signature to this Agreement.

1.51 "State Court Actions" refers to the consolidated actions relating to the Data Incident pending in West Virginia state court including *J.N. v. Fairmont Federal Credit Union,* No. CC-24-2025-C-179 (Cir. Ct. Marion Cnty.) and *J.W. v. Fairmont Federal Credit Union*, No. CC-20-2026-C-412 (Cir. Ct. Kanawha Cnty.).

1.52 "State Court Lead Counsel" refers to the plaintiffs' counsel in the consolidated State Court Actions, Tag-Along Actions, and shall mean the Giatras Law Firm.

1.53 "State Court Plaintiffs" means the named plaintiffs in the "State Court Actions."

1.54 State Court Tag-Along Actions means the cases subsumed and consolidated into the State Court Actions and in which State Court Lead Counsel was appointed. The State Court Tag-Along Actions include: CC-24-2025-C-174; CC-24-2025-C-180; CC-24-2025-C-181; CC-24-2025-C-182; and CC-24-2025-C-185.

1.55 Tag-Along Plaintiffs means the named plaintiffs in the State Court Tag-Along Actions.

1.56 "Tax and Tax-Related Expenses" means any and all applicable taxes, duties, and similar charges imposed by any government authority (including any estimated taxes, interest, or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect to the Settlement Fund.

1.57 "United States" means the District of Columbia and all United States and territories.

1.58 "Unknown Claim(s)" means any Released Claim that any Releasing Person does not know or suspect to exist at the time of the release of the Released Persons that, if known by the Releasing Person, might have affected his or her settlement with, and release of, the Released Persons, or might have affected the Releasing Person's 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, Releasing Persons intend to and shall be deemed to have, and by operation of the Final Judgment Order shall have, released any and all Released Claims, including Unknown Claims, as set forth in Section 6.

1.59 "USPS" means the United States Postal Service.

1.60 All time periods herein stated in terms of "days" shall be in calendar days unless otherwise expressly stated.

2. Settlement Benefits

2.1 In consideration for the releases contained in this Settlement Agreement, including without limitation as set forth in Section 6, without waiver and in complete reservation of all rights, within ten (10) days after the Effective Date – or thirty (30) days after the amount of the Settlement Fund is determined by the Settlement Administrator, whichever is longer – Defendant will pay or cause to be paid the Settlement Fund; provided, however, that Defendant shall advance, or cause to be advanced, to the Settlement Administrator a reasonable sum to be specified by the Settlement Administrator necessary to cover the costs of Settlement Administration, the Notice Program, and CAFA notice within thirty (30) days following receipt of the Settlement Administrator's payment instructions and all information necessary to effectuate payment, which shall be provided within five (5) days of the entry of the Preliminary Approval Order. All amounts so advanced shall be credited against, and deducted from, the Settlement Fund; and the balance of the Settlement Fund shall be paid as set forth in this Section. Except as otherwise expressly set forth in this Settlement

Agreement, the payments set forth in this Paragraph shall be Defendant's sole payment obligations with respect to the Settlement. Except for those payments expressly set forth in this Settlement Agreement, in no event shall Defendant have any obligation whatsoever to make any payment, distribution, or contribution, or incur any cost, expense, or liability, related to the Settlement, Settlement Administration, or any other aspect of this Settlement Agreement, or to Plaintiff, the Settlement Class, Settlement Class Counsel, or the Settlement Administrator, in excess of the Settlement Payment.

2.2 Only Settlement Class Members who submit Approved Claims during the Claims Period will receive a Settlement Payment under the Settlement. The Claims Period will run for sixty (60) days after the Notice Commencement Date. Settlement Class Members may submit a Claim Form to the Settlement Administrator electronically through the Settlement Website or by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked before midnight on the final day of the Claims Period. All Claim Forms must be submitted during the Claims Period and in the manner set forth in this Agreement. In its discretion, to be reasonably exercised, the Settlement Administrator will review all Claim Forms submitted. Claim Forms will be reviewed for completeness, plausibility, and reasonable traceability to the Data Incident. The Settlement Administrator may require supplementation of a completed Claim Form or additional information needed to validate or audit a claim. To the extent that a Settlement Class Member fails to provide any supplementation or additional information if requested, the Settlement Administrator may determine that the Settlement Class Member failed to submit a valid claim and therefore reject that claim. Decisions of the Settlement Administrator as to the validity of any claims are final and cannot be appealed.

