

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: CIVIL

Case No.: 27-CV-23-14056

In re: Regents of the University of Minnesota
Data Litigation

**SETTLEMENT AGREEMENT AND
RELEASES**

This Settlement Agreement (“Settlement” or “Agreement”)¹ is entered into between Plaintiffs Alex Carney, Yessenia Gomez, Yasmine Linzy, Jasmyn Martin, Stephanie Nygard, Joseph Rogers, and Nili Waypa, on behalf of themselves and the Settlement Class, and Defendant, Regents of the University of Minnesota (the “University”), as of the date last signed below. The Parties hereby agree to the following terms in full settlement of the Action, subject to a Final Approval Order entered by the Court.

I. Procedural History

1. In September 2023, various lawsuits were filed in this Court related to a University Data Incident that sought certification of a class action on various claims.²

2. The Court consolidated these lawsuits on October 6, 2023, and ordered any future cases filed in the Fourth Judicial District of Minnesota against the same defendant(s) alleging the

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

² *Shackelford v. Univ. of Minnesota*, Case No. 27-CV-23-14056 (Minn. Dist. Ct.); *Eckl v. Univ. of Minnesota*, Case No. 27-CV-23-14071 (Minn. Dist. Ct.); *Foster v. Univ. of Minnesota*, Case No. 27-CV-23-14464 (Minn. Dist. Ct.); *Linzy v. Regents of the Univ. of Minnesota*, 27-CV-23-15058 (Minn. Dist. Ct.).

same causes of action to be automatically consolidated into the lead case, Case No. 27-CV-23-12056.³

3. Following the Court's October 6 order, several additional lawsuits that were originally filed in federal court but since dismissed, were filed in the Fourth Judicial District of Minnesota and automatically consolidated into the lead case.⁴

4. Plaintiffs filed an Amended Consolidated Class Action Complaint on December 15, 2023. The Complaint alleged violations of the Minnesota Government Data Practices Act, negligence, negligence *per se*, violation of the Minnesota Health Records Act, violation of California's Confidentiality of Medical Information Act, violation of California's Consumer Privacy Act, and sought declaratory relief.

5. On December 20, 2023, the Court issued an order amending the case title and caption of the case to *In re Regents of the University of Minnesota Data Litigation*.

6. On January 26, 2024, the University filed a Motion to Dismiss Plaintiffs' Complaint. Plaintiffs filed their opposition to the University's Motion on February 9, 2024, and the University replied on February 23, 2024. The Court heard argument on the University's Motion on March 6, 2024.

7. On April 24, 2024, the Court issued an order granting in part and denying in part the University's Motion. The Court dismissed Plaintiffs' Minnesota Health Records Act and California's Consumer Privacy Act claims with prejudice but maintained Plaintiffs' other claims.

³ Findings and Order Consolidating Cases, Amending Case Caption, and Appointing Interim Co-Lead Plaintiffs' Counsel, 27-CV-23-14056 (Oct. 6, 2024).

⁴ *See id.* ¶ 5.

8. On May 24, 2024, the Parties held a full day of mediation with the Hon. Diane M. Welsh (Ret.). A settlement was not reached at that mediation.

9. Following mediation, the Parties continued to discuss potential settlement and on June 13, 2024, reached a settlement in principle, subject to execution of a final, to-be-negotiated settlement agreement.

10. As part of the settlement negotiations, the Parties engaged in confirmatory discovery, including production of forensic reporting and analysis by Plaintiffs' expert to determine the strength of the claims, the University's public statements about the Data Incident, risks to Plaintiffs and the Class in continuing to pursue the Action through litigation, and appropriate injunctive relief.

11. The Parties now agree to settle the Action entirely, without any admission of liability or wrongdoing, with respect to all Released Claims of the Releasing Parties. Despite the University's belief that it is not liable for and has meritorious defenses to the claims alleged in this Action, the University has entered into this Agreement to resolve all controversies and disputes arising out of or relating to the allegations made in the Complaint, and to avoid the litigation costs and expenses and other burdens associated with further litigation. The University does not in any way acknowledge, admit to, or concede any of the allegations made in the Complaint, and expressly disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Complaint. 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 asserted in

the Complaint, and to avoid the risk, delay, and uncertainty of continued litigation. Plaintiffs do not in any way concede that the claims alleged in the Complaint lack merit or are subject to any defenses. The Parties intend this Agreement to bind Plaintiffs, the University, and all Settlement Class Members.

