

IN THE CIRCUIT COURT OF THE STATE OF WISCONSIN, COUNTY OF MILWAUKEE

KEEFE JOHN and JILLIAN CATHERINE
KLUG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

FROEDTERT HEALTH, INC.,

Defendants.

Case No. 2023CV001935

SETTLEMENT AGREEMENT

This Settlement and Release Agreement (“Agreement” or “Settlement Agreement”) is entered into by and between Froedtert Health, Inc. (“Froedtert” or “Defendant”) and Keefe John and Jillian Catherine Klug (“Plaintiffs”), both individually and on behalf of the Settlement Class, in the case of *John, et al. v. Froedtert Health, Inc.*, No. 2023CV001935, currently pending in the Wisconsin Circuit Court for the County of Milwaukee (the “Litigation”). Defendant and Plaintiffs are each referred to as a “Party” and are collectively referred to herein as “the Parties.”

I. Recitals

1. Froedtert Health, Inc. is an integrated health care system that provides a variety of health-related services in Wisconsin.

2. The Litigation arises out of Froedtert’s implementation and use of the Meta Pixel on Froedtert’s websites, defined below as the “Website Usage Disclosure”, during which Plaintiffs allege their web usage data, containing personal health information, was shared to Facebook allegedly resulting in the invasion of Plaintiffs’ and Settlement Class Members’ privacy.

3. Defendant denies all claims asserted against it in the Litigation, denies all allegations of wrongdoing and liability, and denies all material allegations of the Class Action Complaint, filed on March 16, 2023 (“CAC”).

4. Plaintiffs and Class Counsel believe that the legal claims asserted in the Litigation have merit. Class Counsel have investigated the facts relating to the claims and defenses alleged and the underlying events in the Litigation, have made a thorough study of the legal principles applicable to the claims and defenses asserted in the Litigation, and have conducted a thorough assessment of the strengths and weaknesses of the Parties’ respective positions.

5. The Parties’ desire to settle the Litigation and all claims arising out of or related to the allegations or subject matter of the Class Action Complaint (“CAC”) and the Litigation on the

terms and conditions set forth herein for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing to litigate the Litigation.

6. On February 9, 2023, Counsel for the Parties engaged in a full day mediation before Hon. Stuart E. Palmer (Ret.) concerning a possible settlement of the claims asserted in the Litigation. This mediation resulted in a settlement in principle, the terms of which are reflected in this Settlement Agreement.

7. Plaintiffs and Class Counsel, on behalf of the Settlement Class, have concluded, based upon their investigation, and taking into account the contested issues involved, the expense and time necessary to prosecute the Litigation through trial, the risks and costs associated with further prosecution of the Litigation, the uncertainties of complex litigation, the desired outcome from continued litigation, and the substantial benefits to be received pursuant to this Settlement Agreement, that a settlement with Defendant on the terms set forth herein is fair and reasonable and in the best interest of Plaintiffs and the Settlement Class. Plaintiffs and Class Counsel believe that the Settlement confers substantial benefits upon the Settlement Class.

8. The Parties agree and understand that neither this Settlement Agreement, nor the settlement it represents, shall be construed as an admission by Defendant of any wrongdoing whatsoever, including an admission of a violation of any statute or law or of liability on the claims or allegations in the Litigation or any other similar claims in other proceedings, or that any such claims would be suitable for class treatment.

9. The Parties, by and through their respective duly authorized counsel of record, and intending to be legally bound hereby, agree that the Litigation, and all matters and claims in the CAC, and all matters and claims arising out of or related to the allegations or subject matter of the

CAC and Litigation, shall be settled, compromised, and dismissed, on the merits and with prejudice, upon the following terms and conditions.

II. Definitions

10. As used herein and in the related documents attached hereto as exhibits, the following terms have the meaning specified below:

a. “Claims Deadline” means the deadline for filing claims set at a date certain ninety (90) Days from the Notice Date, as defined in Paragraph 43.

b. “Claim Form” means the form members of the Settlement Class must complete and submit on or before the Claims Deadline to be eligible for the benefits described herein, and substantially in the form of **Exhibit A** to this Settlement Agreement. The Claim Form shall require a sworn affirmation under penalty of perjury but shall not require a notarization or any other form of verification.

c. “Claims Period” means the period for filing claims up until a date certain ninety (90) Days from the Notice Date.

d. “Claimants” shall have the meaning given in Paragraph 33.

e. “Class Counsel” shall mean Gary M. Klinger and David K. Lietz of Milberg Coleman Bryson Phillips Grossman located at 227 W. Monroe Street, Suite 2100, Chicago, Illinois 60606 and 5335 Wisconsin Avenue NW, Suite 440, Washington, D.C. 20015, respectively, and David S. Almeida of Almeida Law Group LLC located at 849 W. Webster Avenue, Chicago, Illinois 60614.

f. “Court” means the Circuit Court for the State of Wisconsin, County of Milwaukee.

g. “Day(s)” means calendar days, but does not include the day of the act, event, or default from which the designated period of time begins to run. Further and notwithstanding the above, when computing any period of time prescribed or allowed by this Settlement Agreement, “Days” includes the last day of the period unless it is a Saturday, a Sunday, or a federal legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or federal legal holiday.

h. “Website Usage Disclosure” means the alleged disclosure of personal information of Plaintiffs and members of the Settlement Class to Facebook as a result of Froedtert’s use of the Meta Pixel on its MyChart portal between February 1, 2017 and January 22, 2020, and on its public websites between February 1, 2017 to May 23, 2022.

i. “Defendant’s Counsel” means Paul Karlsgodt and Amy L. Lenz of Baker & Hostetler LLP, located at 1801 California Street, Suite 4400, Denver, CO, 80202, and 1 N. Wacker Dr., Suite 4500, Chicago, IL, 60606, respectively.

j. “Effective Date” means the date defined in Paragraph 87 of this Settlement Agreement.

k. “Attorneys’ Fees, Costs, and Expenses Award” means the amount of attorneys’ fees, expenses, and reimbursement of Litigation Costs awarded by the Court to Class Counsel.

l. “Final” with respect to a judgment or order means that all of the following have occurred: (i) the time expires for noticing any appeal; (ii) if there is an appeal or appeals, completion, in a manner that finally affirms and leaves in place the judgment or order without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration, rehearing en banc, or

petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) final dismissal of any appeal or the final dismissal of any proceeding on certiorari.

m. “Final Approval Hearing” means the hearing to determine whether the Settlement should be given final approval and whether the applications of Class Counsel for attorneys’ fees, costs, and expenses should be approved.

n. “Final Approval Order” means the order of the Court finally approving this Settlement.

o. “Final Judgment” means the dismissal with prejudice in the Litigation, entered in connection with the Settlement and Final Approval Order.

p. “Litigation” means the lawsuit entitled *John, et al. v. Froedtert Health, Inc.*, No.2023CV001935 pending in the Circuit Court, for the County of Milwaukee, Wisconsin filed on March 16, 2023.

q. “Litigation Costs” means costs and expenses incurred by Class Counsel in connection with commencing, prosecuting, mediating, settling the Litigation, and obtaining an order of final judgment.

r. “Long-Form Notice” means the written notice substantially in the form of **Exhibit B** to this Settlement Agreement.

s. “Notice and Claims Administration Costs” means all approved reasonable costs incurred or charged by the Settlement Administrator in connection with providing notice to members of the Settlement Class and administering the Settlement. This does not include any separate costs incurred directly by Defendant or any of Defendant’s attorneys, agents or representatives in this Litigation.

t. “Net Settlement Fund” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) reasonable Notice and Claims Administration Costs incurred pursuant to this Settlement Agreement, (ii) any taxes owed by the Settlement Fund, (iii) any Service Awards approved by the Court, and (iv) any Attorneys’ Fees, Costs, and Expenses approved by the Court.

u. “Notice Program” means the notice program described in Section VII.

v. “Objection Deadline” shall have the meaning set forth in Paragraph 54 or as otherwise ordered by the Court.

w. “Parties” means Plaintiffs collectively and Defendant, and a “Party” means one of the Plaintiffs or the Defendant.

x. “Plaintiffs’ Released Claims” means all claims and other matters released in and by Section XIV of this Settlement Agreement.

y. “Postcard Notice” or “Short-Form Notice” means the written notice to be sent to Settlement Class Members pursuant to the Preliminary Approval Order substantially in the form as the Short-Form Notice attached as **Exhibit C** to this Settlement Agreement.

z. “Preliminary Approval Date” means the date the Preliminary Approval Order has been executed and entered by the Court.

aa. “Preliminary Approval Order” means the order certifying the proposed Class for settlement purposes, preliminarily approving this Settlement Agreement, approving the Notice Program, and setting a date for the Final Approval Hearing, entered in a format the same as or substantially similar to that of the Proposed Preliminary Approval Order attached hereto as **Exhibit D**.

bb. “Related Entities” means Froedtert’s past or present parents, subsidiaries, divisions, and related or affiliated entities of any nature whatsoever, whether direct or indirect, as well as each of Froedtert’s and these entities’ respective predecessors, successors, members, directors, officers, employees, principals, agents, attorneys, providers, customers, insurers, and reinsurers, and includes, without limitation, any person related to any such entity who is, was, or could have been named as a defendant in this Litigation.

