

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

AMANDA STEVENS,
On Behalf of Herself and
All Others Similarly Situated,
Plaintiffs,

v.

Civil Action No. CC-06-2025-C-523

NELNET SERVICING, LLC,

Defendant.

CLASS SETTLEMENT AND RELEASE AGREEMENT

1. PARTIES

This Class Settlement and Release Agreement (the “Agreement”) is made and entered into as of the Effective Date, as defined herein, by and between Plaintiff Amanda Stevens (“Plaintiff”) acting individually and as representatives of the Settlement Class, as defined herein (the “Settlement Class” or “Class Members”) and Defendant Nelnet Servicing, LLC (“Defendant”) (collectively, the “Parties”) for the purpose of resolving by compromise and settlement of all claims, controversies and alleged liabilities arising out of the disputes as set forth below.

2. RECITALS

- 2.1 On June 7, 2024, Plaintiff Amanda Stevens filed a Class Action Complaint alleging individual and class action claims against Defendant, case number 3:24-cv-00280, in the United States District Court for the Southern District of West Virginia.
- 2.2 Defendant Nelnet moved to dismiss the Class Action Complaint on August 16, 2024.
- 2.3 Plaintiff filed her First Amended Class Action Complaint on September 5, 2024.

- 2.4 Defendant Nelnet partially moved to dismiss Count I of the First Amended Class Action Complaint due to lack of Article III standing on September 26, 2024.
- 2.5 After full briefing, the District Court dismissed Count I of Plaintiff's First Amended Class Action Complaint for lack of Article III standing on May 7, 2025.
- 2.6 The parties continued to vigorously litigate the remaining individual counts of Plaintiff's federal court claim arising under the Fair Credit Reporting Act, including depositions and extensive written discovery.
- 2.7 On November 4, 2025, Plaintiff Amanda Stevens filed this Class Action Complaint against Defendant, case number 25-C-523, in the Circuit Court of Cabell County, West Virginia. The Class Action Complaint asserted class claims for violations of the West Virginia Consumer Credit Protection Act ("WVCCPA").
- 2.8 On December 3, 2025, the parties entered a Joint Stipulation extending Nelnet's response deadline to January 30, 2026.
- 2.9 The parties thereafter filed a Notice of Mediation on December 30, 2025, with experienced mediator Edd McDevitt.
- 2.10 The parties mediated their claims with Mr. McDevitt on January 9, 2026. The parties, through counsel, mediated for a full day and finally resolved Plaintiff's class claims through arms' length negotiations.
- 2.11 Defendant denies any and all allegations and claims asserted against it in the Action and deny any and all wrongdoing. Defendant has always maintained, and continues to maintain, that it has acted in accordance with governing law. Neither the fact nor the terms of this Agreement shall be used, offered or received in evidence against Defendant in any action or proceeding for any purpose, except for purposes of

carrying out the Parties' settlement and in an action or proceeding to enforce this Agreement. This Agreement shall in no event be construed as, or deemed to be evidence of, an admission or concession on the part of Defendant with respect to any claim by any of the Class Members, any fault, liability, wrongdoing or damage. Nor is this Agreement to be construed as, or deemed to be evidence of, a waiver of any defenses Defendant asserted.

2.12 Notwithstanding the above, solely in order to avoid the cost, burden, expense, and uncertainty of further litigation, the Parties desire to compromise and settle the Action and have reached this Agreement to resolve the disputes between them, pending approval of the Court, and to achieve complete peace.

2.13 This Agreement and all associated exhibits or attachments are made for the sole purpose of attempting to consummate settlement of this Action on a class-wide basis. This Agreement and the settlement described are made in compromise of disputed claims. Because the Action is pled as a class action, this settlement must receive preliminary and final approval by the Court. Accordingly, the Putative Class Representatives, as defined below, and Defendant enter into this Agreement and associated settlement on a conditional basis. In the event that Defendant or the Putative Class Representatives exercise a right herein to terminate or rescind this Agreement, the Court does not execute and file the Order Granting Final Approval of Settlement, or the associated Judgment does not become final for any reason, this Agreement shall be deemed null and void *ab initio*, it shall be of no force or effect whatsoever, it shall not be referred to or utilized for any purpose whatsoever by anyone, and the negotiation, terms and entry of the Agreement shall remain

subject to the provisions of Federal Rule of Evidence 408, any and all state statutes of a similar nature, and the mediation privilege. Notwithstanding the foregoing, Defendant may use, offer, admit, or refer to the Agreement and to the settlement reached therein where necessary to defend itself in any other action, or in any judicial, administrative, regulatory, arbitration, or other proceeding.

- 2.14 The Parties expressly reserve all rights, claims and defenses and do not waive any such rights, claims or defenses in the event that the Agreement is not approved for any reason. The Parties agree that they each retain and reserve all rights and agree not to take a position to the contrary. The Putative Class Representatives and Class Counsel agree not to argue or present any argument, and hereby waive any argument, that Defendant could not contest class certification and/or proceeding collectively on any grounds if the Action were to proceed or that this Agreement is evidence of or constitutes an admission that class certification may be appropriate.

3. DEFINITIONS

As used herein, the following terms have the meanings set forth below.

- 3.1 “Action” means the Amanda Stevens Action, Circuit Court of Cabell County, West Virginia Case No. 25-C-523.
- 3.2 “Administrative Costs” means all reasonable and authorized costs and expenses of disseminating and publishing the Class Notice in accordance with the Preliminary Approval Order, and all reasonable and authorized costs and expenses incurred by the Settlement Administrator in administering the Settlement, including but not limited to costs and expenses associated with assisting Settlement Class Members, escrowing funds, and issuing and mailing Settlement Payments.

- 3.3 “Agreement” or “Settlement Agreement” means this Class Settlement and Release Agreement, including all exhibits thereto, which the Putative Class Representative and Defendant understand and agree sets forth all material terms and conditions of the settlement of the Action between them and which is subject to Court approval. It is understood and agreed that Defendant’s obligations under this Agreement are conditioned on, *inter alia*, the occurrence of the Effective Date and other conditions set forth in this Agreement.
- 3.4 “Attorney’s Fees and Expenses” means such funds as may be awarded to Class Counsel by the Court to compensate them for their fees and all expenses incurred by Plaintiff or Class Counsel in connection with the Action pursuant to paragraph 8.6 of the Agreement.
- 3.5 “Cash Settlement Amount” or “Common Fund” means the \$325,000.00 in funds to be paid by Defendant pursuant to Section 5 of this Agreement, upon satisfaction of all conditions precedent set forth in this Agreement. The Common Fund constitutes Defendant’s maximum and exclusive payment obligation under this Agreement to settle the Action in full. Under no circumstances will Nelnet be required to pay any additional amounts into the Common Fund or otherwise in connection with the Settlement. All expenses incurred by the Settlement Administrator in connection with opening a bank account to maintain the Common Fund shall be deducted from the Common Fund.
- 3.6 “Class Accounts” means the federal student loan accounts corresponding to Defendant’s current or former servicing customers identified in discovery consisting of all West Virginia borrowers who applied for an Income Driven

Repayment plan before August 31, 2023, whose applications were eventually approved, and who received a statement from Nelnet in the intervening period which stated that there was no current amount due, but that amounts would come due within the next sixty (60) days.