II. Definitions

12. “**Action**” means the consolidated class action lawsuit entitled: *In re: Regents of the University of Minnesota Data Litigation*, Case No.: 27-CV-23-14056 (Minn. Dist. Ct.).

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

14. “**Attorneys’ Fees Order**” means the final order the Court enters determining the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Service Awards to the Class Representatives.

15. “**Cash Payment**” means compensation paid to Settlement Class Members pursuant to Section V.

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

17. “**Claim Form**” means the proof of claim, substantially in the form attached hereto as *Exhibit A*, which may be modified, subject to the Parties’ approval, to meet the requirements of the Settlement Administrator.

18. “**Claim Form Deadline**” shall be 90 calendar days⁵ from the date that Notice is first disseminated to the Settlement Class and is the last day by which a Claim Form may be

⁵ All deadlines referred to by “days” in this Agreement are to be counted as calendar days unless otherwise stated. If, as counted, the end date falls on a weekend or holiday, it shall extend to the next business day.

submitted to the Settlement Administrator for a Settlement Class Member to be eligible for a Cash Payment.

19. **“Claimant”** means a Settlement Class Member who submits a Claim Form.

20. **“Class Counsel”** means: Daniel E. Gustafson of Gustafson Gluek, PLLC; Kate Baxter-Kauf of Lockridge Grindal Nauen PLLP; Garrett Blanchfield of Reinhardt Wendorf & Blanchfield; Bryan Bleichner of Chestnut Cambronne PA; William Caldes of Spector Roseman & Kodroff, PC; E. Michelle Drake of Berger Montague; Brian Gudmundson of Zimmerman Reed LLP; and Anne Regan and Nathan Prosser of Hellmuth & Johnson.

21. **“Class List”** means a list of Settlement Class Members. The University shall prepare and provide the Class List to the Settlement Administrator for Notice using information in the University’s records. The Class List shall include the Settlement Class Members’ names and email address (if available from Data Incident notice materials), as well as any additional identifying information that the Settlement Administrator would deem useful for targeted Notice and that would reasonably assist in facilitating such Notice.

22. **“Class Representatives”** mean Alex Carney, Yessenia Gomez, Yasmine Linzy, Jasmyn Martin, Stephanie Nygard, Joseph Rogers, and Nili Waypa.

23. **“Complaint”** or **“Consolidated Complaint”** means the Amended Consolidated Class Action Complaint filed by Plaintiffs on December 15, 2023.

24. **“Court”** means the State of Minnesota District Court in the County of Hennepin, Fourth Judicial District, and the Hon. Judge Sande.

25. **“Data Incident”** means the alleged unauthorized access to or exfiltration of Personal Information from the University of Minnesota’s Legacy Data Warehouse that occurred in or about August 2021 and that was the subject of the University of Minnesota’s Notice of Data

Incident posted on the University's websites in September 2023 and otherwise noticed. A copy of the September 2023 Notice of Data Incident is attached hereto as ***Exhibit B***.

26. **"Defendant"** means Regents of the University of Minnesota.

27. **"Defendant's Counsel"** or **"the University's Counsel"** means the University of Minnesota's Office of General Counsel and Orrick, Herrington & Sutcliffe LLP or other counsel designated by the University concerning this Action.

28. **"Effective Date"** means the first day upon which the following conditions shall have been satisfied: (1) the entry of the Final Approval Order; and (2) either (a) sixty days have passed from the date of the entry of the Final Approval Order with no notice of appeal having been filed with the Court; or (b) Final Approval has been affirmed by a mandate issued by any reviewing court to which any appeal has been taken and any further petition for review has been denied or dismissed, and the time for further appeal or review has expired.

29. **"Email Notice"** means the email form of Notice of the Settlement, substantially in the form attached hereto as ***Exhibit C***, distributed to Settlement Class Members for which email addresses are provided by the University.

30. **"Escrow Account"** means the interest-bearing account to be established by the Settlement Administrator at a depository institution insured by the Federal Deposit Insurance Corporation and consistent with the terms and conditions described herein at Section III. The Settlement Administrator shall be responsible for all tax filings with respect to the Escrow Account.