cc. “Released Class Claims” means all class claims and other matters released in and by Section XIV of this Settlement Agreement.

dd. “Released Persons” means Defendant and the Related Entities, and each of their present and former parents, subsidiaries, divisions, departments, affiliates, predecessors, successors, assigns, insurers, and each of the foregoing’s former or present directors, trustees, officers, employees, representatives, agents, providers, consultants, advisors, attorneys, accountants, partners, vendors, customers, insurers, reinsurers, and subrogees.

ee. “Settlement” means the settlement reflected by this Settlement Agreement.

ff. “Settlement Administrator” means the class action settlement administrator retained to carry out the notice plan and administer the claims and settlement fund distribution process. After reviewing bids, the Parties, subject to Court approval, have agreed to use Kroll Settlement Administration, LLC as Settlement Administrator in this matter.

gg. “Settlement Agreement” means this Settlement Agreement, including releases and all exhibits hereto.

hh. “Settlement Class” means all persons who logged into a MyChart patient portal account at least once between February 1, 2017 and May 23, 2022. Excluded from the Class is Froedtert and its affiliates, parents, subsidiaries, officers, and directors, as well as the judge(s)

presiding over this matter and the clerks of said judge(s). This exclusion does not apply, and should not be read to apply, to those employees of Froedtert and its Related Entities who received notification regarding the Website Usage Disclosure.

ii. “Settlement Class Member[s]” means all persons who are members of the Settlement Class.

jj. “Settlement Fund” means the non-reversionary sum of two million dollars and no cents (\$2,000,000.00), to be paid by Defendant as specified in this Agreement, including any interest accrued thereon after payment.

kk. “Settlement Website” means a dedicated website created and maintained by the Settlement Administrator, which will contain relevant documents and information about the Settlement, including this Settlement Agreement, the Postcard Notice, the Long-Form Notice, and the Claim Form, among other things as agreed upon by the Parties and approved by the Court as required.

III. CERTIFICATION OF THE SETTLEMENT CLASS

11. For settlement purposes only, the Parties will request that the Court certify the Settlement Class.

12. If this Settlement Agreement is terminated or disapproved, or if the Effective Date should not occur for any reason, then the Parties’ request for certification of the Settlement Class will be withdrawn and deemed to be of no force or effect for any purpose in this or any other proceeding.

IV. THE SETTLEMENT FUND

13. **The Settlement Fund:** Defendant agrees to make a payment of Two Million Dollars and No Cents (\$2,000,000.00) and deposit that payment into the Settlement Fund as

follows: (i) Defendant shall pay Three Hundred and Fifty Thousand Dollars and No Cents (\$350,000.00) into the Settlement Fund thirty (30) Days after this Court enters the Preliminary Approval Order, which shall be available to cover Notice and Claims Administration Costs incurred prior to entry of the Final Approval Order and Final Judgment, and (ii) Defendant shall pay the balance of the Settlement Fund, One Million, Six Hundred and Fifty Thousand Dollars and No Cents (\$1,650,000.00), thirty (30) Days after the Effective Date. For the avoidance of doubt, and for purposes of this Settlement Agreement only, Defendant's liability shall not exceed Two Million Dollars and No Cents (\$2,000,000.00), inclusive of attorneys' fees, costs, and expenses. The timing set forth in this provision is contingent upon the receipt of a W-9 from Kroll for the Settlement Fund by the date that the Preliminary Approval Order is issued. If Defendant does not receive this information by the date that the Preliminary Approval Order is issued, the payments specified by this paragraph shall be made within thirty (30) days after Froedtert receives this information.

14. **Custody of the Settlement Fund:** The Settlement Fund shall be deposited in an appropriate trust account established by the Settlement Administrator but shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Agreement or returned to those who paid the Settlement Fund in the event this Agreement is voided, terminated, or cancelled.

- a. In the event this Agreement is voided, terminated, or cancelled due to lack of approval from the Court or any other reason: (i) the Class Representatives and Class Counsel shall have no obligation to repay any of the Notice and Claims Administration Costs that have been paid or incurred in accordance with the terms and conditions of this Agreement; (ii) any amounts

remaining in the Settlement Fund after payment of Notice and Claims Administration Costs paid or incurred in accordance with the terms and conditions of this Agreement, including all interest earned on the Settlement Fund net of any taxes, shall be returned to Defendant; and (iii) no other person or entity shall have any further claim whatsoever to such amounts.

15. **Non-Reversionary:** This settlement is not a reversionary settlement. As of the Effective Date, all rights of Defendant in or to the Settlement Fund shall be extinguished, except in the event this Settlement Agreement is voided, cancelled, or terminated, as described in Section XIII of this Agreement. In the event the Effective Date occurs, no portion of the Settlement Fund shall be returned to Defendant.

16. **Use of the Settlement Fund:** As further described in this Agreement, the Settlement Fund shall be used by the Settlement Administrator to pay for: (i) reasonable Notice and Claims Administration Costs incurred pursuant to this Settlement Agreement as approved by the Parties and approved by the Court, (ii) any taxes owed by the Settlement Fund, (iii) any Service Awards approved by the Court, (iv) any Attorneys' Fees, Costs, and Expenses Award as approved by the Court, and (v) any benefits to Settlement Class Members, pursuant to the terms and conditions of this Agreement.

17. **Financial Account:** The Settlement Fund shall be an account established and administered by the Settlement Administrator, at a financial institution recommended by the Settlement Administrator and approved by Class Counsel and Defendant, and shall be maintained as a qualified settlement fund pursuant to Treasury Regulation § 1.468 B-1, *et seq.*

18. **Payment/Withdrawal Authorization:** No amounts may be withdrawn from the Settlement Fund unless (i) expressly authorized by the Settlement Agreement, or as may be

(ii) approved by the Court. The Parties, by agreement, may authorize the periodic payment of actual reasonable Notice and Claims Administration Costs from the Settlement Fund as such expenses are invoiced without further order of the Court. The Settlement Administrator shall provide Class Counsel and Defendant with notice of any withdrawal or other payment the Settlement Administrator proposes to make from the Settlement Fund before the Effective Date at least seven (7) business days prior to making such withdrawal or payment.

19. **Payments to Class Members:** The Settlement Administrator, subject to such supervision and direction of the Court and Class Counsel as may be necessary or as circumstances may require, shall administer and oversee distribution of the Settlement Fund to Claimants pursuant to this Agreement.

20. **Treasury Regulations and Fund Investment:** The Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any taxes owed by the Settlement Fund. The Parties agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account insured by the Federal Deposit Insurance Corporation (“FDIC”) at a financial institution determined by the Settlement Administrator and approved by the Parties. Funds may be placed in a non-interest-bearing account as may be reasonably necessary during the check clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including

any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

21. **Taxes:** All taxes owed by the Settlement Fund shall be paid out of the Settlement Fund, shall be considered a Notice and Claims Administration Cost, and shall be timely paid by the Settlement Administrator without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties and their counsel for taxes (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by any Class Representative or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Agreement.

22. **Limitation of Liability**

a. Defendant and its counsel shall not have any responsibility for or liability whatsoever with respect to (i) any act, omission, or determination of Class Counsel, the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design, or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns. Defendant also shall have no

obligation to communicate with Settlement Class Members and others regarding amounts paid under the Settlement.

b. The Class Representatives and Class Counsel shall not have any liability whatsoever with respect to (i) any act, omission, or determination of the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the formulation, design, or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

V. BENEFITS TO SETTLEMENT CLASS MEMBERS

23. **Compensation to Settlement Class Members.** Settlement Class Members must submit a valid Claim Form in order to receive a settlement benefit. Claims will be subject to review for completeness and plausibility by the Settlement Administrator. For claims deemed invalid, the Settlement Administrator will provide claimants an opportunity to cure in the manner set forth below. All Settlement Class members who submit a valid claim form will receive a pro rata share of the Settlement Fund, which will be paid in accordance with Paragraph 16 above.

24. **Cash Compensation.** Settlement Class Members may file a claim for a cash payment that is allocated by proration as described in Paragraph 35.

VI. SETTLEMENT ADMINISTRATION

25. All agreed upon and reasonable Notice and Settlement Administration Costs will be paid from the Settlement Fund.

26. The Parties agree to solicit and did solicit competitive bids for settlement administration, including Notice and Claims Administration Costs, to rely upon Postcard Notice, and to utilize other appropriate forms of notice where practicable, in order to contain the administration costs while still providing effective notice to the Settlement Class Members.

27. The Settlement Administrator will provide written notice by United States First Class mail of the settlement terms to all Settlement Class Members for whom Defendant has provided a valid mailing address. The Settlement Administrator shall perform skip-tracing for any returned mail and shall re-mail notice to any Settlement Class Members whose addresses are uncovered by skip-tracing. Settlement Class Members shall have sixty (60) Days from the Notice Date to object to the Settlement Agreement.

28. The Settlement Administrator shall also provide notice via publication to the extent such notice is deemed appropriate by the Settlement Administrator in consultation with the Parties in order to provide the best notice practicable under the circumstances.