2.3 The Settlement Administrator shall pay Approved Claims from the Net Settlement Fund in the following manner[2]:

a) Reimbursement of Out-Of-Pocket Losses. "Out-of-Pocket Losses" are verifiable unreimbursed costs or expenditures that a Settlement Class Member actually incurred and that the Settlement Class Member believes are fairly traceable to the Data Breach. Class Members may seek reimbursement for their out-of-pocket losses and expenses up to $7,500 per person with third-party documentation, if: (i) the loss is an actual, documented, and unreimbursed monetary loss; (ii) the loss was directly caused by the Data Breach; (iii) the loss was incurred after the date of the Data Breach; and (iv) the loss is not already covered by one or more of the other reimbursement categories. Documentation must be from a third-party source. Such Out-Of-Pocket Losses include:

i. Proven monetary losses that were more likely than not caused by the Data Incident and which occurred between September 30, 2023 and the close of the Claims Period;

ii. Out-of-pocket expenses incurred as a result of the Data Incident (to be determined by the Settlement Administrator with no right of appeal), including bank fees, long distance phone calls, cell phone charges (only if charged by the minute), data charges (only if based on the amount of data used), postage, or gasoline for local travel;

[2] Settlement Class Members must submit reasonable documentation in support of their claims for Out-of-Pocket Losses. Such documentation may not be "self-prepared." Self-prepared documents, such as handwritten receipts, are, by themselves, insufficient to receive reimbursement and claims based on such documents will be rejected by the Settlement Administrator.

iii. Fees for credit reports, credit monitoring, or other identity theft insurance product purchased between September 30, 2023 and the date of the close of the Claims Period; or

iv. Any other un-reimbursed loss that is:

a. is an actual, documented, and unreimbursed monetary loss;

b. The loss was more likely than not caused by the Data Incident; and

c. The loss occurred between September 30, 2023, and the close of the Claims Period.

b) Reimbursement for Attested Time. Settlement Class Members with time spent remedying issues related to the Data Breach can receive reimbursement of $35 per hour with an attestation of how the time was spent and that it was related to the Data Breach. Claims made for time are subject to a 4-hour cap ($140 maximum payment) and can be combined with any other Settlement benefit, except for a claim for the Alternative Cash Payment.

c) Alternative Cash Payment. As an alternative to making a claim for Out-of-Pocket Losses under Section 2.3(a), Settlement Class Members may request an Alternative Cash Payment of up to $150, subject to the *pro rata* adjustments set forth in Section 2.4 without the need to document losses incurred as a result of the Data Incident.

d) Credit Monitoring. In addition to electing to receive compensation under Sections 2.3(a), 2.3(b) or 2.3(c), Settlement Class Members may also elect to enroll in 3 years of one bureau credit monitoring and identity restoration services through IDX/Zerofox, Cyex, or another mutually agreed upon company providing similar

services. The credit monitoring and identity restoration services includes $1,000,000 in identity theft insurance. If any Settlement Class Member has previously elected to take Defendant's offer of free credit monitoring, the additional Credit Monitoring offered under this Settlement Agreement shall be in addition to the credit monitoring offered by Defendant, with Defendant paying for the credit monitoring it initially offered. By way of example, if a Settlement Class Member initially accepted Defendant's offer of two years of credit monitoring, that individual shall have 5 years of credit monitoring with the first two years paid by Defendant and the final three years paid from the Settlement Fund.

e) Cybersecurity Enhancements. In addition to providing the Settlement Fund, FFCU shall provide the enhanced cyber security measures, including additional training, it enacted as a result of the Data Breach and this Litigation ("Enhancements") for a period of five years from the date the Court grants preliminary approval of the Settlement. The costs associated with the Enhancements shall be borne solely by Defendant and shall not be reduced from the Settlement Fund. Defendant agrees to provide to Counsel for Plaintiffs and for the Court's *in camera* inspection a confidential declaration detailing these Enhancements. Defendant further agrees that Plaintiff's counsel shall review the language contained in any such declaration prior to its submission to the Court. This declaration shall include an estimated value of these Enhancements

2.4 Payments to Settlement Class Members who submit a valid and timely claim for Settlement Benefits under Section 2.3 will be paid as follows:

2.4.1 The Settlement Administrator will first apply the Net Settlement Fund to pay for all Out-of-Pocket Losses. The amount of the Net Settlement Fund

remaining after all Out-of-Pocket Losses will next be used to pay for all Reimbursements for Attested Time. The amount of the Net Settlement Fund remaining after all Out-of-Pocket Losses and all Reimbursements for Attested Time are applied and the payments are made shall be referred to as the "Post Loss Payment Net Settlement Fund."

2.4.2 The Settlement Administrator shall utilize the Post Loss Payment Net Settlement Fund to make all valid and timely claims for the Alternative Cash Payment. The amount of each Alternative Cash Payment shall be calculated by dividing the Post Loss Payment Net Settlement Fund by the total number of valid and timely Claim Forms submitted by Settlement Class Members who elected the Alternative Cash Payment. In performing this calculation, the Settlement Administrator shall first deduct the costs of performing the Credit Monitoring for all Settlement Class Members who elected the Credit Monitoring. From the remaining amount, the Settlement Administrator will determine the actual dollar amount the Alternative Cash Payment to be sent to each Settlement Class Member who elected to receive the Alternative Cash Payment will be.