- 3.7 “Class Counsel” means the law firms of Klein & Sheridan, LC and Bailey & Glasser LLP.
- 3.8 “Class List” means the confidential list of individuals who are within the Settlement Class and mailing addresses for such individuals, as defined below, concerning the Class Accounts.
- 3.9 “Class Notice” or “Notice” means the program of notice described in Section 11 of this Agreement to be provided to potential Settlement Class Members, which will notify potential Settlement Class Members about, among other things, their rights to opt out or object to the Settlement, the preliminary approval of the Settlement, and the scheduling of the Final Approval Hearing.
- 3.10 “Complaint” means the Class Action Complaint filed in the Action on November 4, 2025, and which is the operative complaint containing putative class claims in this Action.
- 3.11 “Court” means the Circuit Court of Cabell County, West Virginia.
- 3.12 “Defendant” or “Nelnet” refers to Nelnet Servicing, LLC.
- 3.13 “Defense Counsel” means the law firms of Perry, Guthery, Haase & Gessford, P.C., L.L.O., and Bowles Rice LLP.
- 3.14 “Effective Date” is defined as set forth in Section 4 of this Agreement.

- 3.15 “Final Approval Hearing” means the hearing at which the Court shall (1) determine whether to grant final approval to this Settlement; (2) consider and rule on any timely objections to this Settlement and all responses thereto; and (3) consider and rule on requests for incentive awards to the Plaintiff and for an award of attorney’s fees and expenses.
- 3.16 “Final Approval Order” means the order prepared and approved by the Parties approving the Settlement and certifying the Settlement Class as final to be entered and filed by the Court entitled “Final Judgment and Order of Dismissal with Prejudice.”
- 3.17 “Lawsuit” or “Litigation” means the Action.
- 3.18 “Motion for Preliminary Approval” means the Motion that will be filed in accordance with Sections 4.4.1 and 10 of this Agreement and seeking that the Court enter the Order set forth in Subsection 3.21 below.
- 3.19 “Opt-out Deadline” means the date provided for a Settlement Class Member to opt out of the Class as provided in the Notice attached as **Exhibit A**.
- 3.20 “Parties” means the Putative Class Representative, on behalf of herself and the Settlement Class Members, and Defendant Nelnet Servicing LLC.
- 3.21 “Preliminary Order” or “Preliminary Approval Order” means the order entered by the Court preliminarily approving the Settlement, provisionally certifying the Settlement Class, and approving notice to Settlement Class Members, substantially in the form attached hereto as **Exhibit B**.
- 3.22 “Protective Order” means the Order filed on April 23, 2025 in Case No. 3:24-cv-00280 in the Southern District of West Virginia.

- 3.23 “Putative Class Representative” or “Plaintiff” means Amanda Stevens, the named plaintiff and proposed class representative in the Action who will remain Putative Class Representative until the Court approves the class and appoints her as class representative.
- 3.24 “Released Claim” or “Released Claims” means any and all actions, causes of action, claims or demands, offsets, setoffs, suits, damages, lawsuits, costs, relief for contempt, losses, attorney’s fees, expenses, or liabilities of any kind whatsoever in law or in equity, for any relief whatsoever, including monetary, sanctions or damage for contempt, injunctive, or declaratory relief, rescission, general, compensatory, special, liquidated, indirect, incidental, consequential, or punitive damages, equitable relief, as well as any and all claims for treble damages, penalties, interest, attorney’s fees, costs, or expenses, whether a known or Unknown Claim, suspected or unsuspected, contingent or vested, accrued or not accrued, liquidated or unliquidated, matured or unmatured, that have been or could have been asserted in any form by Settlement Class Members, including the Plaintiff, against Defendant, whether statutory or regulatory violations, negligence, contractual in nature, equitable, or existing under common law and any damages (as set forth above) proximately caused by or otherwise attributable to, directly or indirectly, whether or not currently known, arising out of, based upon or related to the class claims set forth in the First Amended Class Action Complaint in 3:24-cv-00280 in the Southern District of West Virginia and/or set forth in CC-06-2025-C-523 filed in the Circuit Court of Cabell County, West Virginia and regarding the representation of amounts due and/or the use of administrative forbearances during the pendency

of income-driven repayment plan applications, and/or the processing of income-driven repayment plan applications.

- 3.25 “Releasees” means (1) Nelnet Servicing, LLC; (2) each of Defendant’s past, present, or future subsidiaries, parent companies, divisions, affiliates, partners or any other organization units of any kind doing business under their names, or doing business under any other names, or any entity now or in the past controlled by, controlling, or under the common control with any of the foregoing and doing business under any other names, and each and all of their respective affiliates and subsidiaries, and each of their respective predecessors, successors, and assigns; and (3) each of the present and former officers, directors, partners, shareholders, agents, employees, attorneys (including any consultants hired by counsel), advisors, independent contractors, representatives, beneficial owners, insurers, accountants, heirs, executors, and administrators, and each of their respective predecessors, successors, and assigns of any person or entities in subparts (1) or (2) hereof.
- 3.26 “Releasers” means the Putative Class Representative, all Settlement Class Members, and each of their respective heirs, executors, administrators, assigns, predecessors, and successors, and any other person claiming by or through any or all of them.
- 3.27 “Request to Opt Out” means the Notice required to be given by a Settlement Class Member who chooses to opt out of the Class as provided in Paragraph 14.2.
- 3.28 “Settlement” or “Stipulation of Settlement” means the settlement set forth in this Agreement.

- 3.29 “Settlement Administrator” means a third-party agent or administrator jointly selected by Class Counsel and Defense Counsel.
- 3.30 “Settlement Class” or “Class” means the collective group of persons that will be certified by the Court for settlement purposes only. This means all persons who do not properly and timely exclude themselves from Settlement, and thus means the collective group of all of the Settlement Class Members who will become bound by the judgment entered by the Court when the Effective Date occurs. The following persons and entities are excluded from the Settlement Class: (1) the trial judge presiding over this case; (2) Defendant, as well as any parent, subsidiary, affiliate or control person of Defendant, and the officers, directors, agents, servants or employees of Defendant; (3) any of the Released Parties; (4) the immediate family of any such person(s); (5) any member of the Settlement Class who has timely opted out of the Settlement; and (6) Class Counsel and their employees.
- 3.31 “Settlement Class Member” means any person who falls within the definition of the Settlement Class and who has not opted out of the Settlement Class.
- 3.32 “Settlement Class Recovery” means the amount of the Common Fund available for distribution to Settlement Class Members after payment of Administrative Costs and any Court-approved Attorney’s Fees and Expenses and incentive award.
- 3.33 “Settlement Payment” means the payment to be made from the Common Fund to Settlement Class Members.
- 3.34 “Total Settlement Amount” shall consist of the Cash Settlement Amount.
- 3.35 “Unknown Claims” mean any Released Claims which any Releasor does not know or suspect to exist in his or her favor at the time of the entry of the judgment entered

by the Court when the Effective Date occurs (“Judgment”), and which, if known by him or her might have affected his or her settlement with and release of the Releasees, or might have affected his or her decision to opt out of the Settlement Class or to object to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date, the Putative Class Representatives shall expressly and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have to the fullest extent allowed by law, waived the provisions, rights, and benefits of any statute or principle of common law which provides that general releases do not extend to claims which the debtor does not know or suspect exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the creditor. Each Releasor may hereafter discover facts in addition to or different from those which he or she now knows or believes to be true with respect to the subject matter of the Released Claims, but the Releasors, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released to the fullest extent allowed by law any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which then exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, contract, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Putative Class Representative

acknowledges, and the Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a material term of the settlement of which this release is a part.

