

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

IN RE: NUMOTION DATA INCIDENT
LITIGATION

Case No. 3:24-cv-00545

Judge Aleta A. Trauger

JENNIFER SYLVESTER, JASON PEFFLEY,
and JAMES FORSYTHE, individually, and on
behalf of all others similarly situated,

Plaintiffs,

v.

UNITED SEATING AND MOBILITY, LLC
d/b/a NUMOTION,

Defendant.

Case No. 3:25-cv-00469

Judge Aleta A. Trauger

SETTLEMENT AGREEMENT

This Settlement Agreement¹ is entered into between Plaintiffs for the above-styled actions, on behalf of themselves and the Settlement Class, on the one hand, and Defendant, on the other hand. The Parties hereby agree to the following terms in full settlement of the Actions, subject to a Final Approval Order entered by the Court.

I. Background

A. The March 2024 Data Incident (“Numotion I”)

1. Founded in 2001, Defendant provides mobility solutions, wheelchairs, and mobility equipment to its customers with the goal of moving their lives forward for years to come.

2. Defendant uses certain personally identifiable information and/or personal health

¹ All capitalized terms herein shall have the same meanings as those defined in Section II below.

information to offer and provide its customers with products that enhance mobility and independence, where necessary.

3. On March 2, 2024, Defendant discovered that between February 29, 2024, and March 2, 2024, an unauthorized individual accessed certain of Defendant's systems, which may have included Private Information belonging to 685,264 of Defendant's former and current customers and employees.

4. Following the March 2024 Data Incident, Defendant sent letters to individuals whose Private Information may have been impacted in the incident.

5. On May 2, 2024, Plaintiff, Shaun Ducrepin, a former employee of the Defendant, filed a putative class action lawsuit related to the March 2024 Data Incident. Case No. 3:24-cv-00545 [ECF No. 1]. On May 8, 2024, a second putative class action arising out of the same data incident was filed by Plaintiff, Dulcie Walker (together with Plaintiff Ducrepin, ("Numotion I Plaintiffs")), a former customer of Defendant. Case No. 3:24-cv-00581 [ECF No. 1]. On June 13, 2024, the *Ducrepin* and *Walker* matters were consolidated into a consolidated matter, Case No. 3:24-cv-00545 [ECF No. 22].

6. On July 15, 2024, the Numotion I Plaintiffs filed a Consolidated Class Action Complaint against Defendant, asserting claims for negligence, negligence *per se*, breach of implied contract, breach of confidence, unjust enrichment, and bailment seeking damages and injunctive relief ("Numotion I Action"). Case No. 3:24-cv-00545 [ECF No. 23].

7. On August 14, 2024, Defendant filed a motion to dismiss the Numotion I Action. *See* Case No. 3:24-cv-00545 [ECF No. 28], and on September 4, 2024, the motion to dismiss was fully briefed. *Id.* [ECF Nos. 28–32]. On January 9, 2025, the Court granted in part and denied in part Defendant's motion to dismiss [ECF Nos. 34–35].

B. The September 2024 Data Incident (“Numotion II”)

8. On September 29, 2024, Defendant discovered that it had been the victim of a criminal third-party phishing incident wherein an unauthorized individual accessed certain user accounts within Defendant’s environment, in which the personal health information of approximately 494,326 individuals may have been impacted (“September 2024 Data Incident”).

9. Following the September 2024 Data Incident, the Defendant provided notice to the individuals whose information may have been impacted.

10. Following the September 2024 Data Incident, Defendant was named in seven putative class action lawsuits and one individual action in Tennessee, Connecticut, California, and Nebraska (“Numotion II Actions”). The Numotion Actions were all filed or removed to federal court.²

11. On May 19, 2025, the *Sylvester* and *Peffley* plaintiffs filed a motion to consolidate the two Middle District of Tennessee actions, Case No. 3:25-cv-00469, [ECF No. 12], and on May 20, 2025, the Court granted the motion [ECF No. 13].

12. On June 18, 2025, the Numotion II Plaintiffs filed their Consolidated Complaint, which also joined Plaintiff Forsythe to the consolidated action [ECF No. 15].

² *Guerrero v. United Seating and Mobility, LLC d/b/a Numotion*, No. 3:25-cv-00355-VDO (D. Conn.) (filed on March 12, 2025); *Goguen v. United Seating and Mobility, LLC d/b/a Numotion*, No. 3:25-cv-00390-VDO (D. Conn.) (filed March 17, 2025); *Sylvester v. United Seating and Mobility, LLC d/b/a Numotion*, No. 3:25-cv-00469 (M.D. Tenn.) (filed in state court on March 24, 2025; removed on April 25, 2025); *Peffley v. United Seating and Mobility, LLC d/b/a Numotion*, No. 3:25-cv-00482 (M.D. Tenn.) (filed in state court on March 25, 2025; removed on April 29, 2025); *Forsythe v. United Seating and Mobility, LLC d/b/a Numotion*, No. 3:25-cv-00525-VDO (D. Conn.) (filed on April 3, 2025); *Barron v. United Seating and Mobility, LLC d/b/a Numotion*, No. 3:25-cv-00537-VDO (D. Conn.) (filed on April 8, 2025); *Tapia v. United Seating and Mobility, LLC*, No. 3:25-cv-01354-BEN-AHG (S.D. Cal.) (filed in state court on April 15, 2025; removed on May 28, 2025); *Tyler v. Numotion*, No. 8:25-cv-00374-RCC (D. Neb.) (filed *pro se* on May 1, 2025 in state court; removed on June 2, 2025).

13. On May 28, 2025, the *Forsythe* matter was dismissed in the District of Connecticut. Case No. 3:25-cv-00525-VDO [ECF No. 22].

14. On July 16, 2025, the *Guerrero* matter was dismissed. Case No. 3:25-cv-00355-VDO [ECF No. 20].

15. On July 21, 2025, the *Goguen* matter was dismissed. Case No. 3:25-cv-00390-VDO [ECF No. 28].

C. Settlement of the Numotion I and Numotion II Actions

16. In early March 2025, the Parties in Numotion I and Numotion II agreed to explore early resolution of the Numotion I and Numotion II in a single settlement. As such, the parties agreed to schedule mediation with former federal magistrate Judge Diane Welsh (ret.).

17. The remaining Numotion I and Numotion II Actions were stayed pending the outcome of mediation.

18. In advance of the mediation, the Parties exchanged informal discovery regarding the Numotion I and Numotion II Actions, including details as to how the data incidents occurred, the specific data elements that may have been and the number of individuals in both, and across both, Numotion I and Numotion II Actions. The Parties also exchanged detailed mediation briefs outlining their positions with respect to settlement-related issues.