31. **"Final Approval"** means the final approval of the Settlement, which occurs when the Court enters the Final Approval Order.

32. **“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.

33. **“Final Approval Order”** means the final order the Court enters granting Final Approval of the Settlement. The proposed Final Approval Order shall be in a form agreed upon by the Parties.

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

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

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

37. **“Net Settlement Fund”** means the amount of the Settlement Fund following payment of: (1) Service Awards to Class Representatives awarded by the Court, (2) attorneys’ fees and costs awarded by the Court to Class Counsel, and (3) all Settlement Administration Costs.

38. **“Notice”** means the Court-approved Email Notice and Long Form Notice that Plaintiffs will ask the Court to approve in connection with the Motion for Preliminary Approval.

39. **“Notice Program”** means the methods provided for in this Agreement for giving Notice to the Settlement Class and consists of the Email Notice and Long Form Notice.

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

41. **“Objection Period”** means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 30 days before the Final Approval Hearing.

42. **“Opt-Out Period”** means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 30 days before the Final Approval Hearing.

43. **“Party”** means each of the Plaintiffs and Defendant, and **“Parties”** means Plaintiffs and Defendant collectively.

44. **“Personal Information”** or **“PI”** means information collected by the University that identifies or can be used to identify an individual alone, or when combined with other information, including without limitation name, identification number, Social Security number, dates of birth, driver’s license, physical or email address, telephone number, and passport, demographic, application, admission, academic, and employment information.

45. **“Plaintiffs”** mean Alex Carney, Yessenia Gomez, Yasmine Linzy, Jasmyn Martin, Stephanie Nygard, Joseph Rogers, and Nili Waypa.

46. **“Pre-Approval Settlement Administration Costs”** means Settlement Administration Costs incurred before Final Approval.

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

48. **“Preliminary Approval Order”** means the order preliminarily approving the Settlement and proposed Notice Program.

49. **“Releases”** means the releases and waiver set forth in Section XIII of this Agreement.

50. **“Released Claims”** means any and all actual, potential, filed, unfiled, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected claims, demands, liabilities, rights, causes of action, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and/or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, based on any federal, state, local, statutory, or common law or any other law, against the Released Parties, or any of them, arising out of or relating to actual or alleged facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions, or failures to act relating to the Data Incident, including all claims relating to the Data Incident that were brought or could have been brought in the Action belonging to any and all Releasing Parties.

51. **“Released Parties”** means Regents of the University of Minnesota as well as any of their past, present, and future direct and indirect assigns, associates, auditors, corporations, principals, subsidiaries, affiliates, divisions, officers, directors, members, Board members, donors, volunteers, agents, employees, responsible authorities, designees, attorneys, accountants, insurers, reinsurers, benefit plans, contractors, vendors, predecessors, successors, managers, administrators, executors, and trustees.

52. **“Releasing Parties”** means Plaintiffs and other Settlement Class Members and their respective past, present, and future heirs, beneficiaries, conservators, executors, estates, administrators, attorneys, assigns, agents, accountants, financial and other advisors, and any other representatives of any of these persons and entities.

53. **“Service Award”** means the payment the Court may award the Plaintiffs for serving as Class Representatives, which is in addition to any Settlement Class Member Benefit due to

Plaintiffs as Settlement Class Members. The Service Awards shall be paid out of the Settlement Fund.

54. “**Settlement Administrator**” or “Kroll” means the third-party notice and claims administrator, Kroll Settlement Administration LLC.

55. “**Settlement Administration Costs**” means all costs and fees of the Settlement Administrator regarding Notice and settlement administration.

56. “**Settlement Benefits Plan**” means the plan for processing claims and for distributing Settlement benefits to Settlement Class Members, which shall be presented by Class Counsel to the Court for approval in connection with the Motion for Preliminary Approval.