3.36 The plural of any defined term includes the singular, and the singular of any defined term includes the plural.

3.37 Other terms are defined in the text of this Agreement and shall have the meaning given to those terms in the text. In all documents related to the Settlement, capitalized terms shall have the meanings given to them in this Agreement.

4. **CONDITIONS AND EFFECTIVENESS OF AGREEMENT.**

4.1 This Agreement is expressly contingent upon the satisfaction, in full, of the material conditions set forth below. The Effective Date of this Agreement shall be the date when all of the following actions and events listed in this Section have occurred.

4.2 The Parties have signed the Agreement.

4.3 [This paragraph has been removed]

4.4 Court Approval. The Court approves this Agreement in accordance with each of the following steps:

4.4.1 Motion for Preliminary Approval. After reasonable and good faith consultation with Defense Counsel regarding its form and content, Class Counsel will present a Motion for Preliminary Approval to the Court within twenty (20) days of execution of this Agreement including the Class Notice, in substantially the form of **Exhibit A** (Class Notice) and **Exhibit C** (Motion for Preliminary Approval Order) hereto, and the Preliminary Approval Order, in substantially the form of **Exhibit B** hereto. Defense

Counsel shall have no fewer than ten (10) business days to review proposed final drafts of the foregoing papers and exhibits prior to filing.

4.4.2 Certification of Class for Settlement Purposes. In connection with the proceedings for Preliminary and Final Approval, the Putative Class Representative shall seek orders (Preliminary and Final, respectively) certifying the Class pursuant to Rule 23 of the West Virginia Rules of Civil Procedure for purposes of this Settlement only. Any certification of the Class shall be without prejudice to Defendant's right to oppose class certification on any ground in the event this Settlement does not become final. This Agreement and any orders entered in connection herewith shall not be cited or used as evidence in support of class certification in this or any other proceeding.

4.4.3 Entry of Preliminary Approval Order. The Court shall enter a Preliminary Approval Order in substantially the form of that attached as **Exhibit B** hereto.

4.5 Class Notice. The Settlement Administrator shall cause the Class Notice to be mailed pursuant to the Preliminary Approval Order and the terms of this Agreement.

4.6 Final Approval Order. The Court shall enter the Final Approval Order in substantially the form of a proposed order prepared by and approved by the Parties and submitted to the Court.

4.7 Finality of Judgment. The Final Approval Order has become final, including expiration of the time for filing any appeal or other form of objection to the Final

Approval Order, full and final resolution of any appeal or objection that may be filed, and expiration of the time for seeking review of that disposition through an appeal, *en banc* hearing, or higher level of review.

5. SETTLEMENT CLASS MEMBERS

5.1 The Settlement Class consists is defined as follows:

All West Virginia borrowers who applied for an Income Driven Repayment plan before 8/31/23, whose applications were eventually approved, and who received a statement from Nelnet in the intervening period which stated that there was no current amount due, but that amounts would come due within the next sixty (60) days.

6. SETTLEMENT AMOUNT

- 6.1 Within thirty (30) days after the Court's entry of the Final Approval Order and satisfaction of all other conditions precedent to the Effective Date, Defendant, its successors, and assigns will pay three hundred twenty-five thousand dollars (\$325,000.00), the Cash Settlement Amount, to a Common Fund in full settlement of all class claims that were asserted or could have been asserted in the Action. In no event shall the Cash Settlement Amount or Common Fund exceed \$325,000.00.
- 6.2 The "Total Settlement Amount" shall consist of the Cash Settlement Amount.
- 6.3 The Total Settlement Amount is an "all-in" payment. In no event shall Defendant be liable for any payment greater than the Cash Settlement Amount.
- 6.4 All attorneys' fees and expenses, including but not limited to fees and expenses charged by the Settlement Administrator, shall be paid solely out of the Cash Settlement Amount, and Defendant shall have no responsibility and liability beyond the Cash Settlement Amount.

7. COMMON FUND

- 7.1 The Common Fund shall be maintained as set forth in Section 6.1 and established by Defendants within thirty (30) days of the Court's entry of the Final Approval Order. The Parties shall have joint control of the Common Fund. No disbursements from the Common Fund shall be made without the prior written consent of both Class Counsel and Defense Counsel, except for (a) distribution to Settlement Class Members in accordance with this Agreement and the Final Approval Order, and (b) Administrative Costs approved by the Court. The Settlement Administrator shall provide monthly accountings to both Class Counsel and Defense Counsel regarding the status of the Common Fund.
- 7.2 The Court shall retain continuing jurisdiction over the Common Fund sufficient to satisfy the requirements of 26 C.F.R. § 1.468B-1. The Settlement Administrator shall at all times seek to have the Common Fund treated as a "qualified settlement fund" as that term is defined in 26 C.F.R. § 1.468B-1. The Settlement Administrator shall cause any taxes imposed on the earnings of the Common Fund, if any, to be paid out of such earnings and shall comply with all tax reporting and withholding requirements imposed on the Common Fund under applicable tax laws. The Settlement Administrator shall be the "administrator" of the Common Fund pursuant to 26 C.F.R. § 1.468B-2(k)(3).
- 7.3 Should the Settlement fail to become effective, in whole or in part, for any reason, including without limitation because the Court fails to approve all or part of it, then all monies placed into the Common Fund shall be returned to Defendant.
- 7.4 Should the Settlement be approved, and any monies remain in the Common Fund after disbursement of funds in accordance with the terms of this Agreement, the

remaining principal funds shall not revert to Defendants. Any such remaining funds shall be donated as a *cy pres* award to one or more nonprofit organization, school, university, college or foundation chosen by Class Counsel and Defense Counsel, subject to Court approval, and in accordance with the West Virginia Rules of Civil Procedure. In the event the Parties cannot agree on a *cy pres* recipient, each Party shall propose one or more candidates for the Court's selection.