29. The Settlement Administrator will cause the Notice Program to be effectuated in accordance with the terms of the Settlement Agreement and any orders of the Court. The Settlement Administrator may request the assistance of the Parties to facilitate providing notice and to accomplish such other purposes as may be approved by both Class Counsel and Defendant's Counsel. The Parties shall reasonably cooperate with such requests.

30. The Settlement Administrator will administer the claims process in accordance with the terms of the Settlement Agreement and any additional processes agreed to by both Class Counsel and Defendant's Counsel, subject to the Court's supervision and direction as circumstances may require.

31. To make a claim, a Settlement Class Member must complete and submit a valid, timely, and sworn Claim Form. A Claim Form shall be submitted online at the Settlement Website or by U.S. mail and must be postmarked no later than the Claim Deadline.

32. The Settlement Administrator will review and evaluate each Claim Form, including any required documentation submitted, for validity, timeliness, and completeness.

33. If, in the determination of the Settlement Administrator, the Settlement Class Member submits a timely but incomplete or inadequately supported Claim Form, the Settlement Administrator shall give the Settlement Class Member notice of the deficiencies, and the Settlement Class Member shall have twenty-one (21) Days from the date of the written notice to cure the deficiencies. The Settlement Administrator will provide notice of deficiencies concurrently to Defendant's Counsel and Class Counsel. If the defect is not cured within the 21-Day period, then the Claim will be deemed invalid. All Settlement Class Members who submit a valid and timely Claim Form, including a Claim Form deemed defective but timely cured, shall be considered "Claimants."

34. The Settlement Administrator will maintain records of all Claim Forms submitted until three hundred and sixty (360) Days after entry of the Final Judgment. Claim Forms and supporting documentation may be provided to the Court upon request and to Defendant, Class Counsel and Defendant's Counsel to the extent necessary to resolve claims determination issues pursuant to this Settlement Agreement. Class Counsel or the Settlement Administrator will provide other reports or information that the Court may request or that the Court or Defendant's Counsel may reasonably require.

35. Subject to the terms and conditions of this Settlement Agreement, forty-five (45) Days after the Effective Date, the Settlement Administrator shall mail or otherwise provide a

payment via check (“Claim Check”) or digital payment selected in consultation with the Settlement Administrator (collectively, “Claim Payment”) to each Claimant for their pro rata share of the Settlement Fund, in accordance with the following distribution procedures:

a. The Settlement Administrator shall utilize the Net Settlement Fund to make all Cash Compensation payments as described in Paragraph 25. The amount of each Cash Compensation payment shall be calculated by dividing the Settlement Fund by the number of valid claims for Cash Compensation.

36. Each Claim Check shall be mailed to the address provided by the Claimant on his or her Claim Form. All Claim Checks issued under this section shall be void if not negotiated within ninety (90) calendar days of their date of issue and shall contain a legend to that effect. Claim Checks issued pursuant to this section that are not negotiated within ninety (90) calendar days of their date of issue shall not be reissued.

37. To the extent any monies remain in the Net Settlement Fund more than one hundred twenty (120) Days after the distribution of Claim Payments to the Claimants, a subsequent payment will be evenly made to all Claimants who cashed or deposited their initial Claim Payments they received, provided that the average payment amount is equal to or greater than Three Dollars and No Cents (\$3.00). The distribution of this remaining Net Settlement Fund shall continue until the average payment amount in a distribution is less than Three Dollars and No Cents (\$3.00), whereupon the amount remaining in the Net Settlement Fund, if any, shall be distributed by mutual agreement of the Parties and the Court.

38. For any Claim Check returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator shall make reasonable efforts to find a valid address and resend the

Claim Check within thirty (30) Days after the check is returned to the Settlement Administrator as undeliverable. The Settlement Administrator shall only make one attempt to resend a Claim Check.

39. No portion of the Net Settlement Fund shall revert or be repaid to Defendant after the Effective Date. Any residual funds remaining in the Net Settlement Fund, after all payments and distributions are made pursuant to the terms and conditions of this Agreement shall be distributed according to the provisions outlined in Paragraph 37.

VII. NOTICE TO SETTLEMENT CLASS MEMBERS

40. The Parties agree the following Notice Program provides reasonable notice to the Settlement Class.

41. Direct Notice shall be provided to Settlement Class Members via U.S. Mail for Settlement Class Members for whom the Settlement Administrator has a valid address. Additional Notice may be provided via publication pursuant to Paragraph 28, to the extent such notice is deemed appropriate by the Settlement Administrator in consultation with the Parties in order to provide the best notice practicable under the circumstances.

42. Within fifteen (15) Days of the entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the names and last addresses known to Defendant for the Settlement Class Members (the "Class List"). The Settlement Administrator shall, by using the National Change of Address database maintained by the United States Postal Service ("Postal Service"), obtain updates, if any, to the mailing addresses.

43. Within forty-five (45) Days following entry of the Preliminary Approval Order ("Notice Date"), the Settlement Administrator shall mail the Postcard Notice to all Settlement Class Members by first class United States mail. The Settlement Administrator shall mail a Claim Form to Settlement Class Members upon written or telephonic request.

44. If any Short-Form Notice is returned by the Postal Service as undeliverable, the Settlement Administrator shall re-mail the Postcard Notice to the forwarding address, if any, provided by the Postal Service on the face of the returned mail. Other than as set forth above, neither the Parties nor the Settlement Administrator shall have any other obligation to re-mail Notices.

45. The mailed notice will consist of the Postcard Notice substantially in the form of **Exhibit C**. The Settlement Administrator shall have discretion to format this Postcard Notice in a reasonable manner to minimize mailing and administrative costs. Before the mailing of the Postcard Notice is commenced, Class Counsel and Defendant's Counsel shall first be provided with a proof copy (including what the items will look like in their final form) and shall have the right to inspect the same for compliance with the Settlement Agreement and the Court's orders.

46. No later than forty-five (45) Days following entry of the Preliminary Approval Order, the Settlement Administrator shall effectuate any publication notice made pursuant to paragraph 30, to the extent that this notice is deemed to be necessary by the Parties.

47. No later than forty-five (45) Days following entry of the Preliminary Approval Order, and prior to the mailing of the Postcard Notice to all Settlement Class Members, the Settlement Administrator will create a dedicated Settlement Website. The Settlement Administrator shall cause the CAC, Postcard Notice, Long-Form Notice, Claim Form, this Settlement Agreement, and other relevant settlement and court documents to be available on the Settlement Website. Any other content proposed to be included or displayed on the Settlement Website shall be approved in advance by counsel for the Parties, which approval shall not be unreasonably withheld, by Class Counsel and Defendant's Counsel. The website address and the

fact that a more detailed Long-Form Notice and a Claim Form are available through the website shall be included in the Postcard Notice.

48. Claimants shall be able to submit their claims via the website.

49. The Settlement Website shall be maintained from the Notice Date until sixty (60) Days after the Claims Deadline has passed.

50. Claim Forms shall be returned or submitted to the Settlement Administrator online or via U.S. mail, postmarked by the Claims Deadline set by the Court, or be forever barred unless such claim is otherwise approved by the Court at the Final Approval Hearing, for good cause shown as demonstrated by the applicable Settlement Class Member.

51. Prior to the Final Approval Hearing, the Settlement Administrator shall provide to Class Counsel to file with the Court, an appropriate affidavit or declaration from the Settlement Administrator concerning compliance with the Court-approved Notice Program.

VIII. OBJECTIONS TO THE SETTLEMENT

52. Any Settlement Class Member who wishes to object to the proposed Settlement Agreement must file with the Court and serve a written objection(s) to the settlement (“Objection(s)”) on Class Counsel and Defendant’s Counsel, at the addresses set forth in the Long-Form Notice.

53. Each Objection must (i) set forth the Settlement Class Member’s full name, current address, telephone number, and email address; (ii) contain the Settlement Class Member’s original signature; (iii) contain proof that the Settlement Class Member is a member of the Settlement Class (e.g., copy of settlement notice, copy of original notice of the Website Usage Disclosure); (iv) state that the Settlement Class Member objects to the Settlement, in whole or in part; (v) set forth a statement of the legal and factual basis for the Objection; (vi) provide copies of any documents

that the Settlement Class Member wishes to submit in support of his/her position; (vii) identify all counsel representing the Settlement Class Member, if any; (viii) contain the signature of the Settlement Class Member's duly authorized attorney or other duly authorized representative, along with documentation setting forth such representation; and (ix) contain a list, including case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement in the past three (3) years.

54. Objections must be filed with the Court and served on Class Counsel and Defendant's Counsel no later than sixty (60) Days after the Notice Date (the "Objection Deadline"). The Objection Deadline shall be included in the Short-Form and Long-Form Notices.

55. Class Counsel and Defendant's Counsel may, but need not, respond to the Objections, if any, by means of a memorandum of law served prior to the Final Approval Hearing.

56. An objecting Settlement Class Member has the right, but is not required, to attend the Final Approval Hearing. If an objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he or she must also file a notice of appearance with the Court (as well as serve the notice on Class Counsel and Defendant's Counsel) by the Objection Deadline.

a. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing through counsel, he or she must also identify the attorney(s) representing the objecting Settlement Class Member who will appear at the Final Approval Hearing and include the attorney(s) name, address, phone number, e-mail address, state bar(s) to which counsel is admitted, as well as associated state bar numbers.

b. Any Settlement Class Member who fails to timely file and serve an Objection and notice, if applicable, of his or her intent to appear at the Final Approval Hearing in

person or through counsel pursuant to this Settlement Agreement, as detailed in the Long-Form Notice, and otherwise as ordered by the Court, shall not be permitted to object to the approval of the Settlement at the Final Approval Hearing and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by appeal or other means.