57. “**Settlement Class**” means all individuals whose Personal Information was maintained in or accessible via the University of Minnesota’s Legacy Data Warehouse as of August 10, 2021. Excluded from the Settlement Class are (i) any judge or magistrate judge presiding over this Action, members of their staff, and members of their immediate families; (ii) the Regents of the University of Minnesota; (iii) persons who properly execute and file a timely request for exclusion from the Settlement Class; (iv) persons whose claims in this matter have been formally adjudicated on the merits or otherwise released; (v) counsel or legal representatives for Regents of the University of Minnesota in this Action; and (vi) the successors, and assigns of any such excluded persons. The Parties understand and agree that the Settlement Class will be comprised of approximately 4.2 million individuals.

58. “**Settlement Class Member**” means any member of the Settlement Class who has not opted-out of the Settlement.

59. “**Settlement Class Member Benefit**” means the Cash Payment and dark web monitoring as set out in paragraph 69 below and as elected by Settlement Class Members.

60. “**Settlement Fund**” means the non-reversionary US \$5,000,000.00 in cash fund that the University is obligated to fund under the terms of the Settlement.

61. “**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 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 at least six months after Final Approval.

62. The “**University**” means Defendant, Regents of the University of Minnesota.

63. “**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. Settlement Fund

64. Within 14 days of the Preliminary Approval Order, or 14 days after being invoiced by the Settlement Administrator whichever event occurs later, the University shall pay the Settlement Administrator a portion of the Pre-Approval Settlement Administration Costs to be agreed upon by the Settlement Administrator, the University, and Class Counsel, which shall be sufficient to effectuate notice to the Settlement Class Members.

65. Following entry of the Preliminary Approval Order, the University shall pay all subsequent amounts for Pre-Approval Settlement Administration Costs within 30 days of when such amounts are invoiced to the University along with wire instructions and other required documentation and become due and owing. The University is not required to advance costs for claims validation or other claims processing related costs until such time such costs are actually incurred, except that any Settlement Administration Costs incurred after the Effective Date will be paid to the Settlement Administrator from the Settlement Fund following its funding.

66. Within 30 days of the Effective Date, the University shall deposit, or cause to be deposited, with the Settlement Administrator in an Escrow Account the Settlement Fund minus any Settlement Administration Costs previously paid by the University.

67. The funds in the Escrow Account shall be deemed a “qualified settlement fund” within the meaning of United States Treasury Reg. § 1.468B-1 at all times since creation of the Escrow Account. 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 the University, the University’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. The University, the University's Counsel, Plaintiffs, and Class Counsel shall have no liability or responsibility for any of the taxes.

IV. Certification of the Settlement Class

68. In the Motion for Preliminary Approval, Plaintiffs shall propose and request to the Court that the Settlement Class be certified for Settlement purposes. The University agrees solely for purposes of the Settlement provided for in this Agreement, and the implementation of such Settlement, that this case shall proceed as a class action; provided however, that if a Final Approval Order is not issued, then any certification shall be null and void and, for the avoidance of doubt, the University shall retain all rights to object to any future requests to certify a class. Plaintiffs and Class Counsel shall not reference this Agreement in support of any subsequent motion for class certification of any class in the Action.

V. Settlement Consideration

69. Settlement Class Member Benefits

Settlement Class Cash Payments are anticipated to be approximately \$30 for any Class Member who submits a Valid Claim. This is based on an estimated 3% participation rate projected by the Settlement Administrator. In the event the amount of Valid Claims exhausts the amount of the Net Settlement Fund, the amount of the Cash Payments may be reduced *pro rata* accordingly. In addition to the Settlement Class Cash Payments, the Settlement Funds will be used to pay for 24 months of dark web monitoring for any Class Member who submits a Valid Claim and selects dark web monitoring. A Settlement Class Member releases his/her claim regardless of whether he/she submits a Valid Claim.

70. Settlement Benefits Plan.

In connection with the Motion for Preliminary Approval, Class Counsel shall present to the Court for approval the Settlement Benefits Plan, which shall describe in detail, among other things: (i) the benefits available to Settlement Class Members; and (ii) the process for submitting claims for such benefits. The Settlement Administrator shall be responsible for implementing and executing the Settlement Benefits Plan. The costs associated with any benefits provided to Settlement Class Members under the Settlement Benefits Plan shall be paid from the Settlement Fund.