8. WAIVER, REFUND, AND DISTRIBUTION OF TOTAL SETTLEMENT AMOUNT

The Total Settlement Amount shall be distributed as follows:

- 8.1 Each Settlement Class Member shall receive a flat rate distribution on a per letter basis after payment of Plaintiff's Attorney's Fees and Expenses, Administrative Costs, and the incentive awards to the Putative Class Representative, which are tentatively calculated at \$319.12, subject to adjustment based on the final number of Settlement Class Members and Court-approved deductions.
- 8.2 No interest shall be included as an element of, or be payable or paid on, any Settlement Payment.
- 8.3 Co-account holders (if any) shall be treated as a single Settlement Class Member and receive a single, shared Settlement Payment. Whenever possible, the Settlement Administrator shall issue payment jointly to co-account holders. Settlement Class Members who receive a Settlement Payment shall be solely responsible for distributing or allocating such payment between or among all co-account holders.
- 8.4 As payment for Attorney's Fees and Expenses, Plaintiff's counsel shall, apply to the Court for a distribution of one third (33.33%) of the Total Settlement Amount,

plus expenses, which sum (one-third of the Total Settlement Amount plus expenses) shall include all Attorney's Fees and Expenses incurred by Plaintiff. The amount of Attorney's Fees and Expenses is subject to Court approval and shall not affect the validity or enforceability of this Agreement. Defendant acknowledges that Class Counsel intends to seek an award of Attorney's Fees and Expenses of up to one-third (33.33%) of the Total Settlement Amount. Defendant reserves the right to respond to inquiries from the Court regarding Class Counsel's fee petition and to provide the Court with information relevant to the fee determination, but shall not affirmatively oppose the fee petition, provided that such fee petition complies with this Section 8.4. For the avoidance of doubt, Defendant shall not be liable for payment to the Common Fund other than the Cash Settlement Amount. Attorney's Fees and Expenses will be paid only out of the Cash Settlement Amount.

8.5 Plaintiff will apply for an incentive award of seven thousand five hundred dollars (\$7,500), subject to approval by the Court, in addition to her *pro rata* distribution of the Settlement Class Recovery articulated in Section 8 of this Agreement. Plaintiff's incentive award shall be paid out of the Cash Settlement Amount. Defendant will not object to this request. The Parties agree that the Court (and only the Court) shall determine the final amount of Plaintiff's Incentive Award in this Action.

8.6 The Parties agree that the rulings of the Court regarding the amount of the any fee award to Class Counsel and/or incentive award to Plaintiff, and any claim or dispute relating thereto, will be considered by the Court separately from the remaining matters to be considered at the Final Approval Hearing as provided for in this

Settlement Agreement and that any determination in that regard may be embodied in a separate order from the Court. The Parties agree that any order or proceedings relating to the amount of the fee award or the incentive award, including any appeals from or modifications or reversals of any orders related thereto, shall not operate to modify, reverse, terminate, or cancel the Settlement Agreement, affect the Releases provided for in the Settlement Agreement, or affect whether the Final Approval Order and Judgment becomes final as defined herein except that the distribution of monies from the Common Fund as set forth in this Section 8 shall not commence until the final resolution of any appeals or modification or reversals of any orders related to the amount of fee award and/or incentive award.

9. RETENTION OF SETTLEMENT ADMINISTRATOR AND COSTS

- 9.1 The Parties agree that a Settlement Administrator, jointly selected as set forth in Section 3.29, will process claims, field calls and correspondence from Settlement Class Members, and disburse amounts from the Common Fund. The Settlement Administrator will receive the Class List, subject to the protections of the Protective Order.
- 9.2 All the costs associated with providing notice to the Settlement Class Members and disbursement of the Common Fund (“Administrative Costs”), including all costs and expenses related to class notice, distribution of settlement proceeds, reasonable measures to locate Settlement Class Members, and retaining any class or claims administrator will be paid from the Common Fund. Defendant’s only responsibility regarding such costs is to fund the Common Fund pursuant to Section 6.1 with the Cash Settlement Amount.

- 9.3 Because the information about Settlement Class Members that will be provided to the Settlement Administrator will consist of confidential information, non-public personal information, and information protected by privacy laws, the Settlement Administrator will execute a non-disclosure agreement and agree to indemnify the parties should any such information be improperly used, disclosed, or maintained. The Settlement Administrator will further agree to take all reasonable steps to ensure that any information provided to it by Defendant will be used solely for the purpose of effecting this Settlement and otherwise shall comply with Defendant's vendor and information security requirements. The Settlement Administrator shall notify Defendant within forty-eight (48) hours of any actual or suspected data breach or unauthorized disclosure of information pertaining to the Class List, and shall destroy or return all confidential data within sixty (60) days after completion of all settlement administration duties. Upon entry by the Court of the Final Approval Order, specific information from the Class List may be disclosed to Class Counsel if and only to the extent strictly necessary to effectuate the terms of this Agreement and facilitate the administration process, provided that Class Counsel first agrees to be bound by all the obligations imposed on the Settlement Administrator pursuant to this Section 9.3.
- 9.4 The Settlement Administrator shall administer the Settlement in a cost-effective and timely manner. Without limiting any of its other obligations as stated herein, the Settlement Administrator shall be responsible for mailing the class notice, as defined below, administration of the Common Fund, responding to inquiries from or on behalf of potential Settlement Class Member, and providing all other related

support, reporting, and administration as further stated in this Agreement. Class Counsel and Defense Counsel must both approve any FAQs or other material the Settlement Administrator may use to answer inquiries and shall confer and assist the Settlement Administrator as it reasonably requests.

9.5 The Parties will coordinate with the Settlement Administrator to provide the class notice to the potential Settlement Class Members, as provided in this Settlement Agreement.

9.6 W-9 Forms. The Settlement Administrator shall complete and provide to Defendant any W-9 forms as to the Common Fund necessary for Defendant to implement this Settlement.

10. PRELIMINARY APPROVAL MOTION

Plaintiff will submit to the Court a Motion for Preliminary Approval of Class Settlement and Entry of Scheduling Order (“Preliminary Approval Motion”) no later than twenty (20) days after full execution of this Agreement. The Preliminary Approval Motion will request that the Court:

- 10.1 Preliminarily certify the proposed Class under Rule 23 of the West Virginia Rules of Civil Procedure for settlement purposes only;
- 10.2 Find that the Putative Class Representative, and Settlement Class counsel, fairly and adequately represent the interests of the Settlement Class;
- 10.3 Find preliminarily that the Agreement is fair, reasonable and adequate to the Settlement Class;

- 10.4 Direct the Settlement Administrator, promptly after entry by the Court of the Preliminary Approval Order, to mail the Notice to each individual on the Class List by first-class mail;
- 10.5 Establish a procedure for Members of the Class to exclude themselves and set a date, approximately twenty-eight (28) days before the Final Approval Hearing, after which no Settlement Class Member shall be allowed to opt out of the Settlement and shall be bound to the terms of the Settlement;
- 10.6 Schedule a Final Approval Hearing one hundred twelve (112) days after entry of the Preliminary Approval Order granting the Preliminary Approval Motion;
- 10.7 Approve the form of notice to be provided to members of the Settlement Class, substantially in the form of **Exhibit A**.
- 10.8 Establish a procedure for Settlement Class Members to appear and/or object to the Settlement and set a date, approximately twenty-eight (28) days before the Final Approval Hearing, after which no Settlement Class Member shall be allowed to object;
- 10.9 Require any attorneys representing Settlement Class Members, at the Settlement Class Member's expense, to file a notice of appearance;
- 10.10 Stay all proceedings in the Action against the Defendant, other than proceedings as may be necessary to carry out the terms and conditions of the Agreement;
- 10.11 Pending Final Approval, and upon expiration of the Opt-Out Deadline, preliminarily enjoin each Settlement Class Member from maintaining, commencing, prosecuting or pursuing directly, representatively, or in any other

capacity any Released Claim subsumed and covered by the Release in this Agreement in any court or arbitration forum;

10.12 Contain such other and further provisions consistent with the terms and provisions of this Agreement as the Court may deem advisable; and

10.13 Authorize the Parties to take all necessary and appropriate steps to establish the means necessary to implement the terms of this Agreement.