19. On July 2, 2025, the Parties participated in mediation with Judge Welsh. After a full day of arms-length negotiations, the Parties agreed on the material terms of this Settlement and to resolve all claims across the Numotion I and Numotion II Actions on a classwide basis.

20. Before the mediation, and over the next several weeks, the Parties negotiated the contours of the Settlement and worked closely with the proposed Settlement Administrator to create the Notice Program and Notices, and to formulate the Claims Process and draft the Claim

Form.

21. The Parties now agree to settle the Numotion I and Numotion II Actions entirely, without any admission of liability or wrongdoing, with respect to all Released Claims of the Releasing Parties. Defendant has entered into this Agreement to resolve all controversies and disputes arising out of or relating to the Data Incidents and the allegations made in the Complaints, and to avoid the litigation costs and expenses, distractions, burden, expense, and disruption to their business operations associated with further litigation. Defendant does not in any way acknowledge, admit to, or concede any of the allegations made in the Complaints, and disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Complaints. Nothing contained in this Agreement shall be used or construed as an admission of liability, and this Agreement shall not be offered or received in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement. Plaintiffs have entered into this Agreement to recover on the claims in the Complaints, and to avoid the risk, delay, and uncertainty of continued litigation. Plaintiffs do not in any way concede that the claims alleged in the Complaints lack merit or are subject to any defenses. The Parties intend this Agreement to bind Plaintiffs, Defendant, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficient of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

II. Definitions

22. “**Actions**” means the Numotion I Actions and Numotion II Actions, collectively.

23. “**Agreement**” or “**Settlement**” or “**Settlement Agreement**” means this agreement

between the Plaintiffs and Defendant, and all exhibits hereto.

24. **“Application for Attorneys’ Fees, Costs, and Service Awards”** means Class Counsel’s application for attorneys’ fees, costs, and Service Awards, made with the Motion for Final Approval seeking Attorneys’ Fees, Costs, and Service Awards.

25. **“CAFA Notice”** means the Class Action Fairness Act notice which shall be served upon the appropriate state and federal officials, providing notice of the Settlement in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. Sec. 1711, *et seq.* (“CAFA”). Costs for preparation and issuance of the CAFA Notice will be paid from the Settlement Fund.

26. **“Cash Payment”** means the cash compensation consisting of Cash Payment A – Documented Out-of-Pocket Losses or Cash Payment B – *Pro Rata* Cash, that Settlement Class Members may elect to claim in this Settlement.

27. **“Cash Payment A – Documented Out-of-Pocket Losses”** means the reimbursement for out-of-pocket losses, not to exceed \$15,000.00 per Settlement Class Member, for which all Settlement Class Members may submit claims, with supporting documentation, as set forth under Section V herein. Social Security Class Members may also submit a claim for Medical Monitoring under the claims-made benefits.

28. **“Cash Payment B – *Pro Rata* Cash”** means the cash compensation consisting of a *pro rata* share of cash from the Net Settlement Fund that all Settlement Class Members may elect to claim under Section V herein.

29. **“Claim”** means the submission of a Claim Form by a Claimant.

30. **“Claims-Made Benefits”** means the settlement benefits available in which Settlement Class Members can submit a Claim for Documented Out-of-Pocket Losses, not to exceed \$15,000.00 per Settlement Class Member. As set forth below, Social Security Settlement

Class Members may also submit a claim for Medical Monitoring, as defined below.

31. “**Claim Form**” means the proof of claim, substantially in the form attached hereto as *Exhibit 4*, which Claimants must use to submit a Claim for Cash Payments, Credit Monitoring, and Medical Monitoring.

32. “**Claim Form Deadline**” shall be fifteen (15) days before the initial scheduled Final Approval Hearing and is the last day by which a Claim Form may be submitted to the Settlement Administrator for a Settlement Class Member to be eligible to claim Settlement Benefits.

33. “**Claimant**” means an individual who submits a Claim Form.

34. “**Claim Process**” means the process by which Claimants may submit Claims to the Settlement Administrator for the election of Settlement Class Member Benefits.

35. “**Class Counsel**” means J. Gerard Stranch, IV of Stranch, Jennings & Garvey, PLLC.

36. “**Class List**” means the list of all individuals in the Settlement Class. Defendant shall prepare and provide the Class List to the Settlement Administrator to be used for the provision of Notice using information in its records. The Class List shall include, if available, Settlement Class Members’ names, email addresses, postal addresses, and telephone numbers.

37. “**Class Representatives**” means all Plaintiffs the Court approves to serve as representatives of the Settlement Class.

38. “**Complaints**” means all complaints filed arising under Numotion I and Numotion II Actions, collectively.

39. “**Court**” means the United States District Court for the Middle District of Tennessee and the Judge(s) assigned to the Actions.

40. “**Credit Monitoring**” means the two (2) years of CyEx’s Identity Defense Plus credit product that all Settlement Class Members will automatically be entitled to under Section V herein.

41. “**Data Incidents**” means the March 2024 Data Incident and the September 2024 Data Incident, collectively.

42. “**Defendant**” means United Seating and Mobility, LLC d/b/a Numotion, the defendant in the Action.

43. “**Defendant’s Counsel**” means Casie D. Collignon and Keeley O. Cronin of Baker & Hostetler LLP.

44. “**Email Notices**” means the email notice of the Settlement, substantially in the form attached hereto as *Exhibit I*, that the Settlement Administrator may disseminate to the Settlement Class.

45. “**Effective Date**” means the day after the entry of the Final Approval Order, provided no objections are made to the Settlement. If there are objections to the Settlement, then the Effective Date shall be the later of: (a) thirty (30) days after entry of the Final Approval Order if no appeals are taken from the Final Approval Order, or (b) if appeals are taken from the Final Approval Order, then the earlier of thirty (30) days after the last appellate court ruling affirming the Final Approval Order or thirty (30) days after the entry of a dismissal of the appeal.

46. “**Escrow Account**” means the interest-bearing account to be established by the Settlement Administrator that will hold the Settlement Fund consistent with the terms and conditions described herein.

47. “**Final Approval**” means the final approval of the Settlement, which occurs when the Court enters the Final Approval Order, substantially in the form attached to the Motion for

Final Approval.

48. “**Final Approval Hearing**” means the hearing held before the Court during which the Court will consider granting Final Approval of the Settlement and the Application for Attorneys’ Fees, Costs, and Service Awards. The hearing may be held via videoconference or by telephone, and if so, instructions will be posted on the Settlement Website.

49. “**Final Approval Order**” means the final order that the Court enters granting Final Approval of the Settlement.

50. “**Long Form Notice**” means the long form notice of the Settlement, substantially in the form attached hereto as *Exhibit 3*, that shall be posted on the Settlement Website and be available to Settlement Class Members by mail upon request made to the Settlement Administrator.