57. Any Settlement Class Member who does not submit a timely Objection in complete accordance with this Settlement Agreement and the Long-Form Notice, or as otherwise ordered by the Court, shall not be treated as having filed a valid Objection to the Settlement and shall forever be barred from raising any objection to the Settlement.

IX. OPT OUT PROCEDURES

58. Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator. Settlement Class Members may also mail or submit the exclusion form attached hereto as **Exhibit C** via the Settlement Website. The written notice must clearly manifest a Person's intent to opt-out of the Settlement Class. To be effective, written notice must be postmarked no later than the Opt-Out Date.

59. All Persons who submit valid and timely notices of their intent to opt-out of the Settlement Class, as set forth in ¶ 58 above, referred to herein as "Opt-Outs," shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not opt-out of the Settlement Class in the manner set forth in ¶ 58 above shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.

IX. ATTORNEYS' FEES, COSTS, AND EXPENSES, AND SERVICE AWARDS

60. Class Counsel shall request the Court to approve an award of attorneys' fees not to exceed thirty-five percent (35%) of the Net Settlement Fund plus reasonable costs and expenses incurred in prosecuting the litigation. Class Counsel's attorneys' fees, costs, and expenses awarded by the Court shall be paid no later than forty-five (45) Days after the Effective Date. For the avoidance of doubt, the Court approved amount of any attorneys' fees, costs, and expenses shall be paid from the Net Settlement Fund.

61. Class Counsel shall request the Court to approve a service award of three thousand five hundred dollars (\$3,500) for each of the named Plaintiffs, Keefe John and Jillian Catherine Klug, which award is intended to recognize Plaintiffs for their efforts in the litigation and commitment on behalf of the Settlement Class ("Service Award"). If approved by the Court, this Service Award will be paid no later than forty-five (45) Days after the Effective Date. For the avoidance of doubt, the Court approved amount for any Service Awards shall be paid from the Net Settlement Fund. The Parties did not discuss or agree upon payment of service awards until after they agreed on all materials terms of relief to the Settlement Class.

62. Class Counsel will file applications with the Court for the requested Service Awards and attorneys' fees, costs, and expenses no later than fourteen (14) Days prior to the Objection Deadline.

63. The Parties agree that the Court's approval or denial of any request for the Service Awards or attorneys' fees are not conditions to this Settlement Agreement and are to be considered by the Court separately from final approval, reasonableness, and adequacy of the settlement. Any reduction to the Service Award or award of attorneys' fees, costs, or expenses shall not operate to terminate or cancel this Settlement Agreement.

X. NOTICES

64. All notices to the Parties required by the Settlement Agreement shall be made in writing and communicated by mail to the following addresses:

All notices to Class Counsel or Plaintiffs shall be sent to:

Gary M. Klinger
Milberg Coleman Bryson Phillips Grossman
227 W. Monroe Street, Suite 2100
Chicago, Illinois 60606
Tel: 866.252.0878

David S. Almeida
Almeida Law Group LLC
849 W. Webster Avenue
Chicago, Illinois 60614
Tel: 312.576.3024

All notices to Defendant's Counsel or Defendant shall be sent to:

Paul Karlsgodt
Baker & Hostetler LLP
1801 California Street, Suite 4400
Denver, Colorado, 80202
Tel: (303) 861-0600

65. Other than attorney-client communications or communications otherwise protected from disclosure pursuant to law or rule, the Parties shall promptly provide to each other copies of comments, Objections, or other documents or filings received from a Settlement Class Member as a result of the Notice Program.

XI. SETTLEMENT APPROVAL PROCESS

66. After execution of this Settlement Agreement, the Parties shall promptly move the Court to enter the Preliminary Approval Order, which:

- a. Preliminarily approves this Settlement Agreement;
- b. Provisionally certifies the Settlement Class;

- c. Finds the proposed settlement is sufficiently fair, reasonable, adequate, and in the best interests of the Settlement Class;
- d. Finds the Notice Program constitutes valid, due, and sufficient notice to the Settlement Class Members, and constitutes the best notice practicable under the circumstances, complying fully with the requirements of the laws of Wisconsin, the Constitution of the United States, and any other applicable law and that no further notice to the Class is required beyond that provided through the Notice Program;
- e. Appoints the Settlement Administrator;
- f. Directs the Settlement Administrator to provide notice to Settlement Class Members in accordance with the Notice Program provided for in this Settlement Agreement;
- g. Approves the Claim Form and directs the Settlement Administrator to administer the Settlement in accordance with the provisions of this Settlement Agreement;
- h. Approves the Objection procedures as outlined in this Settlement Agreement;
- i. Schedules a Final Approval Hearing to consider the final approval, reasonableness, and adequacy of the proposed settlement and whether it should be finally approved by the Court; and,
- j. Contains any additional provisions agreeable to the Parties that might be necessary or advisable to implement the terms of this Settlement Agreement.

XII. FINAL APPROVAL HEARING

67. The Parties will recommend that the Final Approval Hearing shall be scheduled no earlier than one hundred thirty (130) Days after the entry of the Preliminary Approval Order.

68. The Parties may file a response to any objections and a Motion for Final Approval no later than fourteen (14) Days after the Objection Deadline.

69. Any Settlement Class Member who wishes to appear at the Final Approval Hearing, whether pro se or through counsel, must, by the Objection Deadline, either mail or hand-deliver to the Court or file a notice of appearance in the Litigation, take all other actions or make any additional submissions as may be required in the Long-Form Notice, this Settlement Agreement, or as otherwise ordered by the Court, and mail that notice and any other such pleadings to Class Counsel and Defendant's Counsel as provided in the Long-Form Notice.

70. The Parties shall ask the Court to enter a Final Approval Order and Judgment which includes the following provisions:

a. A finding that the Notice Program fully and accurately informed all Settlement Class Members entitled to notice of the material elements of the settlement, constitutes the best notice practicable under the circumstances, constitutes valid, due, and sufficient notice, and complies fully with the laws of Wisconsin, the United States Constitution, and any other applicable law;

b. A finding that after proper notice to the Class, and after sufficient opportunity to object, no timely objections to this Settlement Agreement have been made, or a finding that all timely objections have been considered and denied;

c. Approval of the settlement, as set forth in the Settlement Agreement, as fair, reasonable, adequate, and in the best interests of the Class, in all respects, finding that the settlement is in good faith, and ordering the Parties to perform the Settlement in accordance with the terms of this Settlement Agreement;

d. A finding that neither the Final Judgment, the settlement, nor the Settlement Agreement shall constitute an admission of liability by any of the Parties, or any liability or wrongdoing whatsoever by any Party;

e. Subject to the reservation of jurisdiction for matters discussed in subparagraph (g) below, a dismissal with prejudice of the Litigation;

f. A finding that Plaintiffs shall, as of the entry of the Final Judgment, conclusively be deemed to have fully, finally, and forever completely released, relinquished, and discharged the Released Persons from the Plaintiffs' Released Claims;

g. A finding that all Settlement Class Members shall, as of the entry of the Final Judgment, conclusively be deemed to have fully, finally, and forever completely released, relinquished, and discharged the Released Persons from the Released Class Claims; and

h. A reservation of exclusive and continuing jurisdiction over the Litigation and the Parties for the purposes of, among other things, (i) supervising the implementation, enforcement, construction, and interpretation of the Settlement Agreement, the Preliminary Approval Order, and the Final Judgment; and (ii) supervising the administration and distribution of the relief to the Settlement Class and resolving any disputes that may arise with regard to the foregoing.

71. If and when the Settlement becomes Final, the Litigation shall be dismissed with prejudice, with the Parties to bear their own costs and attorneys' fees, costs, and expenses not otherwise awarded in accordance with this Settlement Agreement.

XIII. TERMINATION OF THIS SETTLEMENT AGREEMENT

72. Each Party shall have the right to terminate this Settlement Agreement if:

a. The Court denies preliminary approval of this Settlement Agreement (or grants preliminary approval through an order that materially differs in substance to **Exhibit D** hereto);

b. The Court denies final approval of this Settlement Agreement (or grants final approval through an order that materially differs in substance from **Exhibit E** hereto);

c. The Final Approval Order and Final Judgment do not become final by reason of a higher court reversing final approval by the Court, and the Court thereafter declines to enter a further order or orders approving the settlement on the terms set forth herein; or

d. The Effective Date cannot occur.

73. The Parties agree to work in good faith to effectuate this Settlement Agreement.

74. If a Party elects to terminate this Settlement Agreement under this Section XIII, that Party must provide written notice to the other Party's counsel, by hand delivery, mail, or e-mail within ten (10) Days of the occurrence of the condition permitting termination.

75. Nothing shall prevent Plaintiffs or Defendant from appealing or seeking other appropriate relief from an appellate court with respect to any denial by the Court of final approval of the Settlement.