11. **NOTICE TO CLASS MEMBERS**

11.1 If the Court grants the Preliminary Approval Motion, the Administrator will, within thirty (30) days of entry of the Preliminary Approval Order, mail to each Settlement Class Member at his or her last known address a Notice of Proposed Class Settlement (“Notice”), which form is attached as **Exhibit A**. Within fifteen (15) business days of the Court’s entry of the Preliminary Approval Order, Defendant shall provide the Administrator with the name and last known address, of each Settlement Class Member subject to and governed by the Protective Order. Defendant’s obligation to provide data under this Section shall be limited to one production of the Class List. Any additional data requests shall require Defendant’s consent or Court order. Any Notices returned as undeliverable, but with a forwarding address, shall be promptly re-mailed to the forwarding address. The Administrator shall perform a National Change of Address Registry and LexisNexis/Death Records Search for all Notices returned as undeliverable, without a forwarding address. Such Notices shall be re-mailed upon discovery of a valid mailing address for the Settlement Class Member.

- 11.2 The Notice shall apprise the potential Settlement Class Members of his/her right to opt out of the Settlement Class, of his/her right to object to the Class Settlement, of the fact that any objections or opt outs must be sent to the Administrator and postmarked no later than twenty-eight (28) days prior to the Final Approval Hearing, and that any failure to object or to opt out in accordance with applicable deadlines for opt outs and objections constitutes a knowing and voluntary waiver of any right to opt out of the Settlement Class or to appeal from the Final Approval Order.
- 11.3 This Agreement does not impose on any Party or the Administrator an obligation to make extraordinary efforts to locate a potential Settlement Class Member.

12. ATTORNEY'S FEES AND EXPENSES

- 12.1 Defendant will not object to Class Counsel moving the Court for an award of Attorney's fees and Expenses in the Action as set forth in Paragraph 8.4.
- 12.2 Class Counsel's application for Attorney's Fees and Expenses shall be filed and served no later than forty-two (42) calendar days prior to the Final Approval Hearing. Class Counsel agree that the amounts of such costs and fees awarded shall compensate them for all legal work in the Action up to and including the date of the Final Approval Order, including any appeal of the Judgment, as well as for all legal work and costs that may be incurred in the Action after the date of Final Judgment; provided, however, that in the event of any appeal, Class Counsel shall be obligated to defend the settlement at no additional cost to Defendant or the Common Fund, and Class Counsel's fee award shall be deemed to include compensation for such appellate work. In the event the Court awards Class Counsel less than the amount

agreed to in Paragraph 8.4 in Attorney's Fees and Expenses, this Settlement Agreement shall nonetheless remain in full force and effect and the other benefits or payments due or to become due shall not be increased or changed.

12.3 Neither Defendant nor the Releasees shall have any responsibility for any application of Attorney's Fees and Expenses submitted by Class Counsel. The procedure for and the grant or denial or disallowance by the Court of the application for Attorney's Fees and Expenses is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceedings relating to the applications for Attorney's Fees and Expenses or any appeal from any order relating thereto or reversal or modification thereof, will not operate to terminate or cancel this Agreement, or affect or delay the Final Approval Order approving the Agreement and the Settlement.

12.4 Class Counsel and the Putative Class Representative shall alone be responsible for the reporting and payment of any federal, state, and/or local income or other form of tax on any payment made pursuant to this section. No party shall be deemed the prevailing party for any other purposes of the Action.

13. SERVICE OF NOTICE OF OPT OUT

At least fourteen (14) days prior to the Final Approval Hearing, the Administrator shall notify Class Counsel and Defendants' counsel of any persons who have objected to the Class Settlement or opted out of the Settlement Class, and shall serve Defendant's counsel, Plaintiff's counsel, and the Court with copies of all objections, notices of opt out, and supporting documentation.

14. OPT OUT RIGHTS.

- 14.1 A Settlement Class Member who wishes to be excluded from the Settlement Class must do so in writing. To opt out, the Settlement Class Member must comply with the procedures and deadlines in this Agreement and any Court order entered in this case.
- 14.2 In order to opt out, the Settlement Class Member must complete and send to the Settlement Administrator, at the address listed in the Class Notice and on the Settlement Website for this Settlement, a Request to Opt Out that is postmarked no later than the Opt-Out Deadline, as specified in the Class Notice. The Request to Opt Out must: (a) identify the case name; (b) identify the name and address of the person requesting exclusion; (c) be personally signed by the person requesting exclusion; and (d) contain a statement that indicates a desire to be excluded from the Settlement Class, such as “I hereby request that I be excluded from the proposed Settlement Class in the Action.” Mass or class opt outs shall be void.
- 14.3 Any Settlement Class Member who does not opt out of the Settlement in the manner described herein shall be deemed to be part of the Settlement Class upon the expiration of the Opt-Out Deadline, and shall be bound by all subsequent proceedings, orders, and judgments.
- 14.4 Any Settlement Class Member who desires to opt out must take timely affirmative written action pursuant to this section, even if the person desiring to opt out of the Class (a) files or has filed a separate action against any of the Released Parties, or (b) is, or becomes, a putative or actual class member in any other class action filed against any of the Released Parties. To the extent a separate action is pending

against Released Parties for Released Claims by any Settlement Class Member, Class Notice shall also be given to counsel for the Settlement Class Member and such counsel's contact information shall be made available to the Settlement Administrator.

- 14.5 Any Settlement Class Member who properly opts out of the Settlement Class shall not: (a) be bound by any orders or judgments relating to the Settlement; (b) be entitled to relief under, or be affected by, the Agreement; (c) gain any rights by virtue of the Agreement; or (d) be entitled to object to any aspect of the Settlement.
- 14.6 The Settlement Administrator shall provide Defense Counsel with a list of all timely Requests to Opt Out on an interim, weekly basis, and shall provide Defense Counsel with a final list of all such timely Requests to Opt Out within seven (7) business days after the Opt-Out Deadline.
- 14.7 Notwithstanding the foregoing, a Settlement Class Member shall have the right to revoke a properly and timely submitted request for exclusion if a notice of the Settlement Class Member's election to revoke his or her exclusion is sent to the Settlement Administrator, postmarked on or before the Opt-Out Deadline.