2.5 Dispute Resolution.

2.5.1 The Settlement Administrator, in its 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 Out-Of-Pocket Losses described above; 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 Data Incident (collectively, "Facially Valid"). The Settlement Administrator shall have the sole discretion and authority to determine whether and to what extent documentation for Out-of-Pocket Losses reflect valid Out-of-Pocket Losses actually incurred that are fairly traceable to the Data Incident but may consult with Settlement Class Counsel and Settlement Class Counsel in making individual determinations. Out-of-Pocket Losses will be presumed "fairly traceable" if: (1) the timing of the losses occurred on or after September 30, 2023; and (2) the personal information used to commit identity theft or fraud consisted of the same type of personal information that was potentially accessed in the Data Incident. The Settlement Administrator is authorized to contact any Settlement Class Member to seek clarification regarding a submitted claim prior to making a determination as to its validity. Out-of-Pocket Losses are not eligible for reimbursement to the extent a Settlement Class Member has already been reimbursed for the same expense by any other source, including any compensation provided in connection with the credit monitoring product previously offered by FFCU.

2.5.2 To the extent the Settlement Administrator determines a claim for Out-of-Losses is deficient in whole or in part, within a reasonable time of making such a determination, but no later than 14 days after the close of the Claims Period, the Settlement Administrator is authorized to contact the Settlement Class Member via telephone or e-mail in an attempt to informally resolve the deficiency prior to sending a formal deficiency notice. If the deficiency is not resolved in this manner, the Settlement Administrator shall formally notify the Settlement Class Member of the deficiencies and give the

Settlement Class Member 14 days to cure the deficiencies. Such notifications shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such notifications shall be sent via U.S. mail.

2.5.3 If the Settlement Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Settlement Administrator, fails to do so, the Settlement Administrator shall notify the Settlement Class Member of that determination within 10 days of the determination that the deficiencies have not been cured. The Settlement Administrator may consult with counsel for both Parties prior to making such determinations. Although the Settlement Administrator may consult with counsel for the Parties, the determination shall be solely the Settlement Administrator's. The notice shall inform the Settlement Class Member of his or her right to dispute in writing the deficiency determination. The Settlement Administrator's decision will be final.

2.6 Settlement Class Members will be provided the option to receive their settlement payment due to them pursuant to terms of this Agreement via various digital methods, *e.g.*., PayPal, Venmo, etc. In the event Settlement Class Members do not exercise this option, they will receive their Settlement Payment via physical check sent by USPS.

2.7 All such payments shall be made within forty-five (45) days after the Effective Date. If such payments are distributed via mailed checks, all such checks shall be void one hundred eighty (180) days after issuance and shall bear the language: "This check must be cashed within one hundred eighty (180) days, after which time it is void." If a check becomes void, requests for re-issuance need not be honored by the Settlement Administrator. If any amount remains in the Settlement Fund after all issued checks have become void, the Parties will instruct the Settlement Administrator to make a second distribution of those funds in equal amounts to all Settlement

Class Members who redeemed or cashed their initial payments. If, however, the residual amount in the Settlement Fund is insufficient to permit a second payment amount of at least $5 to all such Settlement Class Members, then the Parties shall instruct the Settlement Administrator to make a *cy pres* payment by donating all remaining funds to an entity mutually agreed upon by the Parties and submitted to the Court in a subsequent filing who may receive unclaimed residual funds, subject to approval by the Court.

2.8 The Parties agree, for purposes of this settlement only, to the certification of the Settlement Class. If the Settlement is not approved by the Court, or if this Settlement Agreement is terminated or canceled 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 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.

3. Order of Preliminary Approval and Publishing of Notice of Final Approval Hearing

3.1 As soon as practicable after the Signing Date, Settlement Class Counsel shall submit this Settlement Agreement to the Court as part of a motion for preliminary approval of the Settlement with the Court, requesting entry of a Preliminary Approval Order in the form substantially similar to **Exhibit 4**, requesting, *inter alia:*

a) certification of the Settlement Class for settlement purposes only pursuant to Section 2.6;

b) preliminary approval of this Settlement Agreement as set forth herein;

c) appointment of Gerald D. Wells, III of Lynch Carpenter LLP as Settlement Class Counsel;

d) appointment of Plaintiffs as class representatives;

e) approval of the Short Notice to be emailed or mailed to members of the Settlement Class in a form substantially similar to the one attached as **Exhibit 2** to this Settlement Agreement;

f) approval of the Long Notice to be posted on the Settlement Website in a form substantially similar to the one attached as **Exhibit 3** to this Settlement Agreement, which, together with the Short Notice, shall include a fair summary of the Parties' respective litigation positions, statements that the Settlement and notice of Settlement are legitimate and that the Settlement Class are entitled to benefits under the Settlement, the general terms of the Settlement, 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 Approval Hearing;

g) appointment of Kroll as the Settlement Administrator; and

h) a stay of the Litigation, and of all deadlines and proceedings therein other than those relating to approval and effectuation of the Settlement, and the Parties shall file notice of this Preliminary Approval in the State Court Actions and shall work together to seek and effectuate a stay of each of the State Court Actions, pending the Court's final approval determination.