76. If this Settlement Agreement is terminated or disapproved, or if the Effective Date should not occur for any reason, then: (i) this Settlement Agreement, the Preliminary Approval Order, the Final Approval Order (if applicable), and all of their provisions shall be rendered null and void; (ii) all Parties shall be deemed to have reverted to their respective status in the Litigation as of the date and time immediately preceding the execution of this Settlement Agreement; (iii) except as otherwise expressly provided, the Parties shall stand in the same position and shall proceed in all respects as if this Settlement Agreement and any related orders had never been

executed, entered into, or filed; and (iv) no term or draft of this Settlement Agreement nor any part of the Parties' settlement discussions, negotiations, or documentation (including any declaration or brief filed in support of the motion for preliminary approval or motion for final approval), nor any rulings regarding class certification for settlement purposes (including the Preliminary Approval Order and, if applicable, the Final Approval Order and Final Judgment), will have any effect or be admissible into evidence for any purpose in the Litigation or any other proceeding.

77. If the Court does not approve the Settlement or the Effective Date cannot occur for any reason, Defendant shall retain all its rights and defenses in the Litigation. For example, Defendant shall have the right to object to the maintenance of the Litigation as a class action, to move for summary judgment, and to assert defenses at trial, and nothing in this Settlement Agreement or other papers or proceedings related to the Settlement shall be used as evidence or argument by any Party concerning whether the Litigation may properly be maintained as a class action, or for any other purpose.

XIV. RELEASE

78. The Final Approval Order and Final Judgment shall provide that the Litigation is dismissed with prejudice as to the Plaintiffs and all Settlement Class Members.

79. On the Effective Date, Plaintiffs and each and every Settlement Class Member shall be bound by this Settlement Agreement and shall have recourse only to the benefits, rights, and remedies provided hereunder. No other action, demand, suit, arbitration, or other claim or proceeding, regardless of forum, may be pursued against Released Persons with respect to the Plaintiffs' Released Claims or the Released Class Claims.

80. On the Effective Date and in consideration of the promises and covenants set forth in this Settlement Agreement, Plaintiffs will be deemed to have fully, finally, and forever

completely released, relinquished, and discharged the Released Persons from any and all past, present, and future claims, counterclaims, lawsuits, set-offs, costs, expenses, attorneys' fees and costs, losses, rights, demands, charges, complaints, actions, suits, causes of action, obligations, debts, contracts, penalties, damages, or liabilities of any nature whatsoever, known, unknown, or capable of being known, in law or equity, fixed or contingent, accrued or unaccrued and matured or not matured that arise out of, are connected to the Website Usage Disclosure that were or could have been asserted in the Litigation (the "**Plaintiffs' Release**"). The Plaintiffs' Release shall be included as part of the Final Approval Order so that all claims released thereby shall be barred by principles of res judicata, collateral estoppel, and claim and issue preclusion (the "**Plaintiffs' Released Claims**"). The Plaintiffs' Released Claims shall constitute and may be pled as a complete defense to any proceeding arising from, relating to, or filed in connection with the Plaintiffs' Released Claims.

81. On the Effective Date and in consideration of the promises and covenants set forth in this Settlement Agreement, each Settlement Class Member will be deemed to have fully, finally, and forever completely released, relinquished, and discharged the Released Persons from any and all past, present, and future claims, counterclaims, lawsuits, set-offs, costs, expenses, attorneys' fees and costs, losses, rights, demands, charges, complaints, actions, suits, causes of action, obligations, debts, contracts, penalties, damages, or liabilities of any nature whatsoever, known, unknown, or capable of being known, in law or equity, fixed or contingent, accrued or unaccrued and matured or not matured that arise out of, are connected to the Website Usage Disclosure that were or could have been asserted in the Litigation (the "**Settlement Class Release**"). The Settlement Class Release shall be included as part of the Final Approval Order so that all claims released thereby shall be barred by principles of res judicata, collateral estoppel, and claim and issue

preclusion (the “Released Class Claims”). The Released Class Claims shall constitute and may be pled as a complete defense to any proceeding arising from, relating to, or filed in connection with the Released Class Claims.

82. Subject to Court approval, as of the Effective Date, Plaintiffs and all Settlement Class Members shall be bound by this Settlement Agreement and the Settlement Class Release and all of Plaintiffs’ Released Claims and the Released Class Claims shall be dismissed with prejudice and released.

83. The Plaintiffs’ Released Claims and Released Class Claims include the release of Unknown Claims. “Unknown Claims” means claims that could have been raised in the Litigation and that any of the Plaintiffs and each of their respective heirs, executors, administrators, representatives, agents, partners, trustees, successors, attorneys, and assigns do not know to exist or suspects to exist, which, if known by him, her or it, might affect his, her, or its agreement to release Defendant and all other Released Persons, or might affect his, her, or its decision to agree to, or object or not to object to the Settlement.

84. On entry of the Final Approval Order and Final Judgment, the Plaintiffs and Settlement Class Members shall be enjoined from prosecuting, respectively, the Plaintiffs’ Released Claims and the Released Class Claims, in any proceeding in any forum against any of the Released Persons or based on any actions taken by any Released Persons authorized or required by this Settlement Agreement or the Court or an appellate court as part of this Settlement.

85. Without in any way limiting the scope of the Plaintiffs’ Release or the Settlement Class Release (the “Releases”), the Releases cover, without limitation, any and all claims for attorneys’ fees, costs or disbursements incurred by Class Counsel or any other counsel representing Plaintiffs or Settlement Class Members, or any of them, in connection with or related in any

manner to the Litigation, the Settlement, the administration of such Settlement and/or the Plaintiffs' Released Claims or the Released Class Claims as well as any and all claims for the Service Award to Plaintiffs.

86. Nothing in the Releases shall preclude any action to enforce the terms of this Settlement Agreement, including participation in any of the processes detailed herein. Nor shall the Releases be construed to release claims arising out of physical injuries alleged to arise from the treatment Plaintiffs and Settlement Class Members received from Defendant.

XV. EFFECTIVE DATE

87. The "Effective Date" of this Settlement Agreement shall be the first Day after the date when all of the following conditions have occurred:

- a. This Settlement Agreement has been fully executed by all Parties and their counsel;
- b. Orders have been entered by the Court certifying the Settlement Class, granting preliminary approval of this Settlement Agreement and approving the Notice Program and Claim Form, all as provided above;
- c. The Court-approved Postcard Notice has been mailed, other notice required by the Notice Program, if any, has been effectuated and the Settlement Website has been duly created and maintained as ordered by the Court;
- d. The Court has entered a Final Approval Order finally approving this Settlement Agreement, as provided above; and
- e. The Final Approval Order and Final Judgment have become Final, as defined in Paragraph 10(l).

XVI. MISCELLANEOUS PROVISIONS

88. The recitals and exhibits to this Settlement Agreement are integral parts of the Settlement and are expressly incorporated and made a part of this Settlement Agreement.

89. This Settlement Agreement is for settlement purposes only. Neither the fact of nor any provision contained in this Settlement Agreement nor any action taken hereunder shall constitute or be construed as an admission of the validity of any claim or any fact alleged in the CAC or Litigation or of any wrongdoing, fault, violation of law or liability of any kind on the part of Defendant or any admission by Defendant of any claim in this Litigation or allegation made in any other proceeding, including regulatory matters, directly or indirectly involving the Website Usage Disclosure or allegations asserted in the CAC and Litigation. This Settlement Agreement shall not be offered or be admissible in evidence against the Parties or cited or referred to in any action or proceeding between the Parties, except in an action or proceeding brought to enforce its terms. Nothing contained herein is or shall be construed or admissible as an admission by Defendant that Plaintiffs' claims, or any similar claims, are suitable for class treatment.

90. In the event that there are any developments in the effectuation and administration of this Settlement Agreement that are not dealt with by the terms of this Settlement Agreement, then such matters shall be dealt with as agreed upon by the Parties, and failing agreement, as shall be ordered by the Court. The Parties shall execute all documents and use their best efforts to perform all acts necessary and proper to promptly effectuate the terms of this Settlement Agreement and to take all necessary or appropriate actions to obtain judicial approval of this Settlement Agreement to give this Settlement Agreement full force and effect.

91. In the event the aggregate amount of all Cash Compensation payments exceeds the total amount of the Settlement Fund, then the value of those payments shall be reduced on a pro

rata basis, such that the aggregate value of the Cash Compensation payments does not exceed the Net Settlement Fund. All such determinations shall be performed by the Settlement Administrator.

92. No person shall have any claim against Plaintiffs, Class Counsel, Defendant, Defendant's Counsel, the Settlement Administrator, or the Released Persons, or any of the foregoing's agents or representatives based on the administration of the Settlement substantially in accordance with the terms of the Settlement Agreement or any order of the Court or appellate court.

93. This Settlement Agreement constitutes the entire Settlement Agreement between and among the Parties with respect to the Settlement of the Litigation. This Settlement Agreement supersedes all prior negotiations and Settlement Agreements and may not be modified or amended except by a writing signed by the Parties and their respective counsel. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or understanding concerning any part of the subject matter of this Settlement Agreement has been made or relied on except as expressly set forth in this Settlement Agreement.