15. OBJECTIONS

- 15.1 Overview. Any Settlement Class Member may object to the Settlement. To object, the Settlement Class Member must comply with the procedures and deadlines in this Agreement and any Court order entered in this case.
- 15.2 Process. Any Settlement Class Member who wishes to object to the Settlement must do so in writing on or before the Objection Deadline, as specified in the Class Notice and Preliminary Approval Order. The written objection must be filed with

the Clerk of Court, and mailed (with the requisite postmark) to Class Counsel and Defense Counsel at the following addresses, no later than the Objection Deadline:

15.2.1 Klein & Sheridan, LC
c/o Benjamin Sheridan & Jed R. Nolan
3566 Teays Valley Road
Hurricane, WV 25525

Bailey Glasser LLP
c/o Jonathan Marshall
Denali Hedrick
209 Capitol Street
Charleston, WV 25301

15.2.2
BOWLES RICE LLP
c/o Zachary J. Rosencrance
600 Quarrier Street
Post Office Box 1386
Charleston, West Virginia 25325

PERRY, GUTHERY, HAASE & GESSFORD, P.C., L.L.O.
c/o Charles F. Kaplan
233 South 13th Street, Suite 1400
Lincoln, NE 68508

- 15.3 The requirements to assert a valid written objection shall be set forth in the Class Notice, and, to be valid, the written objection must include: (a) the case name and number; (b) the name, address, telephone number of the Settlement Class Member objecting and, if represented by counsel, of his/her counsel; (c) the basis for objection; and (d) a statement of whether he/she intends to appear at the Final Approval Hearing, either with or without counsel.
- 15.4 Within seven (7) business days of the Objection Deadline, the Settlement Administrator shall provide a report to the Court setting forth a list of Objections that meet the above guidelines. The Court shall have the ultimate determination of whether an Objection has been appropriately made.

- 15.5 Any Settlement Class Member who does not make his or her objection in the manner provided in this section shall be deemed to have waived such objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement as incorporated in the Agreement, and to the award of Attorney's Fees and Expenses to Class Counsel and the payment of an Incentive Award to the Putative Class Representatives, unless otherwise ordered by the Court.
- 15.6 Appearance. Subject to approval of the Court, any Settlement Class Member who files and serves a written objection in accordance with this section and the Class Notice may appear, in person or by counsel, at his or her own sole expense, at the Final Approval Hearing held by the Court, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, but only if the objecting Settlement Class Member: (a) files with the Clerk of the Court a notice of intention to appear at the Final Approval Hearing by the Objection Deadline ("Notice of Intention to Appear"); and (b) serves the Notice of Intention to Appear on all counsel designated in the Class Notice by the Objection Deadline.
- 15.7 The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member will present to the Court in connection with the Final Approval Hearing.
- 15.8 Any Settlement Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Agreement

and Class Notice shall not be entitled to appear at the Final Approval Hearing and raise any objections.

16. TERMINATION

16.1 In the event that the Settlement set forth in this Agreement is not approved without changes by the Court or, if one of the conditions upon which the Agreement is based is not satisfied, or if the Court determines that it lacks jurisdiction to approve the Settlement, or if there is a court order from another court that takes jurisdiction over some or all of the claims in the Action, or if there is a regulator determination that frustrates the purpose of and protection of the Settlement, or in the event that the Effective Date does not occur, no further payments shall be made by Defendant to anyone in accordance with the terms of this Agreement, the Parties will bear their own costs and fees with regard to the efforts to obtain Court approval, and this Agreement shall be deemed null and void with no effect on the Action whatsoever. Reductions in the amount of the requested Attorney's Fees and Expenses or Plaintiff's incentive award shall not be deemed a substantial change necessitating termination of the Settlement.

16.2 Failure of the Court to enter the Preliminary Approval or Final Approval Order in its entirety or in a similar form without material changes thereto as determined by Defendant or the Putative Class Representative will be grounds for Defendant or the Putative Class Representative to terminate the Settlement and the terms of this Agreement. If any material portion of the Agreement or the Order of Final Approval is vacated, modified, or otherwise altered on appeal, Defendant or the Putative Class Representative may, in their sole discretion, within fourteen (14)

calendar days of such appellate ruling, declare that the Agreement has failed to become effective, and in such circumstances the Agreement shall cease to be of any force and effect.

- 16.3 In the event that 3% or more Settlement Class Members exclude themselves from the Settlement Class, Defendant shall have the absolute discretionary right to terminate this settlement and Agreement and in such case, each and every one of Defendant's obligations under this Agreement shall cease to be of any force and effect, and this Agreement and any orders entered into in connection therewith shall be vacated, rescinded, cancelled, and annulled. If Defendant exercises this option, the Parties shall return to the *status quo* in the Action as if the Parties had not entered into this Agreement. In addition, in such event, the Agreement and all negotiations, Court orders, and proceedings relating thereto shall be without prejudice to the rights of the Parties, and each of them, and evidence relating to the Agreement and all negotiations shall not be admissible or discoverable in the Action or in any other proceeding. Defendant must exercise this option pursuant to this paragraph within ten (10) days after receiving the Opt Out List by giving written notice of such exercise to Class Counsel. If Defendant exercises its rights under this Section, the Final Approval Hearing shall be continued or vacated as necessary.
- 16.4 If one of the Parties exercises a right herein to terminate or rescind this Agreement or this Agreement is not approved by the Court pursuant to the proposed Order of Final Approval, this Agreement, the conditional Class certification provided herein, the Settlement proposed herein (including any modifications made with the consent of the Parties), and any action taken or to be taken in connection therewith shall be

terminated and shall become null and void and have no further force or effect, the Preliminary Approval Order shall be vacated, the Parties shall be restored to their respective positions existing prior to the execution of this Agreement, and the Parties' rights and obligations with respect to the use of this Agreement and the settlement contemplated hereby will be subject to section 25 hereof. In addition, neither this Agreement, the preliminary certification of the Class, the Preliminary Approval Order, nor any other document in any way relating to any of the foregoing, shall be relied on, referred to, or used by anyone in any way for any purpose in connection with any further proceedings in this Action and/or any action, lawsuit, arbitration, or proceeding involving a Released Claim.

17. FINAL APPROVAL MOTION

- 17.1 Prior to the Final Approval Hearing, Plaintiffs will file a Motion for Final Approval of Class Settlement ("Final Approval Motion"). The Final Approval Motion will request that the Court approve the Settlement and enter a Final Order and Judgment that will, among other things:
- 17.2 Find that (i) the Court has personal jurisdiction over the Settlement Class Members, (ii) the Court has personal jurisdiction over the claims asserted in the Action, and (iii) venue is proper;
- 17.3 Finally certify the Settlement Class pursuant to Rule 23 of the West Virginia Rules of Civil Procedure for settlement purposes only;
- 17.4 Find that the form and means of disseminating the Class Notice complied with all laws, including, but not limited to, the Due Process Clause of the United States

Constitution, and find that the Parties and procedures used complied with West Virginia law so as to give full effect to the Settlement;

- 17.5 Adjudge and approve in all respects the settlement of the Action on the terms described in this Agreement, including but not limited to, making the Releases in section 24 of this Agreement effective as of the date of the Final Approval Order;
- 17.6 Permanently bar and enjoin Putative Class Representative and all Settlement Class Members from filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise) any action in any jurisdiction for the Released Claims;
- 17.7 Permanently bar and enjoin the Putative Class Representative and all Settlement Class Members from organizing Settlement Class Members, or soliciting the participation of Settlement Class Members, or persons who would otherwise fall within the definition of Settlement Class Members but who have requested to be excluded from the Settlement Class, in a separate class for purposes of pursuing any action involving Released Claims (including by seeking to amend a pending complaint or counterclaim to include class allegations, or seeking class certification in a pending action in any jurisdiction based on or relating to any of the Released Claims);
- 17.8 Find that, by operation of the entry of the Judgment, the Putative Class Representative and all of the Settlement Class Members shall be deemed to have forever released, relinquished, and discharged the Released Parties from any and all Released Claims;
- 17.9 Authorize the Parties to implement the terms of the Agreement;

- 17.10 Dismiss on the merits and with prejudice all class and individual claims in the Action, including without limitation the Released Claims, and enter final judgment;
- 17.11 Include a description of all relief to be provided as part of this Settlement, including the class release and the payment due to each class member; and
- 17.12 Retain jurisdiction of all matters relating to the interpretation and enforcement of the Settlement and this Agreement.