3.2 The Claim Form, Short Notice, and Long Notice have been reviewed and approved by the Settlement Administrator but may be revised as agreed upon by the Parties prior to submission to the Court for approval. Immaterial revisions to these documents may also be made prior to dissemination of notice.

3.3 The Settlement Fund shall be used to pay for notice to the Settlement Class in accordance with the Preliminary Approval Order, and the costs of such notice, together with all other Costs of Settlement Administration. Any Attorneys' Fees and Expenses Award to Settlement Class Counsel, and any Service Awards to the Class Representatives, as approved by the Court, shall be paid solely from the Settlement Fund as set forth in Section 7 below. Notice shall be provided to the Settlement Class by the Settlement Administrator as follows:

a) *Class Member Information*: No later than five (5) days after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the Class Member Information.

b) The Class Member Information shall be deemed confidential and used by the Settlement 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. The Class Member Information will be stored securely at all times by the Settlement Administrator. Except to administer the Settlement as provided in this Settlement Agreement or upon a joint written request, the Settlement Administrator shall not reproduce, copy, store, share, or distribute in any form, electronic or otherwise, the Class Member Information, including without limitation to Settlement Class Counsel. The Settlement Administrator shall delete all information associated with the Litigation, including the Class Member Information, when it no longer has a legal requirement to retain such data.

c) *Settlement Website:* Prior to the dissemination of the Short Notice, the Settlement Administrator shall establish the Settlement Website, at a URL agreed to by the Parties, that will inform members of the Settlement Class of the terms of this Agreement, their rights, dates and deadlines and related information. The Settlement Website shall include, in .pdf format and available for download, the

following: (i) the Claim Form; (ii) the Long Notice; (iii) the Preliminary Approval Order; (iv) this Agreement; (v) the Complaint; and (vi) any other materials agreed upon by the Parties and/or required by the Court. The Settlement Website shall be activated by the Notice Commencement Date and shall remain active, maintained, and updated by the Settlement Administrator until one hundred eighty (180) days after the Effective Date.

d) *Short Notice:* By the Notice Commencement Date, the Settlement Administrator will begin providing the Short Notice to the Settlement Class. Subject to the requirements of this Settlement Agreement and the Preliminary Approval Order, the Settlement Administrator will provide the Short Notice to the Settlement Class as follows:

i) Via email to those members of the Settlement Class for whom Defendant has already compiled email addresses on its existing notice list (if any);

ii) If no email address is available, via mail to the postal address in Defendant's possession. Before any mailing under this paragraph occurs, the Settlement Administrator shall run the postal addresses of members of the Settlement Class through the USPS National Change of Address database to update any change of address on file with the USPS;

iii) In the event that a Short Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Settlement Administrator shall resend the Short Notice to the forwarding address within seven (7) days of receiving the returned Short Notice;

iv) In the event that subsequent to the first mailing of a Short Notice, and at least fourteen (14) days prior to the Opt-Out Date and Objection Date, a

Short Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, *i.e.*, the envelope is marked "Return to Sender" and does not contain a new forwarding address, the Settlement Administrator shall perform a standard skip trace, in the manner that the Settlement Administrator customarily performs skip traces, in an effort to attempt to ascertain the current address of the particular member of the Settlement Class in question and, if such an address is ascertained, the Settlement Administrator will resend the Short Notice within seven (7) days of receiving such information. This shall be the final requirement for mailing.

e) On or before the Notice Commencement Date, the Settlement Administrator shall establish a toll-free help line with a live operator to provide members of the Settlement Class with additional information about the settlement, including copies of the Long Notice, as well as this Settlement Agreement, upon request; and

f) Contemporaneously with seeking Final Approval of the Settlement, Settlement Class Counsel and the Settlement Administrator shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with these provisions regarding notice.

3.4 The Claim Form, Short Notice, Long Notice, and other applicable communications to the Settlement Class may be adjusted by the Settlement Administrator in consultation and agreement with the Parties as may be reasonable and not inconsistent with such approval. The Notice Program shall commence by the Notice Commencement Date.

3.5 The Parties through their respective counsel shall request that the Court hold a hearing no fewer than one hundred twenty (120) days after the Preliminary Approval Order and grant final approval of the Settlement. Settlement Class Counsel shall file a Motion for Final

Approval at least ten (10) days before the Final Approval Hearing (or at such other time as ordered by the Court).

4. Opt-Out Procedures

4.1 Each Person wishing to opt-out of the Settlement Class shall individually sign (with a physical signature) and timely submit a written notice to the Settlement Administrator of such intent by (a) mailing it with a postmark by the Opt-Out Date to a designated Post Office box established by the Settlement Administrator, or (b) emailing it to the Settlement Administrator using the email address provided on the Settlement Website. To be effective, the written opt-out notice must include the following: (a) the requestor's full name, postal address, and email address; (b) the requestor's physical signature; (c) the case name and number of this Litigation, *Butler v. Fairmont Federal Credit Union,* No. 25-cv-94 (N.D. WV); and (d) a statement that clearly manifests his or her wish to be excluded from the Settlement Class for purposes of this Settlement. To be effective, written notice must be postmarked or emailed no later than the Opt-Out Date. Opt-Outs must be on an individual basis, and no Person may opt-out any other individual.