71. Security Enhancements

In support of the Settlement Approval process, the University shall confirm to Class Counsel that it has made security enhancements to the Legacy Data Warehouse following the Data Incident and has budgeted and committed to additional data warehouse modernization efforts. The costs of any such security measures on the part of the University shall be fully borne by the University, and under no circumstances will such costs be deducted from the Settlement Fund.

VI. Settlement Approval

72. Within 10 business days following execution of this Agreement by all Parties and Class Counsel, Class Counsel shall file a Motion for Preliminary Approval. The proposed Preliminary Approval Order shall be attached to the motion as an exhibit and shall be in a form agreed to by Class Counsel and the University.

73. The Motion for Preliminary Approval shall, among other things, request the Court: (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) approve the Notice Program set forth herein and approve the form and content of the Notices

of the Settlement; (4) approve the Claim Form and Claim submission process; (5) approve the procedures for Settlement Class members to opt-out of the Settlement or for Settlement Class Members to object to the Settlement; (6) appoint Daniel E. Gustafson, Kate Baxter-Kauf, Garrett Blanchfield, Bryan Bleichner, William Caldes, E. Michelle Drake, Brian Gudmundson, Anne Regan, and Nathan Prosser as Class Counsel for Settlement purposes; (7) stay the Action pending Final Approval of the Settlement; and (8) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, the Parties, Class Counsel, and the University's Counsel.

VII. Settlement Administrator

74. The Parties agree that, subject to Court approval, they will propose that Kroll be the Settlement Administrator. The Settlement Administrator shall fulfill the requirements set forth in the Preliminary Approval Order and the Agreement and comply with all applicable laws, including, but not limited to, the Due Process Clause of the United States Constitution.

75. 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, administering the Settlement Fund, and distributing the Cash Payments to Settlement Class Members who submit Valid Claims.

76. Subject to the Court's approval, the Settlement Administrator's duties include:

a. Completing the Court-approved Notice Program by noticing the Settlement Class by, where email addresses are provided by the University, sending the Email Notice as described below, sending out Long Form Notices and paper Claim Forms on request from Settlement Class Members, reviewing Claim Forms, notifying Claimants of deficient Claim Forms

using the Notice of Deficiency, and sending Settlement Class Cash Payments to Settlement Class Members who submit a Valid Claim;

b. Establishing and maintaining the Settlement Fund in the Escrow Account approved by the Parties;

c. Establishing and maintaining a post office box to receive opt-out requests from Settlement Class Members, objections from Settlement Class Members, and Claim Forms;

d. Establishing and maintaining the Settlement Website to provide important information and to receive electronic Claim Forms;

e. Establishing and maintaining an automated toll-free telephone line for Settlement Class members to call with Settlement-related inquiries, and to answer the frequently asked questions of Settlement Class Members who call with or otherwise communicate such inquiries;

f. Responding to any mailed Settlement Class Member inquiries;

g. Processing all opt-out requests from the Settlement Class;

h. Providing weekly reports to Class Counsel and the University's Counsel that summarize the number of Claims submitted, Claims approved and rejected, Notice 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;

i. In advance of the Final Approval Hearing, preparing a declaration to submit to the Court confirming that 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, providing the names of each Settlement Class Member 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;

j. Distributing, out of the Settlement Fund, Cash Payments by electronic means;

k. Paying Court-approved attorneys' fees and costs and Service Awards out of the Settlement Fund;

l. Paying Settlement Administration Costs incurred post the Effective Date out of the Settlement Fund following approval by Class Counsel;

m. Making all reporting and filings with respect to amounts payable to Settlement Class Members required pursuant to any applicable federal, state, or local tax law or regulation. The Settlement Administrator shall also be responsible for filing and sending Form 1099, if required, to any applicable recipient of money from the Settlement Fund;

n. Maintaining reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as required by applicable law, including the Family Educational Rights and Privacy Act and the Minnesota Government Data Practices Act.

o. Any other Settlement administration function at the instruction of Class Counsel and the University and approved by the Court, including, but not limited to, verifying that the Settlement Fund has been properly administered and that the Cash Payments have been properly distributed.

VIII. Notice to the Settlement Class, Opt-Out Procedures, and Objection Procedures

77. The University will make available to the Settlement Administrator the Class List no later than 10 business days after entry of the Preliminary Approval Order provided the

Settlement Administrator agrees in writing to comply with the Family Educational Rights and Privacy Act and the Minnesota Government Data Practices Act in its use and maintenance of that list. To the extent necessary, the University will cooperate with implementing the Notice Program and administration of the Settlement.