51. “**Medical Monitoring**” means the two (2) years of CyEx’s Medical Shield Pro medical account monitoring that Social Security Settlement Class Members may submit a Claim for, as set forth below.

52. “**Motion for Final Approval**” means the motion that Plaintiffs and Class Counsel shall file with the Court seeking Final Approval of the Settlement.

53. “**Motion for Preliminary Approval**” means the motion that Plaintiffs shall file with the Court seeking Preliminary Approval of the Settlement.

54. “**Net Settlement Fund**” means the funds remaining in the Settlement Fund after the payment of Settlement Administration Costs, including Defendant’s data mining costs to determine membership in the Settlement Class, CAFA Notice, Court-awarded Service Awards, and Class Counsel’s request for up to \$1,333,333.33 in attorneys’ fees, and costs.

55. “**Notice**” means the Email Notices, Postcard Notices, and Long Form Notice that Plaintiffs and Class Counsel will ask the Court to approve in connection with the Motion for

Preliminary Approval.

56. “**Notice Program**” means the methods provided for in this Agreement that may be used for the provision of Notice of the Settlement (Email Notices, Postcard Notices, and Long Form Notice), along with the Settlement Website and Settlement telephone line.

57. “**Notice of Deficiency**” means the notice sent by the Settlement Administrator to a Settlement Class Member who has submitted a timely but invalid Claim.

58. “**Numotion I Action**” means the consolidated action arising from the data incident that took place between February 29, 2024, and March 2, 2024, and was discovered by Defendant on March 2, 2024, *In Re Numotion Data Incident Litigation*, Case No. 3:24-cv-00545, pending in the United States District Court for the Middle District of Tennessee.

59. “**Numotion II Action**” means the consolidated action arising from the data incident that took place between approximately September 2, 2024, and November 18, 2024, and was discovered by Defendant on September 29, 2024, *Jennifer Sylvester, et al. v. United Seating and Mobility, LLC d/b/a Numotion*, Case No. 3:25-cv-00469, pending in the United States District Court for the Middle District of Tennessee, and all other cases listed in footnote 2, *supra*, which shall be dismissed with prejudice within seven (7) days after the Court’s entry of Final Approval.

60. “**Numotion I Plaintiffs**” means Shaun Ducrepin and Dulcie Walker.

61. “**Numotion II Plaintiffs**” means Jennifer Sylvester, Jason Peffley, James Forsythe, George Barron, Marie Guerrero, Cathy Goguen, and Jason Tapia.

62. “**Objection Deadline**” means thirty (30) days before the initial scheduled Final Approval Hearing.

63. “**Opt-Out Deadline**” means thirty (30) days before the initial scheduled Final Approval Hearing.

64. **“Party”** means Plaintiffs and Defendant, individually, and **“Parties”** means Plaintiffs and Defendant, collectively.

65. **“Plaintiffs”** means the Numotion I Plaintiffs and the Numotion II Plaintiffs, collectively.

66. **“Postcard Notices”** means the postcard notices of the Settlement, substantially in the form attached hereto as *Exhibit 2*, that the Settlement Administrator may disseminate to those members of the Settlement Class.

67. **“Preliminary Approval”** means the preliminary approval of the Settlement, which occurs when the Court enters the Preliminary Approval Order.

68. **“Preliminary Approval Order”** means the order preliminarily approving the Settlement and proposed Notice Program, substantially in the form attached hereto as *Exhibit 5*.

69. **“Private Information”** means Settlement Class Members’ information that may have been impacted in the Data Incidents, which includes names, and some combination of dates of birth, Social Security numbers, identification documents, employee information, medical equipment order details, medical documentation, and/or health insurance information. **“Releases”** means the releases and waiver set forth in Section XIII of this Agreement.

70. **“Released Claims”** means the claims described in Section XIII of this Agreement.

71. **“Released Parties”** means Defendant, and its past, present and future parents, subsidiaries, divisions, departments, 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, employees, fiduciaries, advisors, consultants, representatives, partners, joint venturers, licensees, licensors, independent contractors, subrogees, trustees, executors, administrators, associated third Parties, predecessors,

successors and assigns, and any other person acting on Defendant's behalf, in their capacity as such. It is understood that to the extent a Released Party is not a party to the Agreement, all such Released Parties are intended third-party beneficiaries of the Agreement.

72. **"Releasing Parties"** means Plaintiffs and all Settlement Class Members and each of their respective executors, representatives, heirs, predecessors, assigns, beneficiaries, affiliates, successors, bankruptcy trustees, guardians, joint tenants, tenants in common, tenants by the entirety, agents, attorneys and accounting advisors.

73. **"Service Awards"** shall mean the payment the Court may award the Class Representatives for serving as representatives of the Settlement Class.

74. **"Settlement Administrator"** means Kroll Settlement Administration, LLC or Kroll.

75. **"Settlement Administration Costs"** means all reasonable costs and fees of or incurred by the Settlement Administrator regarding Notice and Settlement administration.

76. **"Settlement Class"** means all living persons in the United States who received notice of the Data Incidents. Excluded from the Settlement Class are: (1) Defendant and its parents, subsidiaries, officers and directors, and any entity in which Defendant has a controlling interest; (2) all Persons who submit a timely and valid opt out from the Settlement Class; (3) the Judge assigned to this Action, and the Judge's immediate family, and Court staff; and (4) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrences of the Data Incidents, or who pleads *nolo contendere* to any such charge.

77. **"Settlement Class Member"** means any member of the Settlement Class who has not opted out of the Settlement.

78. **“Settlement Class Member Benefits”** means the Cash Payment A – Documented Out-of-Pocket Expenses, and the Medical Monitoring, which is available to Social Security Class Members, Cash Payment B – *Pro Rata* Cash, and Credit Monitoring.

79. **“Settlement Fund”** means the non-reversionary \$4,000,000.00 cash fund that Defendant has agreed to pay under the terms of the Settlement. Settlement Class Members may submit Valid Claims for Cash Payment B – *Pro Rata* Cash, as defined above, which will be paid from the Settlement Fund, on a *pro rata* basis, after the reasonable Settlement Administration Costs, CAFA Notice, Service Awards, and up to \$1,333,333.33 in attorneys’ fees, costs, and expenses have been paid out of the Settlement Fund.

80. **“Settlement Website”** means the website the Settlement Administrator will establish as a means for the Settlement Class Members to submit Claim Forms and obtain notice and information about the Settlement, including all important dates, frequently asked questions, hyperlinked access to this Agreement, the Preliminary Approval Order, Long Form Notice, Claim Form, Motion for Final Approval, Application for Attorneys’ Fees, Costs, and Service Awards, and Final Approval Order, as well as other documents as the Parties agree to post or the Court orders posted. The Settlement Website shall remain online and operable for six (6) months after Final Approval.