4.2 Opt-Outs shall not be entitled to, nor shall they receive, any benefits provided to Settlement Class Members as set forth herein, nor shall they be bound by the terms of this Settlement Agreement. All Persons otherwise falling within the definition of the Settlement Class who do not opt-out of the Settlement Class in the manner set forth in Section 4.1 shall be bound by the terms of this Settlement Agreement and Final Judgment Order entered thereon.

5. Objection Procedures

5.1 Each Settlement Class Member desiring to object to this Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall state: (a) the objector's full name, postal address, and email address; (b) the case name and number of this Litigation, *Butler v. Fairmont Federal Credit Union,* No. 25-cv-94 (N.D. WV) ; (c)

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 the objector's settlement notice, copy of original notice of the Data Incident, or a statement explaining why the objector believes he or she is a Settlement Class Member); (d) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (e) the identity of any and all counsel representing the objector in connection with the objection; (f) a statement whether the objector and/or his or her counsel will appear at the Final Approval Hearing; (g) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (if any) representing him or her in connection with the objection; (h) the case name, case number, and court of each class action settlement to which the objector or the objector's counsel has previously objected, if any. To be timely, written notice of an objection in the appropriate form must be submitted to the Court either by filing it electronically or in person at any location of the United States District Court for the Northern District of West Virginia or by mailing it to the Clerk of the Court, United States District Court for the Northern District of West Virginia, U.S. Federal Building and Courthouse, 500 West Pike Street, Room 301, Clarksburg, WV 26301, and mailing it to Settlement Class Counsel and Defendant's counsel with a postmark or filing date no later than the Objection Date.

5.2 To be considered, an objection must also disclose a list, including 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 in the past five (5) years. There shall be no combined, collective, or joint objections, and any such objections shall be deemed invalid as to all persons joining therein. Settlement Class Counsel and Defendant's counsel may conduct limited discovery on any objector and the objector's counsel concerning the objection and the objector's standing.

5.3 Any Settlement Class Member who fails to comply with the requirements for objecting in Section 5.1-5.3 shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to this Settlement Agreement and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders, and judgments in the Litigation. The exclusive means for any challenge to this Settlement Agreement shall be through the provisions of Section 5.1-5.3. Without limiting the foregoing, any challenge to this Settlement Agreement or the Final Judgment Order approving this Settlement Agreement shall be pursuant to appeal under the Federal Rules of Civil Procedure and not through a collateral attack.

6. Releases and Dismissal of State Court Actions and Tag-Along Actions

6.1 Upon the Effective Date, and in consideration of the good and valuable consideration set forth in this Agreement, each Releasing Person shall be deemed to have, and by operation of the Final Judgment Order shall have, fully, finally, and forever waived, acquitted, released, relinquished, and discharged all Released Persons from all Released Claims, including, without limitation, Unknown Claims, to the fullest extent permitted by law. Further, upon the Effective Date, and to the fullest extent permitted by law, each Releasing Person shall, either directly, indirectly, representatively, as a member of or on behalf of the general public, or in any other capacity whatsoever, be permanently barred and forever 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, and in consideration of the good and valuable consideration set forth in this Agreement, each Releasing Person shall be deemed to have, and by operation of the Final Judgment Order shall have covenanted and agreed that they shall not, at any point on or after the Effective Date, sue or otherwise seek to assert or establish any claim or liability

of any kind whatsoever against any of the Released Persons based, in whole or in part, upon any of the Released Claims.

6.3 Upon the Effective Date, and in consideration of the good and valuable consideration set forth in this Agreement, each Releasing Person shall be deemed to have, and by operation of the Final Judgment Order shall have expressly acknowledged and agreed (i) it is possible that other injuries, damages, losses, consequences, or results arising from or relating to the Data Incident are not currently known by Releasing Persons and may arise, develop, exist, or be discovered in the future; and (ii) the Released Claims are expressly intended to and do cover and include without limitation all such future injuries, damages, losses, consequences, and results.

6.4 Upon the Effective Date, and in consideration of the good and valuable consideration set forth in this Agreement, each and every Releasing Person shall be deemed to have, and by operation of the Final Judgment Order shall have, expressly, knowingly, and intentionally waived, released, relinquished, and discharged, to the fullest extent permitted by law, any and all provisions, rights, benefits, and protections conferred by Cal. Civ. Code § 1542 and any statute, principle of common law, or enactment in any jurisdiction that is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Releasing Persons acknowledge that they may discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true, and Releasing Persons further acknowledge the possibility that they will later discover Unknown Claims arising out of or related to the Data Incident. Nevertheless, Releasing Persons intend for the releases set forth in this Agreement to be binding and extend to all Released Claims, including without limitation Unknown

Claims. The Parties acknowledge, and Releasing Persons shall be deemed by operation of the Final Judgment Order to have acknowledged, that the provisions of this Section and the inclusion of "Unknown Claims" in the definition of Released Claims were separately bargained for and are material elements of the settlement and this Settlement Agreement.