78. As to the following provisions, as approved by the Court, within 45 days following entry of the Preliminary Approval Order, the Settlement Administrator shall commence the Notice Program provided herein, using the forms of Notice approved by the Court. Where email addresses are provided by the University for Settlement Class Members, Email Notice shall be sent by email.

79. The Email Notice 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 last day of the Opt-Out Period for Settlement Class Members to opt-out of the Settlement Class; the last day of the Objection Period for Settlement Class Members to object to the Settlement and/or 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, the Long Form Notice and other related documents and information. Class Counsel and the University'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. Unless the Court orders otherwise, no additional notice to the Settlement Class is required if the date or time for the Final Approval Hearing changes.

80. The Settlement Administrator shall establish the Settlement Website no later than one business day before Notice begins. 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.

81. The Long Form Notice also shall include, among other information, a procedure for Settlement Class Members to opt-out of the Settlement Class, and the Email Notice shall direct Settlement Class Members to review the Long Form Notice to obtain the opt-out instructions. A Settlement Class Member may opt-out of the Settlement Class at any time during the Opt-Out Period by mailing a request to opt-out to the Settlement Administrator postmarked no later than the last day of the Opt-Out Period. The opt-out request must be personally signed by the Settlement Class Member and contain the name of this proceeding (In re: Regents of the University of Minnesota Data Litigation or similar identifying words), the requestor's name, address, telephone number, and email address (if any), and include a statement indicating a request to be excluded from the Settlement Class. Any Settlement Class Member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement even if that Settlement Class Member does not submit a Valid Claim.

82. The Long Form Notice also shall include, among other information, a procedure for Settlement Class Members to object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards, and the Email Notice shall direct Settlement Class Members to review the Long Form Notice to obtain the objection instructions. Objections must be filed with the Court, and sent by U.S. Mail to Class Counsel, Defendant's Counsel, and the Settlement Administrator. For an objection to be considered by the Court, the relevant Settlement Class Member must submit the objection no later than the last day of the Objection Period, as specified in the Notice, and the relevant Settlement Class Member must not have excluded herself from the Settlement Class. 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 and addressed in accordance with the instructions. 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.

83. For an objection to be considered by the Court, the objection must also set forth:
- a. the name of this proceeding (In re: Regents of the University of Minnesota Data Litigation or similar identifying words),
 - b. the objector's full name, mailing address, telephone number, and email address (if any);
 - c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
 - d. the number of times the objector has objected to a class action settlement within the 5 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;
 - e. the identity of all counsel (if any) 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;
 - f. 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;

g. the identity of all counsel (if any) representing the objector, and whether they will appear at the Final Approval Hearing;

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

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

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

84. As ordered by the Court, Class Counsel and/or Defendant's Counsel may conduct limited discovery on any objector or objector's counsel.

85. The Notice Program shall be completed no later than 60 days before the original date set for the Final Approval Hearing.

IX. Claim Form Process and Disbursement of Cash Payments

86. The Notice and the Settlement Website will explain to Settlement Class Members that they may be entitled to a Settlement Class Member Benefit and how to submit a Claim Form.

87. 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. Claim Forms shall require Settlement Class Members to select either electronic payment or paper check as their preferred method of receiving any distributed funds to which they are entitled.

88. 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, which may be overruled by the Court.

89. 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. If the Settlement Administrator identifies any Claim Form that appears to be a duplication, the Settlement Administrator shall reject that duplicate claim.

90. 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 Claim 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.

91. 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 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 the University and Class Counsel otherwise agree or as ordered by the Court.

92. 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;
- i. The Claim Form otherwise does not comply with the requirements of this Settlement; and/or
- j. Any reason as ordered by the Court.

93. 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 30 days from the Claim Form Deadline to approve or reject Claims.
- 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, 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 except as ordered by the Court.

94. 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, the University's Counsel, or the Court. Additionally, Class Counsel and the University'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.

95. No person or entity shall have any claim against the University, the University'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.