94. There shall be no waiver of any term or condition in this Settlement Agreement absent an express writing to that effect by the non-waiving Party. No waiver of any term or condition in this Settlement Agreement shall be construed as a waiver of a subsequent breach or failure of the same term or condition, or waiver of any other term or condition of this Settlement Agreement.

95. 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 transmit the funds to such third-party.

Unless otherwise ordered by the Court, the Parties will have no, and do not agree to any, responsibility for such transmittal.

96. This Settlement Agreement shall not be construed more strictly against one Party than another merely because it may have been prepared by counsel for one of the Parties, it being recognized that because of the arm's-length negotiations resulting in this Settlement Agreement, all Parties hereto have contributed substantially and materially to the preparation of the Settlement Agreement. All terms, conditions, and exhibits are material and necessary to this Settlement Agreement and have been relied upon by the Parties in entering into this Settlement Agreement.

97. This Settlement Agreement shall be construed under and governed by the laws of the State of Wisconsin without regard to its choice of law provisions.

98. If any press release is to be issued by the Parties, including their respective counsel, concerning the Settlement, it will be a joint press release for which the Parties will agree upon the language therein prior to release.

99. In the event that one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions of the Settlement Agreement, which shall remain in full force and effect as though the invalid, illegal, or unenforceable provision(s) had never been a part of this Settlement Agreement as long as the benefits of this Settlement Agreement to Defendant or the Settlement Class Members are not materially altered, positively or negatively, as a result of the invalid, illegal, or unenforceable provision(s).

100. This Settlement Agreement will be binding upon and inure to the benefit of the successors and assigns of the Parties, Released Persons, and Settlement Class Members.

101. The headings used in this Settlement Agreement are for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement. In construing this Settlement Agreement, the use of the singular includes the plural (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

102. The Parties stipulate to stay all proceedings in the Litigation until the approval of this Settlement Agreement has been finally determined, except the stay of proceedings shall not prevent the filing of any motions, affidavits, and other matters necessary to obtain and preserve judicial approval of this Settlement Agreement.

103. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original as against any Party who has signed it and all of which shall be deemed a single Settlement Agreement.

104. Each Party to this Settlement Agreement and the signatories thereto warrant that he, she, or it is acting upon his, her or its independent judgment and the advice of his, her, or its 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 warranties and representations expressly made in this Settlement Agreement.

105. Each signatory below warrants that he or she has authority to execute this Settlement Agreement and bind the Party on whose behalf he or she is executing the Settlement Agreement.

IN WITNESS WHEREOF, the Parties have hereby accepted and agreed to the Settlement Agreement.

Approved as to form and content by counsel for Plaintiffs and the Settlement Class:

By: 
Gary M. Klinger

Milberg Coleman Bryson Phillips Grossman

227 W. Monroe Street, Suite 2100

Chicago, IL 60606

Tel: 866.252.0878

gklinger@milberg.com

By: David K Lietz

David K. Lietz

Milberg Coleman Bryson Phillips Grossman

5335 Wisconsin Avenue NW, Suite 440

Washington, DC 20015

Tel: 866.252.0878

dlietz@milberg.com

By: DS Almeida

David S. Almeida

ALMEIDA LAW GROUP LLC

849 W. Webster Avenue

Chicago, Illinois 60614

Tel: 312-576-3024

david@almeidawgroup.com

Approved as to form and content by counsel for Defendant:

By: _____

Paul Karls godt

Baker & Hostetler LLP

1801 California Street, Suite 4400

Denver, Colorado, 80202

Tel: (303) 861-0600

pkarls godt@bakerlaw.com

EXHIBIT A

XXXXX00000000

Settlement Claim ID: xxxxx00000000

Current Phone Number (Optional)

*Settlement Claim ID: XXXXX _____

*Settlement Claim ID: Your Settlement Claim ID can be found on the postcard you received informing you about this Settlement. If you need additional help locating this ID, please contact the Settlement Administrator at 1###-###-####.

XXXXX00000000

Settlement Claim ID: xxxxx00000000

2. PAYMENT ELIGIBILITY INFORMATION

Please review the notice and sections ## through ## of the Settlement Agreement (available at www.<<URL>>) for more information on who is eligible for a payment.

Please provide as much information as you can to help us figure out if you are entitled to a settlement payment.

Settlement Class Members who file a valid claim will be eligible to receive an equal share of the Net Settlement Fund from Froedtert regarding the Data Incident. Settlement Class Members will receive only one payment.

I attest that I logged into a MyChart patient portal account through Froedtert’s website at least once between February 1, 2017 and May 23, 2022.

3. SIGN AND DATE YOUR CLAIM FORM

Signature

____/____/_____
Date (mm/dd/yyyy)

Print Name

Please keep a copy of your completed Claim Form for your records.

Mail your completed Claim Form to the Settlement Administrator:

c/o Kroll Settlement Administration
P.O. Box #####
New York, NY 10150-####

or submit your claim online at
www.<<URL>>

It is your responsibility to notify the Settlement Administrator of any changes to your contact information after you submit your claim. You can update your contact information on the Contact page at www.<<URL>>.

EXHIBIT B

IN THE COURT OF MILWAUKEE, WISCONSIN

KEEFE JOHN and JILLIAN CATHERINE
KING, *individually and on behalf of all others
similarly situated,*

Plaintiffs,

v.

FROEDTERT HEALTH, INC.,

Defendants.

Case No.: 2023CV001935

JUDGE:

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
FOR PERSONS WHOSE PRIVATE INFORMATION WAS ALLEGEDLY DISCLOSED
TO FACEBOOK AS A RESULT OF FROEDTERT'S USE OF THE META PIXEL ON
ITS MY CHART PORTAL BETWEEN FEBRUARY 1, 2017, AND MAY 23, 2022**

**All persons whose Private Information may have been shared in connection with the
Website Usage Disclosure.**

A state court authorized this Notice. This is not a solicitation from a lawyer.

**THIS IS A NOTICE OF A SETTLEMENT OF A CLASS ACTION LAWSUIT.
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.**

YOUR LEGAL RIGHTS ARE AFFECTED EVEN IF YOU DO NOTHING.

PLEASE READ THIS NOTICE CAREFULLY.

**YOU MAY BE ENTITLED TO PARTICIPATE IN A CLASS ACTION
SETTLEMENT BECAUSE YOUR PRIVATE INFORMATION
MAY HAVE BEEN SHARED WITH FACEBOOK BY FROEDTERT HEALTH, INC. IF
YOU ACCESSED YOUR MYCHART PORTAL ON THEIR WEBSITE BETWEEN
FEBRUARY 1, 2017 AND MAY 23, 2022.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

**SUBMIT A CLAIM BY
<<claim deadline>>**

If you submit a Claim Form by <<Claims Deadline>>, you **may** receive a pro rata share of the Settlement Fund as compensation for your injuries. You must timely submit a Claim Form either via U.S. mail or online to receive monetary compensation under this Settlement.

	IF YOU DO NOTHING , you will not receive Settlement benefits, but you will be bound by the Settlement.
EXCLUDE YOURSELF FROM THE SETTLEMENT BY <<exclusion deadline>>	You will receive no benefits, but you will retain your legal claims against the Defendant.
OBJECT BY <<objection deadline>>	Write to both the Settlement Administrator and the Clerk of Court about why you do, or do not, like the Settlement. You must remain in the Settlement Class to object to the Settlement.
GO TO A HEARING ON <<hearing date>>	Ask to speak in Court about the fairness of the Settlement.

1. What is this Notice?

This is a court-authorized Long-Form Notice of a proposed Settlement (the “Settlement”) in a Class Action lawsuit, *John, et al. v. Froedtert Health, Inc.*; Case No. 2023CV001935, pending in the Circuit Court for the County of Milwaukee, Wisconsin (the “Court”). The Settlement would resolve the Lawsuit brought on behalf of persons who allege that their information may have been impacted by the data security incident where personal information of Plaintiffs and members of the Settlement Class was allegedly disclosed to Facebook as a result of Froedtert Health, Inc.’s (“Froedtert” or “Defendant”) use of the Meta Pixel on its MyChart portal between February 1, 2017 to January 22, 2020, and on its public websites between February 1, 2017 to May 23, 2022. The Court has granted Preliminary Approval of the Settlement Agreement and has conditionally certified the Settlement Class for purposes of Settlement only. This Long-Form Notice explains the nature of the class action lawsuit, the terms of the Settlement Agreement, and the legal rights and obligations of members of the Settlement Class. Please read the instructions and explanations below carefully so that you can better understand your legal rights. The Settlement Administrator in this case is Kroll Settlement Administration LLC.

2. Why did I get a Notice?

You may have received a notice because you were identified as a person whose private information may have been shared with Facebook because you accessed your MyChart Portal on Froedtert’s website between February 1, 2017 and May 23, 2022.

3. What is this lawsuit about?

The Litigation arises out of Froedtert’s implementation and use of the Meta Pixel on Froedtert’s websites, defined below as the “Website Usage Disclosure”, during which Plaintiffs allege their

web usage data, containing personal health information, was shared to Facebook allegedly resulting in the invasion of Plaintiffs' and Settlement Class Members' privacy.

"Website Usage Disclosure" means the alleged disclosure of personal information of Plaintiffs and members of the Settlement Class to Facebook as a result of Froedtert's use of the Meta Pixel on its MyChart portal between February 1, 2017 and to January 22, 2020, and on its public websites between February 1, 2017 to May 23, 2022.