81. **“Social Security Settlement Class Members”** means those Settlement Class Members whose Social Security numbers may have been involved in the Data Incidents.

82. **“Valid Claim”** means a Claim Form submitted by a Settlement Class Member that is: (a) submitted in accordance with the provisions of the Settlement; (b) accurately, fully, and truthfully completed and executed, with all of the information requested in the Claim Form, by a Settlement Class Member; (c) signed physically or by e-signature by a Settlement Class Member

personally, subject to the penalty of perjury; (d) returned via mail and postmarked by the Claim Form Deadline, or, if submitted online, submitted by 11:59 p.m. Central Time on the Claim Form Deadline; and (e) determined to be valid by the Settlement Administrator. The Settlement Administrator may require additional information from the Claimant to validate the Claim, including, but not limited to, answers related to questions regarding the validity or legitimacy of the physical or e-signature. Failure to respond to the Settlement Administrator's Notice of Deficiency may result in a determination that the Claim is not a Valid Claim.

III. Payment of Settlement Fund

83. Within thirty (30) days after entry of the Preliminary Approval Order, and upon the receipt of sufficient payment information from the Settlement Administrator including wiring instructions and a properly completed and duly executed IRS Form W-9, along with any other necessary forms, Defendant will advance to the Settlement Administrator the cost of preparing and transmitting the Postcard Notices and Email Notices to Settlement Class Members. Such costs will be deducted from the Settlement Fund. Defendant shall deposit the balance of the Settlement Fund within thirty (30) days of the Court's entry of the Final Approval Order. The Settlement Administrator shall establish a Qualified Settlement Fund, as defined by 26 C.F.R. 1.468B-1, for the deposit of the payment of the balance of the Settlement Fund. In no event will Defendant pay or cause to be paid more than \$4,000,000.00 to the Settlement Fund.

84. The Settlement Fund shall be used to pay: (1) all Settlement Administration Costs, including Defendant's cost of data mining to confirm membership in the Settlement Class; (2) CAFA Notice; (3) any Service Awards awarded to Class Representatives; and (4) up to \$1,333,333.33 in attorneys' fees and costs awarded to Class Counsel. Following payment of 1–4 above, the remainder of the Settlement Fund shall be divided equally amongst all Settlement Class

Members who submitted Valid Claims for Cash Payments.

85. All interest earned on the funds shall be for the benefit of the Settlement Class. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Escrow Account or otherwise, including any taxes or tax detriments that may be imposed on Defendant, Defendant's Counsel, Plaintiffs, and/or Class Counsel with respect to income earned by the Escrow Account, for any period during which the Escrow Account does not qualify as a "qualified settlement fund" for the purpose of federal or state income taxes or otherwise, shall be paid out of the Escrow Account. Defendant, Defendant's Counsel, Plaintiffs, and Class Counsel shall have no liability or responsibility for any of the taxes. The Escrow Account shall indemnify and hold Defendant, Defendant's Counsel, Plaintiffs, and Class Counsel harmless for all taxes (including, without limitation, taxes payable by reason of any such indemnification).

IV. Certification of the Settlement Class

86. Plaintiffs shall propose and recommend to the Court that the Settlement Class be certified for Settlement purposes only under Federal Rule of Civil Procedure 23(b)(3). Defendant agrees solely for purposes of the Settlement provided for in this Agreement, and the implementation of such Settlement, that these Numotion I and Numotion II Actions shall proceed as a class action settlement; provided however, that if a Final Approval Order is not issued or is reversed on appeal, then any certification shall be null and void and, for the avoidance of doubt, Defendant shall retain all rights to object to any future requests to certify a class. Plaintiffs and Class Counsel shall not reference this Agreement or any negotiations leading to this Agreement in support of any subsequent motion for class certification of any class in the Actions.

V. Settlement Consideration

87. All Settlement Class Members will automatically, without having to file a Claim, receive the Credit Monitoring benefit. Additionally, all Settlement Class Members may submit a Claim for benefits from the Settlement Fund or for Claims-Made Benefits. If a Settlement Class Member does not submit a Valid Claim, the Settlement Class Member will release his or her claims against Defendant and the Released Parties without receiving any Settlement Benefits.

88. **Settlement Benefits** – Settlement Class Members may submit claims for (1) Cash Payment B – *Pro Rata* Cash under the Settlement Fund; or (2) Cash Payment A – Documented Out-of-Pocket Losses, as a claims-made benefit. Social Security Settlement Class Members may submit a claim to receive Medical Monitoring, which will be paid for as part of the claims-made process. All Settlement Class Members will be automatically entitled to receive Credit Monitoring.

a. Claims-Made Benefits

89. Settlement Class Members may file a Claim to receive Cash Payment A – Documented Out-of-Pocket Losses, not to exceed \$15,000.00 per Settlement Class Member upon presentment of documented losses fairly traceable to the March 2024 Data Incident or September 2024 Data Incident. A Settlement Class Member who seeks Cash Payment A – Documented Out-of-Pocket Loss benefits attest under penalty of perjury to incurring documented losses related to the Actions. Settlement Class Members will be required to submit reasonable documentation supporting the losses. These losses may include, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after either Data Incident through the date of claim submission; and miscellaneous expenses such as notary, facsimile, postage, copying, mileage, and long-distance telephone charges. Settlement Class Members with

losses must submit documentation supporting their Claim. This can include receipts or other documentation not “self-prepared” by the claimant that documents the costs incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation. If a Settlement Class Member does not submit reasonable documentation supporting a loss, or if their Claim is rejected by the Settlement Administrator for any reason, and the Settlement Class Member fails to cure his or her Claim, the Claim will be rejected.

90. In addition, Social Security Settlement Class Members may submit a Claim for two (2) years of CyEx Medical Shield Pro (“Medical Monitoring”) that includes at least healthcare insurance Plan ID monitoring, Medicare Beneficiary Identifier ID monitoring, Medical recording number monitoring, international classification of disease monitoring, national provider identifier monitoring, health savings account monitoring, dark web monitoring, \$1,000,000.00 of medical identity theft insurance with no deductible, real-time authentication alerts, high risk transaction monitoring, security freeze assist, and victim assistance.

b. Settlement Fund Benefits

91. Settlement Class Members may elect to receive a *pro rata* share of the cash available in the Net Settlement Fund.

c. Credit Monitoring

92. In addition to the Settlement Benefits described above, all Settlement Class Members will be automatically entitled to receive two (2) years of CyEx Identity Defense Plus (“Credit Monitoring”), which includes credit monitoring, monthly credit score reporting, real-time inquiry alerts, dark web monitoring, high-risk transaction monitoring, wallet protection, \$1,000,000.00 of insurance coverage for fraud/identity theft with no deductible, security freeze

assist, victim assistance, and customer support. The cost of providing Credit Monitoring will be paid by the Defendant separate and apart from the Common Fund.