18. EFFECT OF DISAPPROVAL/DENIAL OF SETTLEMENT

If the Court disapproves this Agreement or any part thereof for any reason or declines to enter a Final Approval Order as described in this Agreement certifying the proposed Settlement Class as defined in Section 5.1 herein, then this Agreement, including all releases contained within the Agreement, shall become null and void and the Action shall proceed as though no settlement had been negotiated or achieved, unless Plaintiff and Defendant agree otherwise or appeal the order disapproving this Settlement.

19. REVERSAL, VACATION, OR MODIFICATION OF AGREEMENT BY APPELLATE COURT

In the event that a court of appeals or other reviewing court sets aside, reverses, vacates or modifies the Final Approval Order as described in this Agreement in any material way, then this Agreement, including all releases contained within the Agreement, shall become null and void and the Action shall proceed as though no settlement had been negotiated or achieved unless the Parties otherwise agree.

20. PAYMENT OF SETTLEMENT AMOUNT

- 20.1 As soon as practicable and not more than twenty-one days (21) after the Effective Date, the Administrator shall distribute the Settlement Amount to Settlement Class Members as provided in Section 7 of this Agreement, less that portion of the

Settlement Amount the Court awards as Attorney's Fees and Expenses, Administrative Costs, and the incentive award to Putative Class Representative. Distributions to Settlement Class Members will be made to their last known address by first class mail, postage prepaid.

20.2 Checks made payable to each Settlement Class Member shall become stale and all right to payment on any such check shall end upon expiration of three (3) months from the date of the check (which will be within one calendar week of the date such check is mailed) and shall include a statement to inform the bearer of this validity period.

20.3 Any check that becomes stale may be re-issued one time. Right to payment on any re-issued check shall similarly become stale upon the expiration of two (2) months from the date of the re-issued check (which will be within one calendar week of the date such check is mailed) and shall include a statement again informing the bearer of this validity period. The funds represented by any re-issued checks that become stale shall be applied to Administrative Costs first and, if any sums remain after payment of Administrative Costs, donated as set forth in Paragraph 7.4 of this Agreement. Any such donation will have no effect on the validity of this Agreement, including without limitation the effectiveness of the Final Order and Judgment with regard to the Released Claims, against those Settlement Class Members who do not receive a Settlement Payment following reasonable efforts to deliver a payment to them.

21. **COVENANTS NOT TO SUE.**

The Putative Class Representative, on behalf of herself and the Settlement Class Members, covenant and agree: (i) not to file, commence, prosecute, intervene in, or participate in (as class members or otherwise) any action in any jurisdiction based on or relating to any of the Released Claims, or the facts and circumstances relating thereto, against any of the Released Parties; (ii) not to organize or solicit the participating of Settlement Class Members, or persons who would otherwise fall within the definition of the Settlement Class but who requested to be excluded from the Settlement Class, in a separate class for purposes of pursuing any action (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action in any jurisdiction) based on or relating to any of the Released Claims or the facts and circumstances relating thereto, against any of the Released Parties; and (iii) that the foregoing covenants and this Agreement shall be a complete defense to any of the Released Claims against any of the Releasees.

22. FINAL REPORT OF DISTRIBUTION OF SETTLEMENT AMOUNT

Twelve (12) months after the Final Approval Order is entered, or thirty (30) days after distribution of the Settlement Amount is completed, whichever is later, Class Counsel shall prepare a report detailing the distribution of the Settlement Amount and provide a draft to Defense Counsel not fewer than fourteen (14) days before filing such report with the Court. Defense counsel shall have the right to review, comment on, and request corrections to the draft report. Class Counsel shall file a report with the Court, and serve a copy on Defense Counsel.

23. FINAL AND BINDING AGREEMENT

The Parties acknowledge that this Agreement is a full and final accord and satisfaction and shall be binding upon and inure to the benefit of Defendant, the Putative Class Representative, the

Settlement Class Members, their counsel, and each of their respective trustees, heirs, executors, administrators, beneficiaries, representatives, agents, successors, and assigns.

24. RELEASE

- 24.1 Class Release and Released Claims. Class Members who do not opt out of the class will release Defendant and other Releasees from the Released Claims.
- 24.2 In connection with the Released Claims, each Settlement Class Member is releasing past or currently existing claims that existed up until the Effective Date and is aware that he or she may hereafter discover claims that existed in the past or present that may be unknown or unsuspected but discoverable based on reasonable investigation, or facts in addition to or different from those which he or she now knows or believes to be true with respect to regarding the representation of amounts due, the use (or non-use) of administrative forbearances, and/or the processing of income-driven repayment plan applications, or any other matters, conduct, or claims alleged in the Action. Nevertheless, it is the intention of each Settlement Class Member to fully, finally and forever settle and release all Released Claims against the Releasees, which exist or might have existed (whether or not previously or currently asserted in the Action).
- 24.3 The Putative Class Representative represents and warrants that she has not assigned or otherwise transferred any interest in any of the Released Claims against any of the Released Parties, and further covenant that she will not assign or otherwise transfer any interest in any of the Released Claims.
- 24.4 Each Party to this Agreement understands, acknowledges, and agrees that if any fact now believed to be true is found hereafter to be other than, or different from,

that which is now believed, each expressly assumes the risk of such difference in fact and agrees that this Agreement shall be, and will remain, in effect notwithstanding any such difference in fact.

25. NO ADMISSION OF LIABILITY OR CERTIFICATION OF CLASS

- 25.1 Neither this Agreement nor the fact of settlement nor the payment of the Settlement Amount is, may be construed as, or may be used as, an admission on the part of Defendant of any fault, wrongdoing, or liability whatsoever, or that any class asserted by Plaintiff's merits certification. Defendant expressly denies any wrongdoing under any federal, state, or local statute, public policy, tort law, contract law, in equity, or common law and expressly denies the truth or validity of any claim made against it or the propriety of certification of any class on the merits.
- 25.2 Further, neither this Agreement nor any drafts hereof nor any documents leading to or relating to the Settlement set forth herein, including, but not limited to, any proposed order, Preliminary Approval Motion, Final Approval Motion, or memoranda in support thereof, constitutes an admission of liability or of any fact by the Plaintiff or Defendant.
- 25.3 The Parties agree that the foregoing documents will not be offered as or received against Defendant as evidence of, or construed as or deemed to be evidence of any admission or concession of any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the Parties to this Agreement in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Agreement; provided, however, that if this Agreement is approved by the Court, Defendant may

rely upon or use this Agreement as necessary to effectuate the liability protection granted Defendant hereunder. Notwithstanding the foregoing, Defendant may use, offer, admit, or refer to the Agreement and to the settlement reached therein where necessary to defend itself in any other action, or in any judicial, administrative, regulatory, arbitration, or other proceeding

26. NON-ADMISSIBILITY OF SETTLEMENT NEGOTIATIONS

The settlement negotiations resulting in this Agreement have been undertaken by Plaintiff and Defendant and their respective counsel in good faith and for settlement purposes only pursuant to West Virginia Rule of Evidence 408, and no evidence of negotiations or discussions underlying this Agreement shall be offered or received in evidence in any action or proceeding for any purpose.