4. Why is this a class action?

A class action is a lawsuit in which an individual called a "Class Representative" brings a single lawsuit on behalf of other people who have similar claims. All of these people together are a "Settlement Class" or "Settlement Class Members." When a class action is settled, the settlement, which must be approved by the Court, resolves the issues for all Settlement Class Members, except for those who exclude themselves from the settlement.

5. Why is there a settlement?

To resolve this matter without the expense, delay, and uncertainties of protracted litigation, the Parties reached a Settlement that resolves all claims brought on behalf of the Settlement Classes related to the data security incident. If approved by the Court, the Settlement Agreement requires Froedtert to provide cash compensation to certain Settlement Class Members who submit valid and timely Claim Forms. The Settlement is not an admission of wrongdoing by Froedtert and does not imply that there has been, or would be, any finding that Froedtert violated the law.

The Court already has preliminarily approved the Settlement Agreement. Nevertheless, because the settlement of a class action determines the rights of all members of the Settlement Class, the Court overseeing this lawsuit must give final approval to the Settlement Agreement before it can be effective. The Court has conditionally certified the Settlement Class for settlement purposes only, so that members of the Settlement Class may be given notice and the opportunity to exclude themselves from the Settlement Class, and to voice their support or opposition to final approval of the Settlement Agreement. If the Court does not grant final approval to the Settlement Agreement, or if it is terminated by the Parties, then the Settlement Agreement will be void, and the lawsuit will proceed as if there had been no settlement and no certification of the Settlement Class.

6. How do I know if I am a part of the Settlement?

You are a member of the Settlement Class if you logged into a MyChart patient portal account maintained by Froedtert at least once between February 1, 2017, and May 23, 2022 ("Settlement Class").

YOUR BENEFITS UNDER THE SETTLEMENT

7. What can I get from the Settlement?

Settlement Class Members who file a valid Claim Form may receive monetary compensation of an equal share of the Net Settlement Fund. The Net Settlement Fund is the funds that remain for the \$2,000,000 Settlement Fund following the payment of Notice and Claims Administration Costs, Class Representative Service Awards, and Attorneys' Fees, Costs and Expenses Award.

*****To receive Settlement benefits, you must submit a Claim Form.**

8. When will I receive these benefits?

If you timely submit a valid Claim Form for monetary recovery, you will receive payment in the amount approved by the Settlement Administrator after processing your Claim Form, and the Settlement is Final and has become effective.

9. I want to be a part of the Settlement. What do I do?

For Claims for Cash Compensation: To submit a claim for cash compensation, you must timely submit the Claim Form on the Settlement Website at <<www.URL>> or by mail to John v.Froedtert Health, Inc., c/o Kroll Settlement Administration, PO BOX XXXXX, New York, NY 10150-####.

You must submit any claims by XXXX. There can be only one valid and timely claim per Settlement Class Member.

12. What am I giving up if I remain in the Settlement?

By staying in the Settlement Class, all the Court's orders will apply to you and will bind you, and you give Defendant a "release." A release means you cannot sue or be part of any other lawsuit or other legal action against Defendant about or arising from the claims or issues in this lawsuit with respect to the alleged sharing of your information stored in Defendant's system prior to May 23, 2022.

The precise terms of the release are in the Settlement Agreement, which is available on the Settlement Website. Unless you formally exclude yourself from this Settlement, you will release your claims.

If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Class, or you are welcome to talk to any other lawyer of your choosing at your own expense.

The precise terms of the release are in the Settlement Agreement, which is available on the Settlement Website. Unless you formally exclude yourself from this Settlement, you will release your claims. If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Class and Settlement Subclass or you are welcome to talk to any other lawyer of your choosing at your own expense.

13. How much will the Class Representative receive?

The Class Representative will seek a payment of \$3,500 each to Keefe John and Jillian Catherine Klug for their services to the Settlement Class. This payment is subject to the Court's Approval and will be paid from the Settlement Fund.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to remain in the Settlement, but you want to keep your legal claims against Defendant, then you must take steps to exclude yourself from this Settlement.

14. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail stating that you want to be excluded from *John, et al. v. Froedtert Health, Inc.*; Case No. XXXXX (, Wisconsin) to the Settlement Administrator. Such notice shall state: (1) your full name and address; (2) the case name and docket number; (3) a written statement that you wish to be excluded from the Settlement; and (4) your signature. You must mail your exclusion request so that it is postmarked **no later than <<date>>**, to:

John v. Froedtert Health, Inc.
c/o Kroll Settlement Administration
PO BOX XXXXX
New York, NY 10150-####

15. If I exclude myself, do I still receive benefits from this Settlement?

No, if you submit an opt-out notice, you will not receive anything resulting from the Settlement, but you may sue Defendant over the claims raised in this case, either on your own or as a part of a different lawsuit. If you exclude yourself, the time you have in which to file your own lawsuit (called the "statute of limitations") will begin to run again. You will have the same amount of time to file the suit that you had when this case was filed. If you file an objection, you may still receive benefits if you timely file a claim.

THE LAWYERS REPRESENTING THE CLASS

16. Do I have a lawyer in this case?

The Court has appointed three attorneys to represent the Settlement Class as Class Counsel:

Gary M. Klinger
**Milberg Coleman Bryson
Phillips Grossman, PLLS**
227 W. Monroe Street, Suite 2100
Chicago, IL 60606
Phone: (866) 252-0878
Fax: (865) 522-0049
gklinger@milberg.com

David K. Lietz
**Milberg Coleman Bryson
Phillips Grossman, PLLS**
5335 Wisconsin Avenue NW
Suite 440 Washington, D.C. 20015
Phone: (866) 252-0878
dlietz@milberg.com

David S. Almeida
Almeida Law Group LLC
849 W. Webster Avenue
Chicago, Illinois 60614
Phone: 312-576-3024
david@almeidalawgroup.com

These attorneys will be paid using funds from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

Class Counsel will request to be paid reasonable attorneys' fees up to 35% of the Settlement Fund plus their expenses incurred in the litigation, subject to Court approval. The motion for attorneys' fees and expenses will be posted on the Settlement Website after it is filed.

OBJECTING TO THE SETTLEMENT

18. How do I tell the Court that I do not like the Settlement?

Page 5 of 8
QUESTIONS? VISIT [WWW. <<URL>>](http://WWW.<<URL>>)

You can tell the Court that you do not agree with the Settlement or some part of it. If you are a Settlement Class Member, you can object to the Settlement and the Court will consider your views. In order to object to the Settlement, you must provide a written objection (such as a letter or legal brief) stating that you object and the reasons why you think the Court should not approve the Settlement. Your objection should include: (1) the objector's full name, telephone number, email address and address; (2) proof of being a member of the Settlement Class; (3) the case name and docket number, *John, et al. v. Froedtert Health, Inc.*; Case No. 2023CV001935; (4) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (5) the identification of any other objections he/she has filed, or has had filed on his/her behalf, in any other class action cases in the last four years; (6) whether the objector intends to appear at the Final Approval Hearing, and (7) the objector's signature.

If represented by counsel, the objecting Settlement Class Member must also provide the name and telephone number of his/her counsel. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he/she must state as such in the written objection, and must also identify any witnesses he/she may call to testify at the Final Approval Hearing and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, the written objection.

To be timely, written notice of an objection in the appropriate form must be filed with the Court no later than the Objection Deadline, and served on Class Counsel and Defendant's Counsel as noted below:

<<Court Address>

Gary M. Klinger
Milberg Coleman Bryson Phillips Grossman
227 W. Monroe Street, Suite 2100
Chicago, Illinois 60606
Tel: 866.252.0878

David S. Almeida
Almeida Law Group LLC
849 W. Webster Avenue
Chicago, Illinois 60614
Tel: 312.576.3024

Paul Karlsgodt
Baker & Hostetler LLP
1801 California Street, Ste. 4400
Denver, CO 80202

THE FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement. You may attend if you wish, but you are not required to do so.

19. Where and when is the Final Approval Hearing?

The Court has already given Preliminary Approval to the Settlement Agreement. A final hearing on the Settlement, called a Final Approval Hearing, will be held to determine the fairness of the Settlement Agreement.

The Court will hold a hearing on <<**date and time with time zone**>>. in the courtroom of the Honorable <<Judge>>, <Courtroom>>, which is located at <<court address>>. The purpose of the hearing will be for the Court to determine whether the proposed Settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class and to determine the appropriate amount of compensation for Class Counsel and rule on the request for a Service Award for the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed Settlement. After the hearing, the Court will decide whether to approve the Settlement.

YOU ARE **NOT** REQUIRED TO ATTEND THE FINAL APPROVAL HEARING TO RECIEVE BENEFITS FROM THIS SETTLEMENT. Please be aware that the hearing may be postponed to a later date without notice.

GETTING MORE INFORMATION – CONTACT:

This notice only provides a summary of the proposed Settlement. Complete details about the Settlement can be found in the Settlement Agreement available on the Settlement Website.

www.<<URL>>

If you have any questions, you can contact the Settlement Administrator or Class Counsel at the numbers or email addresses set forth above. In addition to the documents available on the Settlement Website, all pleadings and documents filed in this lawsuit may be reviewed or copied at the Clerk of Court's office.