VI. Settlement Approval

93. Upon execution of this Agreement by all Parties and Class Counsel, Class Counsel shall file a Motion for Preliminary Approval, after review by Defendant.

94. The Motion for Preliminary Approval shall, among other things, request the Court enter the Preliminary Approval Order, which will, at a minimum: (1) preliminarily approve the terms of the Settlement as being within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Class for settlement purposes only; (3) appoint Class Counsel to represent the Settlement Class, Plaintiffs as Class Representatives, and the Settlement Administrator to administer the Settlement; (4) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (5) approve the Claim Form and Claims Process; (6) approve the procedures for individuals in the Settlement Class to opt-out of or object to the Settlement; (7) stay the Actions and any related actions pending Final Approval of the Settlement; and (8) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel, and Defendant's Counsel.

VII. Settlement Administrator

95. The Parties agree that, subject to Court approval, Kroll shall be the Settlement Administrator. The Parties shall jointly oversee the Settlement Administrator. The Settlement Administrator shall fulfill the requirements set forth in the Preliminary Approval Order and herein and comply with all applicable laws.

96. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph and perform such other functions as are specified for the Settlement

Administrator elsewhere in this Agreement, including, but not limited to, effectuating the Notice Program, handling the Claims Process, maintaining the Settlement Fund, and distributing the Settlement Class Member Benefits.

97. The Settlement Administrator's duties include:

- a. Completing the Court-approved Notice Program by noticing the Settlement Class by Email Notice and/or Postcard Notice, sending Long Form Notices and paper Claim Forms upon request from individuals in the Settlement Class, reviewing Claim Forms, notifying Claimants of deficient Claim Forms using the Notice of Deficiency, and distributing or ensuring the distribution of Settlement Class Member Benefits to Settlement Class Members who submit Valid Claims;
- b. Establishing and maintaining the Escrow Account;
- c. Establishing and maintaining a post office box to receive opt-out requests from the Settlement Class and objections from Settlement Class Members, and Claim Forms;
- d. Establishing and maintaining the Settlement Website to provide important information about the Settlement and electronic submission of Claim Forms;
- e. Establishing and maintaining an automated toll-free telephone line for the Settlement Class to call with Settlement-related inquiries, and answer frequently asked questions of individuals in the Settlement Class who call with or otherwise communicate such inquiries;
- f. Responding to any mailed Settlement Class Member inquiries;
- g. Sending Long Form Notices to Settlement Class Members upon their request;

- h. Processing all opt-out requests from the Settlement Class;
- i. Providing weekly reports to Class Counsel and Defendant's Counsel that summarize the number of Claims submitted, Claims approved and rejected, Notices of Deficiency sent, opt-out requests and objections received that week, the total number of opt-out requests and objections received to date, and other pertinent information;
- j. In advance of the Final Approval Hearing, preparing a declaration confirming the Notice Program was completed in accordance with the terms of this Agreement and the Preliminary Approval Order, describing how the Notice Program was completed, indicating the number of Claim Forms received and providing details of the Settlement Class Members benefits claimed, providing the names of each individual in the Settlement Class who timely and properly requested to opt-out from the Settlement Class, indicating the number of objections received, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;
- k. Sending an invoice to Defendant requesting payment of funds from Defendant and collecting those funds to pay Settlement Benefits to Settlement Class Members who submitted Valid Claims for Settlement Benefits;
- l. Distributing Settlement Benefits to Settlement Class Members by electronic means or by paper check;
- m. Confirming that CyEx sends activation codes to Settlement Class Members for Credit Monitoring and to the Settlement Class Members who submitted Valid Claims for Medical Monitoring no later than forty-five (45) days after the Effective Date;
- n. Paying Court-approved attorneys' fees, costs, and Service Awards out of the Settlement Fund;

o. Paying Settlement Administration Costs, including any required taxes, out of the Settlement Fund following approval by Class Counsel; and

p. Any other Settlement Administration function at the instruction of Class Counsel and Defendant's Counsel.

98. The Notice Program and Notices will be reviewed and approved by the Settlement Administrator. The Notices may be revised if agreed upon by the Parties prior to submission to the Court for approval. Immaterial revisions to the Notices may also be made prior to dissemination of Notice.

VIII. Notice to the Settlement Class

99. Within ten (10) days of the filing of the Motion for Preliminary Approval, Defendant shall provide notice to state Attorneys General or others as required by 28 U.S.C. § 1715(b).

100. Defendant will provide the Settlement Administrator with the Class List no later than fourteen (14) days after entry of the Preliminary Approval Order.

101. Within thirty (30) days following entry of the Preliminary Approval Order, the Settlement Administrator shall commence the Notice Program by sending Email Notices and/or Postcard Notices, as provided in the Class List.

102. The Notices shall include, among other information: a description of the material terms of the Settlement; how to submit a Claim Form; the Claim Form Deadline; the Opt-Out Deadline for individuals in the Settlement Class to opt-out of the Settlement Class; the Objection Deadline for Settlement Class Members to object to the Settlement and/or the Application for Attorneys' Fees, Costs, and Service Awards; the Final Approval Hearing date; and the Settlement Website address at which Settlement Class Members may access this Agreement and other related

documents and information. Class Counsel and Defendant's Counsel shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. If the date or time for the Final Approval Hearing changes, the Settlement Administrator shall update the Settlement Website to reflect the new date. No additional notice to the Settlement Class is required if the date or time for the Final Approval Hearing changes.

103. The Settlement Administrator shall establish the Settlement Website no later than the day before Notice is first initiated. The Settlement Administrator shall ensure the Settlement Website makes available the Court-approved online Claim Form that can be submitted directly on the Settlement Website or in printable version that can be sent by U.S. Mail to the Settlement Administrator.

104. The Long Form Notice also shall include a procedure for individuals in the Settlement Class to opt-out of the Settlement; and the Email Notices and/or Postcard Notices shall direct individuals in the Settlement Class to review the Long Form Notice to obtain the opt-out instructions. Individuals in the Settlement Class may opt-out of the Settlement Class at any time before the Opt-Out Deadline by mailing a request to opt-out to the Settlement Administrator postmarked no later than the Opt-Out Deadline. The opt-out request must: 1) be personally signed by the Settlement Class Member; 2) contain the requestor's name, address, telephone number, and email address (if any); 3) contain the case name and number: *In Re: Numotion Data Incident Litigation*, Case No. 3:24-cv-00545 (M.D. Tenn.); and 4) include a statement indicating a request to be excluded from the Settlement Class. Any individual in the Settlement Class who does not timely and validly request to opt out shall be bound by the terms of this Agreement even if he or she does not submit a Valid Claim, and even if her or she has pending, or subsequently initiates,

litigation, arbitration, or any other proceeding against Defendant relating to the Released Claims.