6.5 The Parties agree that it is their intention for the proposed Settlement to resolve the claims asserted in the Litigation as well as those claims asserted in the consolidated State Court Actions and Tag-Along Actions. Accordingly, the Parties agree that the consolidated State Court Actions and Tag-Along Actions shall be stayed pending the Court's final approval determination; that, within seven (7) days after receipt of the balance of the Settlement Fund, the State Court Lead Counsel (who are signatories to this Agreement) shall cause the consolidated State Court Actions and Tag-Along Actions to be dismissed with prejudice; and to work cooperatively to defend this Settlement from any objections, including any made by any counsel who file an action in state court.

7. Settlement Class Counsel's Attorneys' Fees, Costs, and Expenses; Service Awards to Class Representatives

7.1 Within forty-five (45) days after the Notice Commencement Date, Settlement Class Counsel will move the Court for an award of their reasonable attorneys' fees incurred in the Litigation in an amount not to exceed one third (1/3) of the Settlement Benefits, and reimbursement of documented costs and expenses. The amount of the Attorneys' Fees and Expenses Award shall ultimately be determined by the Court. Settlement Class Counsel, in their sole discretion, shall allocate and distribute any amounts of attorneys' fees, costs, and expenses awarded by the Court among Settlement Class Counsel.

7.2 Subject to Court approval, Settlement Class Counsel will move the Court for a Service Award to the Class Representatives of up to $5,000 per Class Representative. The amount of the Service Award shall ultimately be determined by the Court.

7.3 Subject to Court approval, Settlement Class Counsel will move the Court for a Service Award to the State Court Plaintiffs of up to $3,500. The amount of the Service Award shall ultimately be determined by the Court.

7.4 Subject to Court approval, Settlement Class Counsel shall also move the Court for a Service Award to the Tag-Along Plaintiffs of up to $1,000. The amount of the Service Award shall ultimately be determined by the Court.

7.5 It is not a condition of this Settlement Agreement that any particular amount of attorneys' fees, costs, or expenses or Service Awards be approved by the Court, or that such fees, costs, expenses, or awards be approved at all. Any order or proceeding relating to the amount of any award of attorneys' fees, costs, or expenses or Service Awards, or any appeal from any order relating thereto, or reversal or modification thereof, shall not operate to modify, terminate, or cancel this Settlement Agreement, in whole or in part, or affect or delay the finality of the Final Judgment Order and final judgment of all claims in the Litigation.

7.6 If awarded by the Court, the Settlement Administrator shall pay from the Settlement Fund any Attorneys' Fees and Expenses Award and any Service Award for the Class Representatives, as set forth in Sections 7.1 and 7.2 in the amounts awarded by the Court within thirty (30) days after the Effective Date.

8. Administration of Settlement

8.1 The Settlement Administrator shall provide Settlement Class Counsel and Defendant's counsel weekly reports of all claims, distributions, and payments from the Settlement

Fund. Settlement Class Counsel and Defendant's counsel shall have the right to obtain and review further supporting documentation and challenge such reports if they believe them to be inaccurate or inadequate.

8.2 No Person shall have any claim against the Settlement Administrator, Defendant, Settlement Class Counsel, the Class Representatives, and/or Defendant's counsel based on any distribution or payment from the Settlement Fund.

8.3 Within ten (10) days after the motion for preliminary approval of Settlement is filed with the Court, the Settlement Administrator on behalf of the Defendant shall cause a CAFA Notice to be served upon the appropriate State and Federal officials. All expenses incurred in connection with the preparation and service of the CAFA Notice shall be paid by the Settlement Fund.

9. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

9.1 As a condition precedent to this Settlement, Defendant's Declaration shall be provided to Settlement Class Counsel and the Court for an *in camera* inspection attesting that: (i) FFCU's cyber insurance policy is a wasting policy, (ii) that the policy, due to the payment of the Settlement Fund and less a holdback for Defendant's reasonable costs of defense incurred between the execution of the Parties' Settlement Term Sheet and the time period upon which the judgment approving the Parties' settlement has become final, through the conclusion of any appeals thereof, will be fully exhausted, (iii) the payment of any higher amounts in excess of the Settlement Fund would cause Defendant to utilize monies belonging to FFCU credit members to pay for such higher amounts, (iv) that there is no other available insurance to cover any further claims relating to the Data Breach, and (v) that, in effect, the insurance policy is the only means by which FFCU can fund any proposed settlement relating to the Data Breach. Defendant further agrees that

Plaintiff's counsel shall review the language contained in any such declaration prior to its *in camera* submission to the Court.