96. As approved by the Court, no later than 30 business days after the Settlement Fund is deposited following the Effective Date pursuant to Section III, the Settlement Administrator shall distribute the Settlement Class Member Benefits.

97. Cash Payments to Settlement Class Members will be made by electronic payment or by paper check, based on the option selected by Settlement Class Members when submitting Claim Forms. In the event any complications arise in connection with the issuance of an electronic payment, the Settlement Administrator shall provide written notice to Class Counsel and the University's Counsel. Absent specific instructions from Class Counsel and the University's Counsel, the Settlement Administrator shall proceed to resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them. In the event the Settlement Administrator is unable to distribute funds to the person or persons entitled to receive them due to incorrect or incomplete information provided to the Settlement Administrator, the funds shall become residual funds, and the Settlement Class Member shall forfeit their entitlement right to the funds. Residual funds shall be distributed as set forth in Paragraph 104.

X. Final Approval Order and Final Judgment

98. Plaintiffs shall file their Motion for Final Approval of the Settlement, inclusive of the Application for Attorneys' Fees, Costs, and Service Awards, no later than 45 days before the original date set for the Final Approval Hearing. At the Final Approval Hearing, the Court may 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 will also 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 objectors submitted timely objections that meet all of the requirements listed in this Agreement.

99. 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 proposed 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. Determine that the Notice Program satisfies Due Process requirements;
- d. Bar and enjoin all Releasing Parties from asserting or otherwise pursuing any of the Released Claims 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;
- e. Release the University and the other Released Parties from the Released Claims; and
- f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including the University, 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

100. **Service Awards.** The Class Representatives may seek Service Awards of up to \$2,000.00 each, subject to Court approval. The Service Awards shall be payable out of the Settlement Fund.

101. **Attorneys' Fees and Costs.** Class Counsel shall apply to the Court for an award of attorneys' fees not to exceed 33 1/3% of the Settlement Fund, plus reimbursement of reasonable costs. The attorneys' fees and cost awards approved by the Court shall be paid by the Settlement Administrator out of the Settlement Fund by wire transfer to an account designated by Class Counsel within five business days after the Settlement Fund is deposited following the Effective Date pursuant to Section III. Class Counsel shall provide the Settlement Administrator with its completed W-9 before the payment of attorneys' fees and costs is due.

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

103. In no event will Defendant's liability for payments to Settlement Class Members, Service Awards, Settlement Administration Costs, or attorneys' fees or costs exceed the amount of the Settlement Fund of US \$5,000,000.00. Defendant shall have no financial responsibility for this Settlement Agreement outside of the Settlement Fund. Defendant shall have no further obligation for attorneys' fees or costs to any counsel representing or working on behalf of any Settlement Class Member or the Settlement Class.

XII. Disposition of Residual Funds

104. In the event there are funds remaining in the Settlement Fund 120 days after the Effective Date, and all claims have been processed and disputes addressed, such residual funds shall be distributed to a mutually agreeable *cy pres* recipient.

XIII. Releases

105. 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 forever released, acquitted, relinquished, and completely discharged the Released Parties from any and all Released Claims, including but not limited to any state law or common law claims arising out of or relating to the Data Incident that any of the Releasing Parties may have or had, such as under California's Consumer Privacy Act, California Civil Code section 1798.100 *et seq.*; California's Unfair Competition Law, California Civil Code section 17200 *et seq.*; the Minnesota Government Data Practices Act, Minn. Stat. § 13 *et seq.*; the Minnesota Health Records Act, Minn. Stat. §§ 144.291 and 144.293; and California Confidentiality of Medical Information Act, Cal. Civ. Code § 56 *et seq.*; as well as claims for negligence or negligence *per se* under any state law. Releasing Parties expressly waive all rights under California Civil Code section 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.

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 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.

106. Settlement Class Members who opt-out of the Settlement prior to the Opt-Out Deadline do not release their claims and will not obtain any benefits, including any Settlement Class Member Benefit, under the Settlement.

107. 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.

XIV. Termination of Settlement

108. This Agreement shall be subject to and is expressly conditioned on the occurrence of all of 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 has entered the Preliminary Approval Order;

c. The Court has entered the Final Approval Order, and all objections, if any, are overruled, and all appeals taken from the Final Approval Order are resolved in favor of Final Approval; and

d. The Effective Date has occurred.