105. In the event that within ten (10) days after the Opt-Out Deadline, there have been more than two hundred and fifty (250) requests for exclusion, Defendant may void this Settlement Agreement by notifying Class Counsel in writing. If Defendant voids this Agreement under this Paragraph (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 as to avoid prejudice to any Party or Party's counsel; (b) the terms and provisions of the Settlement Agreement and statements made in connection with seeking approval of the Settlement shall have no further force and effect with respect to the Parties and shall not be used in the Actions 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 and shall be treated as vacated, *nunc pro tunc*; and (c) Defendant shall be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of Class Counsel and service awards to the Class Representatives, and shall not, at any time, seek recovery of the same from any other party to the Actions or from counsel to any other party to the Actions.

106. The Long Form Notice also shall include a procedure for the Settlement Class to object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards, and the Email Notices and/or Postcard Notices shall direct the Settlement Class to review the Long Form Notice to obtain the objection instructions. Objections must be mailed to the Clerk of the Court, Class Counsel, Defendant's Counsel, and the Settlement Administrator. For an objection to be considered by the Court, the objection must be submitted no later than the Objection Deadline, as specified in the Notice. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-

class postage prepaid. If submitted by private courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

107. For an objection to be considered by the Court, the objection must also set forth:

a. the objector's full name, mailing address, telephone number, and email address (if any);

b. the case name and number: *In Re: Numotion Data Incident Litigation*, Case No. 3:24-cv-00545 (M.D. Tenn.);

c. documentation sufficient to establish membership in the Settlement Class, such as a copy of the Postcard Notice or Email Notice the objector received;

d. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;

e. the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;

f. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards;

g. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such

objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding five years;

h. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;

i. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);

j. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

k. the objector's signature (an attorney's signature is not sufficient).

Class Counsel and/or Defendant's Counsel may conduct limited discovery on any objector or objector's counsel, including taking depositions and propounding discovery.

108. The Settlement Administrator shall perform reasonable physical address traces for those Email Notices that experience a hard bounce-back or are otherwise identified as undeliverable (if Email Notice is sent) as well updated and current addresses for those Settlement Class Members whose Postcard Notices are returned undeliverable. The Settlement Administrator will attempt to send Postcard Notices to those Settlement Class Members for which physical addresses were identified.

109. The Notice Program shall be completed no later than forty-five (45) days before the initial scheduled date set for the Final Approval Hearing.

IX. Claim Process and Disbursement of Cash Payments

110. The Notice will explain to Settlement Class Members that they may be entitled to

Settlement Benefits, how to obtain Credit Monitoring, Medical Monitoring, where applicable, and how to submit a Claim Form for Settlement Benefits.

111. Claim Forms may be submitted online through the Settlement Website or through U.S. Mail by sending them to the Settlement Administrator at the address designated on the Claim Form.

112. The Settlement Administrator shall collect, review, and address each Claim Form received to determine whether the Claim Form meets the requirements set forth in this Settlement and is thus a Valid Claim. The Settlement Administrator shall examine the Claim Form before designating the Claim as a Valid Claim to determine that the information on the Claim Form is reasonably complete. The Settlement Administrator shall have the sole authority to determine whether a Claim by any Claimant is a Valid Claim. Nevertheless, a claim for Cash Payment A – Document Out-of-Pocket Losses that is determined to be invalid for failure to submit reasonable supporting documentation shall be defaulted to a claim for Cash Payment B – *Pro Rata* Cash.

113. The Settlement Administrator shall use all reasonable efforts and means to identify and reject duplicate claims. No Settlement Class Member may submit more than one Claim Form. The Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Settlement Class Member. The Settlement Administrator shall use its best efforts to determine whether there is any duplication of claims, and if there is, contact the Settlement Class Member in an effort to determine which Claim Form is the appropriate one for consideration.

114. The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claims Process. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim Form to prevent actual or possible fraud or abuse. By agreement, the Parties can

instruct the Settlement Administrator to take whatever steps it deems appropriate if the Settlement Administrator identifies actual or possible fraud or abuse relating to the submission of claims, including, but not limited to, denying in whole or in part any Claim to prevent actual or possible fraud or abuse. If any fraud is detected or reasonably suspected, the Settlement Administrator and Parties may require information from Claimants or deny Claims, subject to the supervision of the Parties and ultimate oversight by the Court.

115. Claim Forms that do not meet the terms and conditions of this Settlement shall be promptly rejected by the Settlement Administrator and the Settlement Administrator shall advise the Claimant or Settlement Class Member of the reason(s) why the Claim Form was rejected. However, if the Claim Form is rejected for containing incomplete or inaccurate information, and/or omitting required information, the Settlement Administrator may send a Notice of Deficiency explaining what information is missing or inaccurate and needed to validate the Claim and have it submitted for consideration. The Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. The additional information and/or documentation can include, for example, answers to questions regarding the validity of the Claimant's physical or e-signature. A Claimant shall have until the Claim Form Deadline, or fifteen (15) days from the date the Notice of Deficiency is sent to the Claimant via mail and postmarked or via email, whichever is later, to reply to the Notice of Deficiency and provide the required information. If the Claimant timely and adequately provides the requested information and/or documentation, the Claim shall be deemed a Valid Claim and processed by the Settlement Administrator. If the Claimant does not timely and completely provide the requested information and/or documentation, the Settlement Administrator shall reduce or deny the Claim unless Defendant and Class Counsel otherwise agree.

116. Where a good faith basis exists, the Settlement Administrator may reduce or reject a Claim for, among other reasons, the following:

- a. Failure to fully complete and/or sign the Claim Form;
- b. Illegible Claim Form;
- c. The Claim Form is fraudulent;
- d. The Claim Form is duplicative of another Claim Form;
- e. The Claimant is not a Settlement Class Member;
- f. The Claimant submitted a timely and valid request to opt-out of the Settlement Class;
- g. The person submitting the Claim Form requests that payment be made to a person or entity other than the Claimant for whom the Claim Form is submitted;
- h. Failure to submit a Claim Form by the Claim Form Deadline; and/or
- i. The Claim Form otherwise does not comply with the requirements of this Settlement.

117. The Settlement Administrator's reduction or denial of a Claim is final, subject to the following dispute resolution procedures:

- a. The Settlement Administrator shall have thirty (30) days from the Claim Form Deadline to approve or reject Claims based on findings of fraud or duplication.
- b. A request for additional information by sending a Notice of Deficiency shall not be considered a denial for purposes of this paragraph.
- c. If a Claim is rejected for fraud or duplication, the Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. Class Counsel and Defendant's Counsel shall be provided with copies of all such notifications to

Claimants.

d. The Settlement Administrator's determination as to whether to approve, deny, or reduce a Claim shall be final and binding.