9.2 The Effective Date shall mean one (1) business day after the occurrence of all of the following events: (i) the Settlement pursuant to this Settlement Agreement is finally approved by the Court; and (ii) the time to appeal or seek permission to appeal from the Final Judgment Order and Judgment has expired or, if appealed, any appeal has been dismissed in its entirety, or the Final Judgment Order 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' Fees and Expense Award or Service Awards made in this case shall not affect the calculation of the Effective Date.

9.3 If the Court does not approve this Settlement Agreement or the Effective Date does not occur for any reason, this Settlement Agreement shall be canceled and terminated unless Settlement Class Counsel and Defendant's counsel mutually agree in writing to proceed with this Settlement Agreement.

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

9.5 Subject to Section 9.2, in the event that this Settlement Agreement or the releases set forth herein are not approved by the Court, the Effective Date does not occur for any reason, (a) 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 Party's counsel, and (b) the terms and provisions of this 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 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 the Attorneys' Fees and Expenses Award and/or the Service Awards shall constitute grounds for cancellation or termination of this Settlement Agreement. Further, notwithstanding any statement in this Settlement Agreement to the contrary, in the event this Agreement is cancelled or terminated after the Settlement Fund is established, the Settlement Fund shall be used to pay any Costs of Settlement Administration that have already been incurred by the Settlement Administrator, and the remaining Settlement Fund shall be paid back to Defendant or its insurer, as the case may be.

9.6 Defendant shall provide reasonable access to confidential discovery regarding the non-privileged facts and circumstances of the Data Incident and the Enhancements provided by Defendant. FFCU's provision of the declaration contemplated in Sections 1.45 and 2.3(e) shall be sufficient to discharge its obligations under this Section.

9.7 Defendant shall have the right, but not the obligation, to terminate this Settlement Agreement in the event that the number of Settlement Class Members who submit timely and valid Requests for Exclusion exceeds 500. To exercise this right, Defendant must provide written notice to Settlement Class Counsel within fourteen (14) days after the Settlement Administrator furnishes the Opt-Out List pursuant to Section 9.4. If Defendant exercises this right, the Parties shall be restored to their respective positions as set forth in Section 9.5, and the Parties' settlement negotiations shall not be admissible in any proceeding or construed as an admission of liability by Defendant or a concession by Plaintiffs.

10. Miscellaneous Provisions

10.1 The Parties (a) acknowledge that it is their intent to consummate this Agreement; and (b) 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, as permitted and in accordance with applicable law.

10.2 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 (other than in the Litigation itself) 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.

10.3 Neither this Settlement Agreement, nor the Settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Settlement Agreement or the Settlement (a) 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 (b) 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 this Settlement Agreement and/or the Final Judgment Order 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.

10.4 This 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.

10.5 The recitals contained herein and all exhibits to this Settlement Agreement are a material part of the Settlement and are incorporated and made a part of this Agreement.

10.6 Except as otherwise expressly set forth herein, this Settlement Agreement, including all exhibits hereto, contains the entire understanding between the Parties regarding settlement of the Litigation and supersedes all previous negotiations, agreements, commitments, understandings, and writings between the Parties related to settlement of the Litigation. Aside from the express provisions of this Agreement, the Parties each acknowledge that they have not relied upon any representation or statement made by any other Party or Person with respect to the subject matter, basis, and effect of this Agreement.

10.7 The Parties agree that this is a compromise of disputed claims and neither party is a prevailing party. The Parties agree that they will not assert or claim to be a prevailing party in the Litigation. The Parties shall each be responsible for their own attorney's fees and costs, except as specified in this Agreement.

10.8 Settlement Class Counsel, on behalf of the Settlement Class, are expressly authorized by the Class Representatives to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to this Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to this 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.

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

10.10 This 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.

10.11 This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

10.12 This Settlement Agreement was jointly drafted by the Parties through arm's-length negotiation, and no provision of this Settlement Agreement shall be construed against any Party on the ground that such Party or its counsel drafted the provision.

10.13 The waiver by any Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of that or any other prior or subsequent breach of any provision of this Settlement Agreement.

10.14 The Settlement Fund is intended to be, and shall at all times be treated as, a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1, and the Settlement Administrator shall serve as the "administrator" of the Settlement Fund within the meaning of Treas. Reg. § 1.468B-2(k)(3). All Taxes and all expenses related to the taxation of the Settlement Fund shall be timely paid by the Settlement Administrator out of the Settlement Fund without further order of the Court, and in no event shall Defendant or any other Released Person have any responsibility or liability whatsoever for Taxes or tax-related expenses.

10.15 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Settlement Agreement. The Court shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of this Agreement and shall retain jurisdiction for the purpose of enforcing all terms of this Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Settlement Administrator. As part of its

agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

10.16 As used herein, "he" means "he, she, they, or it;" "his" means "his, hers, theirs, or its," and "him" means "him, her, them, or it."

10.17 This Settlement Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of West Virginia, and the rights and obligations of the Parties to this Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of West Virginia.

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

10.19 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement, including but not limited to those relating to all information exchanged for purposes of mediation or under the auspices of Federal Rule of Evidence 408. The Parties and their counsel further agree that they shall not use any of the documents and information provided to them during the course of the Litigation for any purpose other than accomplishing the terms and conditions of this Settlement Agreement.