109. 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.

110. The University shall have the option to terminate this Agreement if more than 5% of the Settlement Class sent the Email Notice by the Settlement Administrator opt out of the Settlement. The University shall notify Class Counsel and the Court of its intent to terminate this Agreement pursuant to this paragraph within 10 business days after the end of the Opt-Out Period, or the option to terminate shall be considered waived.

111. In the event this Agreement is terminated or fails to become effective, then the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement, and the Parties shall jointly petition the Court for a revised Scheduling Order. 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 used in this Action 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*.

112. In the event this Agreement is terminated or fails to become effective, all funds in the Settlement Fund shall be promptly returned to the University. However, the University shall have no right to seek from Plaintiffs, Class Counsel, or the Settlement Administrator the Settlement Administration Costs already incurred or paid, provided however that the Settlement Administrator

shall return any unspent Settlement Administration Costs to the University within 20 business days of termination.

XV. Effect of Termination

113. 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, the University's, and the University'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 Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims, and defenses will be retained and preserved.

114. 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 Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

XVI. No Admission of Liability

115. 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. The University has denied and continues to deny each of the claims and contentions alleged in the Complaint. The University specifically denies that a class could or should be certified in the Action for litigation purposes. The University does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. The University 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 Action.

116. Class Counsel believe the claims asserted in the Action 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 Action. Class Counsel have 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 members.

117. 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.

118. 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 Settlement Class Members, 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 Action or in any proceeding in any court, administrative agency, or other tribunal. Further, neither this Agreement, the settlement contemplated by it, nor any proceedings taken under it, will be construed or offered or received into evidence as an admission, concession, or presumption that

class certification is appropriate, except to the extent necessary to consummate this Agreement and the binding effect of the Final Approval Order.

119. In addition to any other defenses the University 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.

XVII. Miscellaneous Provisions

120. Settlement Communications. To the extent permitted by ethics rules, and applicable law, the Parties and their counsel shall keep confidential all settlement communications, including communications regarding the negotiation and drafting of this Agreement.

121. Plurals. As used in this Agreement, the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

122. 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.

123. 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.

124. 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.

125. 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 expressly set forth in this Agreement. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

126. 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.

127. 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 Minnesota, without regard to the principles thereof regarding choice of law.

128. 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. Any signature submitted by facsimile or through email of a PDF shall be deemed an original.

129. 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.

130. Notices. All notices provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

If to Plaintiffs or Class Counsel:

Daniel Gustafson
Gustafson Gluck PLLC
120 S. Sixth Street
Suite 2600
Minneapolis, MN 55402

If to the University or the University's Counsel:

Dan Herber
Brian J. Slovut
University of Minnesota
Office of the General Counsel
360 McNamara Alumni Center
200 Oak Street SE
Minneapolis, MN 55455
herb0089@umn.edu
slov0002@umn.edu

Aravind Swaminathan
Orrick, Herrington & Sutcliffe LLP
401 Union St., Ste. 3300
Seattle, WA 98101
aswaminathan@orrick.com

Jesse Beringer
Orrick, Herrington & Sutcliffe LLP
2100 Pennsylvania Avenue NW
Washington, D.C. 20037
jberinger@orrick.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.

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

132. 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.

133. Authority. Class Counsel (for the Plaintiffs and the Settlement Class Members), and the University's Counsel, 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 the University respectively 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.

134. Agreement Mutually Prepared. Neither Plaintiffs nor the University 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.

135. 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 this Action; 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 Action 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 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 this Action 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.

136. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that the Party 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.

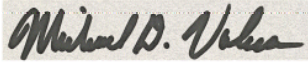
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CLASS COUNSEL



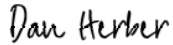
DANIEL E. GUSTAFSON, ESQ.
GUSTAFSON GLUEK, PLLC
Lead Counsel for Plaintiffs

REGENTS OF THE UNIVERSITY OF MINNESOTA



By: Michael D. Volna
Vice President, Finance & Assistant Chief Financial Officer
UNIVERSITY FINANCE

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Deputy General Counsel
OFFICE OF THE GENERAL COUNSEL



Aravind Swaminathan
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