118. The Settlement Administrator shall provide all information gathered in investigating Claims, including, but not limited to, copies of all correspondence and email and all notes of the Settlement Administrator, the decision reached, and all reasons supporting the decision, if requested by Class Counsel or Defendant's Counsel. Additionally, Class Counsel and Defendant's Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

119. The Settlement Administrator must submit an invoice to Defendant for the collection of payment for Settlement Benefits within thirty (30) days of the Effective Date or as soon as all Claim deficiencies are resolved via the process set forth herein.

120. The Settlement Administrator shall distribute the Settlement Class Member Benefits no later than forty-five (45) days after the Effective Date.

121. Settlement Benefits will be made electronically or by paper check. Settlement Class Members who do not select electronic payment or those who provide incorrect or incomplete electronic payment information shall receive a paper check in the mail. Settlement Class Members receiving payment by check shall have ninety (90) days to negotiate the check. Any member of the Settlement Class who does not cash their check within the aforementioned time period may petition the Settlement Administrator within thirty (30) days of their uncashed check for reissuance and, for good cause providing, the Settlement Administrator will issue a new check. Members of the Settlement Class are entitled to only one petition on this basis, and any Settlement check reissued for such reasonable circumstances will expire within thirty (30) days of reissuance (based

on the date of the check). Settlement Class Members who do not timely cash their Settlement checks and who fail to petition for a reissuance of the uncashed Settlement check will be considered as having waived any right to a cash payment under the Settlement Agreement. In no event will a Settlement Class Member be permitted to cash a check once the value of uncashed checks has been paid to a *cy pres* organization, as agreed to by the Parties and approved by the Court.

122. The Settlement Administrator will confirm that CyEx timely sends activation codes and information related thereto to all Settlement Class Members for Credit Monitoring and to those Social Security Settlement Class Members who submitted Valid Claims for Medical Monitoring no later than forty-five (45) days after the Effective Date.

123. No person or entity shall have any claim against Defendant or its Released Parties, Defendant's Counsel, Plaintiffs, the Settlement Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement.

X. Final Approval Order and Final Judgment

124. Plaintiffs shall file their Motion for Final Approval of the Settlement inclusive of Class Counsel's Application for Attorneys' Fees, Costs, and Service Awards, no later than forty-five (45) days before the original date set for the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement and Application for Attorneys' Fees, Costs, and Service Awards. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement and/or to the Application for Attorneys' Fees, Costs, and Service Awards, provided the objector(s) submitted timely objections that meet all the

requirements listed in the Agreement.

125. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order and final judgment thereon, and whether to grant the Application for Attorneys' Fees, Costs, and Service Awards. Such Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Affirm the interim and/or conditional appointments of Class Representatives, Class Counsel, and the Settlement Administrator;
- d. Determine that the Notice Program satisfies Due Process requirements;
- e. Bar and enjoin all Releasing Parties from asserting any of the Released Claims at any time and in any jurisdiction, including during any appeal from the Final Approval Order; bar and enjoin all Releasing Parties from pursuing any Released Claims against Released Parties at any time and in any jurisdiction, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;
- f. Release Defendant and the Released Parties from the Released Claims; and
- g. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendant, Plaintiffs, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

XI. Service Awards, Attorneys' Fees and Costs

126. *Service Awards* – In recognition of the time and effort the Class Representatives

expended in pursuing the Actions and in fulfilling their obligations and responsibilities as Class Representatives, and of the relief conferred on all Settlement Class Members by the Settlement, Class Counsel shall request a Service Award for the Class Representatives in an amount not to exceed \$2,500.00 each. If approved, the Service Awards shall be paid within thirty (30) days following the Effective Date by the Settlement Administrator out of the Settlement Fund. Class Counsel will instruct the Settlement Administrator where to send the payments. The Service Award payments to the Class Representatives shall be separate and apart from their entitlement to benefits from the Settlement Fund.

127. ***Attorneys' Fees and Costs*** - Class Counsel shall apply to the Court for a total award of attorneys' fees of up to \$2,666,333.33, which includes Class Counsel's request for \$1,333,333.33 in attorneys' fees and costs to be paid from the Settlement Fund, and an additional \$1,333,000.00 attorneys' fees and costs to be paid by Defendant as part of the claims-made portion of the Settlement. Court-approved attorneys' fees and costs payable from the Settlement Fund shall be distributed by the Settlement Administrator to Class Counsel by wire transfer within thirty (30) days following the Effective Date to an account or accounts designated by Class Counsel. Court-approved attorneys' fees payable directly by the Defendant shall be paid by the Defendant to Class Counsel within thirty (30) days following the Effective Date, and upon the necessary payment instructions and W9 to an account or accounts designated by Class Counsel.

128. No person or entity shall have any claim against Defendant or the Released Parties, Defendant's Counsel, Plaintiffs, the Settlement Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement.

129. This Settlement is not contingent on the Court's approval of the request for

attorneys' fees and costs or Service Awards, and if the Court denies the request or grants amounts less than the amounts requested, the remaining provisions of the Agreement shall remain in force. The provisions for attorneys' fees and costs and the Service Awards were not negotiated until after all material terms of the Settlement.

XII. Disposition of Residual Funds

130. The Settlement is designed to exhaust the Settlement Fund. In the event there are funds remaining in the Settlement Fund, including from uncashed checks, within forty-five (45) days following the 90-day check negotiation period, the Parties will ask the Court to approve the distribution of all remaining funds to a *cy pres* recipient agreed on by the Parties and approved by the Court.

XIII. Releases

131. Upon the Effective Date, and in consideration of the Settlement relief and other consideration described herein, the Releasing Parties shall be deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and irrevocably released, acquitted, relinquished, and forever discharged Defendant and the Released Parties from any and all past, present, and future claims and causes of action related to the 2024 Data Incident or 2025 Data Incident, including but not limited to any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality. The Releasing Parties shall be forever barred from instituting, maintaining or prosecuting any and all liabilities, rights, claims, actions, causes of actions, demands, damages, costs, attorneys' fees, losses, and remedies, whether known or unknown, asserted or unasserted, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort, or any other theory, whether on

behalf of themselves or others, that result from, arise out of, are based upon, or relate to the 2024 Data Incident or 2025 Data Incident. Each Party expressly waives all rights under California Civil Code section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Releasing Parties also waive the provisions and rights of any law(s) that are comparable in effect to California Civil Code section 1542 (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). The Releasing Parties agree that, once this Agreement is executed, they fully and finally release Defendant and the Released they will not, directly or indirectly, individually or in concert with another, maintain, cause to be maintained, or voluntarily assist in maintaining any further demand, action, claim, lawsuit, arbitration, or similar proceeding, in any capacity whatsoever, against any of the Released Parties based on any of the Released Claims.