The attached Appendix A compiles the material dates and deadlines established by this Agreement. Appendix A is provided for convenience and should not be interpreted to alter the substance of this Agreement in any way.

[SIGNATURES SET FORTH ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Settlement Agreement by the duly authorized representatives set forth below.

Settlement Class Counsel

By: _____

Gerald D. Wells, III
LYNCH CARPENTER LLP
1760 Market Street, Suite 600
Philadelphia, PA 19103
Telephone: (267) 609-6910
jerry@lcllp.com

The Giatras Law Firm, PLLC
Matt Stonestreet, Esq. (WVSB#11398)
Troy N. Giatras, Esq. (WVSB#5602)
118 Capitol Street, Suite 400
Charleston, West Virginia 25301
(304) 343-2900 / (304) 343-2942

Settlement Class Representatives

By: _____
Timothy Knotts

By: _____
Richard Butler

State Court Lead Counsel
By: _____
Matt Stonestreet, Esq. (WVSB#11398)
Troy N. Giatras, Esq. (WVSB#5602)
The Giatras Law Firm, PLLC
118 Capitol Street, Suite 400
Charleston, West Virginia 25301
(304) 343-2900 / (304) 343-2942
*facsimile*matt@thewvlawfirm.com
troy@thewvlawfirm.com

State Court Plaintiffs

By: _____
Jarod Newbraugh

Counsel for Defendant

By: _____

Timothy J. Lowe
MCDONALD HOPKINS, PLC
39533 Woodward Avenue, Suite 318
Bloomfield Hills, MI 48304
Tel: (248) 646-5070
jhaut@mcdonaldhopkins.com

By: _____

Julie A. Moore (WV Bar No. 11315)
BOWLES RICE LLP
125 Granville Square, Suite 400
Morgantown, WV 26501
Tel: (304) 285-2524
Fax: (304) 285-2575
jamoore@bowlesrice.com

Fairmont Federal Credit Union

By: _____

Its: _____

Docusign Envelope ID: 054C1FC6-5F0B-895E-806D-1FB371FAD23A

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Settlement Agreement by the duly authorized representatives set forth below.

Settlement Class Counsel

By: _____
Gerald D. Wells, III
LYNCH CARPENTER LLP
1760 Market Street, Suite 600
Philadelphia, PA 19103
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jerry@lcllp.com

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Settlement Class Representatives

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By: _____
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troy@thewvlawfirm.com

State Court Plaintiffs

By: _____
Jarod Newbraugh

By: _____
Joyce Wilson

Counsel for Defendant

By: Signed by: Timothy Lowe 70DAC1B8602F495... _____
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Fairmont Federal Credit Union

By: Cindy Dukey

Its: CEO

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Settlement Agreement by the duly authorized representatives set forth below.

Settlement Class Counsel

By: _____
Gerald D. Wells, III
LYNCH CARPENTER LLP
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Telephone: (267) 609-6910
jerry@lcllp.com

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Settlement Class Representatives

By: _____
Timothy Knotts

By: _____
Richard Butler

State Court Lead Counsel

By: _____
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State Court Plaintiffs

By: _____
Jarod Newbraugh

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State Court Plaintiffs

By: _____
Jarod Newbraugh (Aug 28, 2026 12:27:43 EDT)
Jarod Newbraugh

Counsel for Defendant

By: _____

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Fairmont Federal Credit Union

By: _____

Its: _____

By: Joyce L Wilson (Aug 27, 2026 11:59:23 EDT)
Joyce Wilson

APPENDIX A
SETTLEMENT TIMELINE

From Order Granting Preliminary Approval	
Settlement Administrator sends CAFA Notice	+10 days
Defendant provides Class Member Information to Settlement Administrator	+5 days
Notice Commencement Date, including activation of the Settlement Website	+25 days
Settlement Class Counsel's Motion for Attorneys' Fees and Reimbursement of Litigation Expenses	+70 days
Objection Date	+85 days
Opt-Out Date	+85 days
Settlement Administrator provides Opt-Out List to Parties	+92 days (*i.e.*, within 7 days after the Opt-Out Date)
Motion for Final Approval	At least 10 days before Final Approval Hearing
Final Approval Hearing	+120 days
Claims Period Ends	+60 days from Notice Commencement Date
From Order Granting Final Approval	
Effective Date	+30 days and 1 business day, assuming no appeals
From Effective Date	
Defendant pays or causes to be paid the funds into Settlement Fund	+10 days, or 30 days after the amount of the Settlement Fund is determined by the Settlement Administrator, whichever is longer
Payment of Attorneys' Fees and Expenses and Class Representative Service Awards	+30 days
Payments to Settlement Class Members from Settlement Fund	+45 days
Settlement Website deactivated by Settlement Administrator	+180 days

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: Fairmont Federal Credit Union Settlement: $1.7M+ Deal Resolves Lawsuit Over 2023 Data Breach

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