27. NO ORAL MODIFICATION

This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. No amendment, modification, waiver, termination, or discharge of any provision of this Agreement shall be effective unless it is in a written agreement duly executed by all of the Parties hereto.

28. COMPLETE AGREEMENT

This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. This Agreement supersedes all prior negotiations. No other agreement, written or oral, expressed or implied, exists between the Parties with respect to the subject matter of this Agreement, and the Parties declare and represent that no promise, inducement, or other

agreement not expressly contained in this Agreement has been made conferring any benefit upon them.

29. COMPETENCY; INDEPENDENT COUNSEL

Each Party to this Agreement represents and warrants that it is competent to enter into the Agreement and in doing so is acting upon its independent judgment and upon the advice of its own counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other Party, other than the terms set forth in or contemplated by this Agreement.

30. CONSTRUCTION OF AGREEMENT

The language and terms of this Agreement shall be construed as a whole, according to fair and ordinary meaning, as if both Parties jointly prepared it, and shall not be strictly construed for or against any party to this Agreement.

31. STAY OF DISCOVERY AND OTHER PROCEEDINGS.

31.1 To the extent the Action has not already been stayed by the Court, upon execution of this Agreement, the Parties shall discontinue all discovery activity or related proceedings in the Action.

31.2 Upon the Effective Date, and notwithstanding any of the other provisions in this Agreement, Defendants shall have no obligation to preserve documents and evidence with respect to Released Claims, and the Putative Class Representative and Class Counsel shall not pursue any spoliation claims or other actions or sanctions against Defendants with respect to documents or evidence related to the Released Claims.

32. CONTINUING JURISDICTION

The Circuit Court of Cabell County, West Virginia will have continuing jurisdiction over the Action for the purpose of implementing the Settlement until the Action and all appeals are fully resolved, and for enforcement of the Settlement, the Agreement, and the Final Order thereafter. Any dispute regarding the Parties' obligations pursuant to this Agreement or interpretation of the terms of this Agreement or the Final Order will be resolved by the Court.

33. CHOICE OF LAW

This Agreement will be governed by and construed in accordance with the internal laws of the State of West Virginia, including the West Virginia Rules of Civil Procedure and West Virginia Rules of Appellate Procedure, without regard to its choice of law principles.

34. ADDITIONAL ACTS TO EFFECTUATE THE AGREEMENT

The Parties shall execute all documents and perform all acts necessary and proper to effectuate the terms of this Agreement and to obtain the benefits of the Agreement.

35. WAIVER

The provisions of this Agreement may be waived only by an instrument in writing executed by the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

36. PRESERVATION OF PRIVILEGE

Nothing contained in this Agreement or any Order of this Court, and no act required to be performed pursuant to this Agreement or any Order of this Court, is intended to constitute, cause or effect any waiver, in whole or in part, of any attorney client privilege, work product protection, or common interest or joint defense privilege, and each Class Member agrees not to make or cause to be made in any form any assertion to the contrary.

37. AUTHORITY OF CLASS COUNSEL

Class Counsel unconditionally warrant and represent that they are authorized by Plaintiff, for whom they are attorneys of record, and the attorneys of record for Defendant warrant and represent that they are authorized by Defendant to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel shall cooperate with each other and use their best efforts to effectuate the implementation of the Settlement.

38. TAX CONSEQUENCES

- 38.1 This Agreement is enforceable regardless of its tax consequences. The Parties understand and agree that the payments set forth in this Agreement reflect the settlement of disputed legal claims and that Defendant makes no representations regarding the Agreement's tax consequences.
- 38.2 No opinion concerning the tax consequences of the Settlement to individual Settlement Class Members is being given or will be given by the Parties or their counsel, nor is any representation or warranty in this regard made by virtue of this Agreement. Settlement Class Members must consult their own tax advisors regarding the tax consequences of the Settlement, including any payments provided hereunder and any tax reporting obligations they may have with respect thereto.
- 38.3 Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.

38.4 Each Settlement Class Member specifically agrees that he or she is solely responsible for any and all taxes, interest, and penalties due and owing, if any, should the payments or any portion thereof, be taxable.

39. RELEASE, LIMITATIONS

This Agreement does not release claims arising out of the failure of either Party to perform in conformity with the terms of this Agreement.

40. KNOWING AND VOLUNTARY ASSENT

The Parties acknowledge that this Agreement is executed voluntarily by each of them, without any duress or undue influence on the part of, or on behalf of any of them. The Parties further acknowledge that they have had the opportunity for representation in the negotiations for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement and/or have had it fully explained to them by their counsel and that they are fully aware of the contents of this Agreement and its legal effect.

41. COUNTERPARTS AND FACSIMILE SIGNATURES

This Agreement may be executed in any number of counterparts and with facsimile signatures, and all such counterparts shall be construed together and constitute a single form of this Agreement.

42. HEADINGS AND CAPTIONS

The headings and captions inserted into this Agreement are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Agreement, or any provision hereof, or in any way affect the interpretation of this Agreement.

43. SEVERABILITY

In the event any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions if the Parties and their counsel elect by written stipulation to be filed with the Court within twenty (20) days to proceed as if such invalid, illegal, or unenforceable provisions had never been included in this Agreement.

44. CLAIMS AGAINST SETTLEMENT BENEFITS

In the event a third party, such as a bankruptcy trustee, former spouse, or other third party has or claims to have a claim against any payment made to a Settlement Class Member, it is the responsibility of the Settlement Class Member to resolve such a claim or to transmit the funds to such third party.

45. NO EFFECT ON OUTSTANDING INDEBTEDNESS.

Nothing in this Settlement Agreement abrogates, supersedes, modifies, or qualifies in any way any of the contractual terms and conditions applicable in the ordinary course to the relationship between Defendants and its affiliates and their customers, or to the products and services provided by Defendant and its affiliates purchased by their customers. The Parties agree and acknowledge that nothing in this Settlement effects the obligation of any borrower to repay any amounts of outstanding student loan debt serviced by Defendant or a subsequent servicer. The Parties further agree and acknowledge that nothing in this Settlement effects the ability of Defendant continue to service outstanding student loan debt in accordance with the law.

46. NON-DISPARAGEMENT

Neither Party nor any of their respective attorneys may make any statement disparaging the other Party or suggesting that Defendant has been found to have violated any law by virtue of this Agreement, or that the Settlement amounts to an admission of liability.

IN WITNESS WHEREOF, counsel for the parties and the named plaintiffs have executed
this Class Settlement and Release Agreement as of February _____, 2026.

PLAINTIFF AMANDA STEVENS

DEFENDANT NELNET SERVICING, LLC

By: _____

Its: _____

Counsel for Plaintiff and Settlement Class

Counsel for Defendant