132. Settlement Class Members who submit a timely and valid Opt-Out from the Settlement prior to the Opt-Out Deadline do not release their claims and will not obtain any benefits, including any Settlement Class Member Benefits, under the Settlement.

133. Upon the Effective Date: (a) this Settlement shall be the exclusive remedy for any and all Released Claims of Plaintiffs and Settlement Class Members; and (b) Plaintiffs and Settlement Class Members stipulate to be and shall be permanently barred and enjoined by Court order from initiating, asserting, or prosecuting any Released Claim against the Released Parties,

whether on behalf of Plaintiffs, any Settlement Class Member or others, in any jurisdiction, including in any federal, state, or local court or tribunal.

134. The power to enforce any term of this Settlement is not affected by the releases in this section.

XIV. Termination of Settlement

135. This Agreement shall be subject to and is conditioned on the occurrence of all the following events:

- a. Court approval of the Settlement consideration set forth in Section V and the Releases set forth in Section XIII of this Agreement;
- b. The Court having entered the Preliminary Approval Order;
- c. The Court having entered the Final Approval Order, and all objections, if any, being overruled, and all appeals taken from the Final Approval Order having been resolved in favor of Final Approval;
- d. The Effective Date having occurred; and
- e. Plaintiff Jason Tapia filing a notice of dismissal with prejudice of his action, captioned *Jason Tapia v. United Seating and Mobility, LLC d/b/a Numotion*, Case No. 3:25-cv-01354-BEN-AHG (S.D. Cal.), within seven (7) days of the Court entering the Final Approval Order.

136. If any of the conditions specified in the preceding paragraph are not met, or if the Court otherwise imposes any modification to or condition to approval of the Settlement to which the Parties do not consent, then this Agreement shall be cancelled and terminated.

XV. In the event this Agreement is terminated or fails to become effective, all funds in the Settlement Fund shall be promptly returned to Defendant. However, Defendant shall have

no right to seek from Plaintiffs or Class Counsel, the Settlement Administration Costs paid by or on behalf of the Settlement Administrator.

XVI. Effect of Termination

137. The grounds upon which this Agreement may be terminated are set forth in Section XIV. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, Defendant's, and Defendant's Counsel's obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the *status quo ante* in the Actions as if the Parties had not entered into this Agreement.

138. In the event this Agreement is terminated or fails to become effective, then the Parties shall return to the *status quo ante* in the Numotion I Action and Numotion II Actions as if the Parties had not entered into this Agreement. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the Parties and shall not be sued in the Numotion I or Numotion II Actions or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

139. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Actions or any other action or proceeding for any purpose. In such event, all Parties to the Numotion I and Numotion II Actions shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

XVII. No Admission of Liability

140. This Agreement reflects the Parties' compromise and settlement of disputed claims. This Agreement shall not be construed as or deemed to be evidence of an admission or concession

of any point of fact or law. Defendant maintains that Plaintiffs' claims do not have merit and has denied and continues to deny each of the claims and contentions alleged in the Complaints. Defendant specifically denies that a class could or should be certified in the Numotion I Action or Numotion II Action for litigation purposes. Defendant does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Defendant has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Actions.

141. Class Counsel believe the claims asserted in the Actions have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Actions. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted informal discovery, and conducted independent investigation of the alleged claims. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class.

142. This Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties in connection with the negotiations of this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

143. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission

of, or evidence of, the validity of any claim made by the Plaintiffs or the Settlement Class, or of any wrongdoing or liability of the Released Parties; 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 Parties, in the Actions or in any proceeding in any court, administrative agency, or other tribunal.

144. In addition to any other defenses Defendant or the Released Parties may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to and may be used as the basis for an injunction against any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement or the Releases contained herein.

XVIII. Miscellaneous Provisions

145. ***Gender and Plurals.*** As used in this Agreement, the masculine or feminine gender, and the singular or plural number, shall each be deemed to include the other whenever the context so indicates.

146. ***Binding Effect.*** This Agreement shall be binding upon, and inure to and for the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

147. ***Cooperation of Parties.*** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

148. ***Obligation to Meet and Confer.*** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have met and conferred in an attempt to resolve the dispute.

149. ***Integration and No Reliance.*** This Agreement constitutes a single, integrated

written contract expressing the entire agreement of the Parties relative to the subject matter hereof. This Agreement is executed without reliance on any covenant, agreement, representation, or warranty by any party or any party's representative other than those set forth in this Agreement. No covenants, agreements, representations, or warranties of any kind have been made by any party, except as provided for herein.

150. ***No Conflict Intended.*** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

151. ***Governing Law.*** Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the state of Tennessee, without regard to the principles thereof regarding choice of law.

152. ***Counterparts.*** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required.

153. ***Jurisdiction.*** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of the agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released

Claims against the Released Parties at any time and in any jurisdiction, including during any appeal from the Final Approval Order.

154. **Notices.** All notices provided for herein shall be sent by email with a hard copy sent by overnight mail as follows:

If to Plaintiffs or Class Counsel:

J. Gerard Stranch, IV
Stranch, Jennings & Garvey, PLLC
223 Rosa L. Parks Avenue, Suite 200
Nashville, TN 32703
gstranch@stranchlaw.com

If to Defendant or Defendant's Counsel:

Casie D. Collignon
Keeley O. Cronin
Baker & Hostetler LLP
1801 California Street, Suite 4400
Denver, CO 80202
ccollignon@bakerlaw.com
kcronin@bakerlaw.com

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

155. **Modification and Amendment.** This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and Defendant's Counsel and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

156. **No Waiver.** The waiver by any party of any breach of this Agreement by another party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

157. **Authority.** Class Counsel (for Plaintiffs and the Settlement Class), and Defendant,

represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation, or entity included within the definitions of Plaintiffs and Defendant to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

158. ***Agreement Mutually Prepared.*** Neither Plaintiffs nor Defendant shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

159. ***Independent Investigation and Decision to Settle.*** The Parties understand and acknowledge they: (a) have performed an independent investigation of the allegations of fact and law made in connection with the Actions; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Actions as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. All Parties recognize and acknowledge they reviewed and analyzed data that they and their counsel, consultants, and/or experts used to make certain determinations, arguments, and settlement positions. The Parties agree this Settlement is fair, reasonable, and adequate, and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with the Actions pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law,

and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

160. ***Receipt of Advice of Counsel.*** Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Releases contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases.

Signatures to Follow

CLASS COUNSEL (For Plaintiffs and the Settlement Class)

J. GERARD STRANCH, IV
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**UNITED SEATING AND
MOBILITY, LLC d/b/a NUMOTION**

By: _____

ClassAction.org

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