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR TO THE JUDGE.

They are not permitted to answer your questions.
All questions about the Settlement shall be referred to
the Settlement Administrator and/or Class Counsel.

EXHIBIT C

**A proposed Settlement has been reached in a class action lawsuit
known as *John et al. v. Froedtert Health, Inc.* Case No.: 52023CV001935,
("Lawsuit"), filed in the Circuit Court for the County of Milwaukee, Wisconsin.**

What is this about? The Litigation arises out of Froedtert's implementation and use of the Meta Pixel on Froedtert's websites, defined below as the "Website Usage Disclosure", during which Plaintiffs allege their web usage data, containing personal health information, was shared to Facebook allegedly resulting in the invasion of Plaintiffs' and Settlement Class Members' privacy.

"Website Usage Disclosure" means the alleged disclosure of personal information of Plaintiffs and members of the Settlement Class to Facebook as a result of Froedtert's use of the Meta Pixel on its MyChart portal between February 1, 2017 and to January 22, 2020, and on its public websites between February 1, 2017 to May 23, 2022.

Who is a Settlement Class Member? You are a Settlement Class Member if you accessed your MyChart Portal on Froedtert's website between February 1, 2017 and May 23, 2022.

What are the benefits? Settlement Class Members who file a valid Claim Form may receive monetary compensation of an equal share of the Net Settlement Fund. The Net Settlement Fund is the funds that remain for the \$2,000,000 Settlement Fund following the payment of Notice and Claims Administration Costs, Class Representative Service Awards, and Attorneys' Fees, Costs and Expenses Award.

You must file a claim by mail postmarked by [INSERT DATE] or online at [INSERT WEBSITE] by [INSERT DATE] to receive benefits from the Settlement.

What are my other rights?

- **Do Nothing:** If you do nothing, you remain in the Settlement. You give up your rights to sue but you will not get any money; you must submit a claim to get money.
- **Exclude yourself:** You can get out of the Settlement and keep your right to sue about the claims in this Lawsuit, but you will not get any money from the Settlement. You must exclude yourself by [INSERT DATE].
- **Object:** You can stay in the Settlement, but tell the Court why you think the Settlement should not be approved. Objections must be submitted by [INSERT DATE]. Detailed instructions on how to file a claim, get additional credit monitoring, exclude yourself, or object are on the Settlement Website at [INSERT WEBSITE]. The Court will hold the Final Fairness Hearing at [INSERT] to consider whether the proposed Settlement is fair, reasonable, and adequate, to consider an award of combined attorneys' fees, costs, and expenses of 35% of the Settlement Fund and request a Class Representative service award of \$3,500 each to Representative Plaintiffs Keefe John and Jillian Katherine Klug and to consider whether and if the Settlement should be approved. You may attend the hearing, but you don't have to. This is only a summary. For additional information, including a copy of the Settlement Agreement, Long Form Notice, Claim Form, Class Counsel's Application for Attorneys' Fees and Expenses, and other documents, visit [INSERT WEBSITE] or call [INSERT PHONE #].

EXHIBIT D

**CIRCUIT COURT FOR THE COUNTY OF MILWAUKEE
STATE OF WISCONSIN**

KEEFE JOHN AND JILLIAN CATHERINE
KLUG, individually and on behalf of all others
similarly situated,

Plaintiff,

v.

FROEDTERT HEALTH, INC.,

Defendant.

Case No.: 22023CV001935

**[PROPOSED] ORDER GRANTING UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT AGREEMENT**

This matter came before the Court on Plaintiff Keefe John’s and Jillian Catherine Klug’s (“Plaintiffs” or “Class Representatives”) Unopposed Motion for Preliminary Approval of Class Settlement Agreement (“Motion”). Plaintiffs, individually, and on behalf of the proposed Settlement Class, and Defendant Froedtert Health, Inc. (“Froedtert,” and together with Plaintiff, the “Parties”) have entered into a Settlement Agreement (the “Settlement Agreement”) that settles the above-captioned litigation.

This matter concerns a putative class action, *John, et al. v. Froedtert Health, Inc.*, Milwaukee County Circuit Court Case No. 2023CV001935, which arises out of out of Froedtert’s use of the Meta Pixel on its MyChart portal between February 1, 2017 to January 22, 2020, and on its public websites between February 1, 2017 to May 23, 2022 (the “Website Usage Disclosure”) during which Plaintiffs allege their web usage data, containing personal health information, was shared to Facebook allegedly resulting in the invasion of Plaintiffs’ and Settlement Class

Members' privacy.

The Parties, through their counsel, have entered into a Settlement Agreement following good faith, arm's-length negotiations and a mediation overseen by Hon. Stuart E. Palmer (Ret.). The Parties have agreed to settle the Lawsuit, pursuant to the terms of the Settlement Agreement, and subject to the approval and determination of the Court as to the fairness, reasonableness, and adequacy of the Settlement which, if approved, will result in dismissal of the Lawsuit with prejudice.

Having reviewed the Settlement Agreement, including the exhibits attached thereto, and all prior proceedings herein, and for good cause shown, it is hereby ordered that Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement is **GRANTED** as set forth herein.¹

1. **Class Certification for Settlement Purposes Only.** For settlement purposes only and pursuant to Wisc. Stat. Ann. Sec. 803.08 the Court conditionally certifies the Settlement Class in this matter defined as follows:

all persons who logged into a MyChart patient portal account at least once between February 1, 2017 and May 23, 2022.

Excluded from the Settlement Class are:

Froedtert and its affiliates, parents, subsidiaries, officers, and directors, as well as the judge(s) presiding over this matter and the clerks of said judge(s). The exclusion does not apply, and should not be read to apply, to those employees of Froedtert and its Related Entities who received notification regarding the Website Usage Disclosure.

The Court conditionally finds, for settlement purposes only, that: (1) the Settlement Class is so numerous that joinder of all members is impracticable, (2) there are questions of law or facts

¹ Unless otherwise indicated, capitalized terms used in this [Proposed] Preliminary Approval Order Granting Unopposed Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order") have the same meaning as in the Settlement Agreement.

common to the Settlement Class, (3) the claims or defenses of the Class Representative are typical of the claims or defenses of the Settlement Class, (4) the Class Representative and Settlement Class Counsel will fairly and adequately assert and protect the interests of the Settlement Class under the criteria set forth in Wisc. Stat. Ann. Sec. 803.08, and (5) a class action provides a fair and efficient method of adjudication of the controversy.

2. **Class Representatives and Settlement Class Counsel.**

Keefe John and Jillian Catherine Klug are hereby designated and appointed as the Class Representatives. The Court provisionally finds that the Class Representatives are similarly situated to absent Settlement Class Members and therefore typical of the Class and that they will be adequate Class Representatives.

The Court finds that the following counsel is experienced and adequate counsel and is hereby provisionally designated as Settlement Class Counsel: Gary M. Klinger and David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC, and David S. Almeida of Almeida Law Group, LLC.

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court concludes and finds that the proposed Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Classes to warrant providing Notice of the Settlement to the Settlement Class and accordingly the proposed Settlement is preliminarily approved.

4. **Jurisdiction.** The Court concludes that it has subject matter jurisdiction and personal jurisdiction over the Parties before it for the purposes of the Settlement. Additionally, venue is proper in this Court.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on _____, 2023 at _____ o'clock [a.m./p.m.] in the Circuit Court for the

County of Milwaukee, Wisconsin, Courtroom _____, to determine, among other things, whether:

(a) this matter should be finally certified as a class action pursuant to Wisc. Stat. Ann. Sec. 803.08; (b) the Settlement Agreement between the Parties should be finally approved; (c) the Settlement and Settlement Agreement should be finally approved as fair, reasonable, adequate, and in the best interests of the Settlement Class; (d) the action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (e) Settlement Class Members (except those who have timely and valid requests for exclusion from the Settlement) should be bound by the releases set forth in the Settlement Agreement; (f) Plaintiff's Motion for Attorneys' Fees, Costs, Expenses, and Service Awards should be granted; (g) Gary M. Klinger and David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC and David S. Almeida of the Almeida Law Group, LLC should be finally appointed as Settlement Class Counsel; and (h) Keefe John and Jillian Catherine Klug should be finally appointed as Class Representatives.

Plaintiffs' Motion for Final Approval of the Class Action Settlement shall be filed with the Court at least **fourteen (14) Days prior to the date of the Final Approval Hearing**, and Plaintiffs' Motion for Attorneys' Fees, Costs, Expenses, and Service Award to Class Representative shall be filed with the Court at least **fourteen (14) Days prior to the deadline for Settlement Class Members to opt-out of or object to the Settlement**.

6. **Administration.** The Court appoints Kroll Settlement Administration, LLC as the Settlement Administrator, with responsibility for the Notice Program and Claims Administration and to fulfill the duties of the Settlement Administrator set forth in the Settlement Agreement. The Notice and Claims Administration Costs, including, but not limited to, the Settlement Administrator's fees, as well as the costs associated with the provision of notice to the Settlement Class Members and administration of the Settlement, shall be paid from the Settlement Fund.

7. **Notice to the Class.** The proposed Notice Program set forth in the Settlement Agreement, including the Long Notice and the Short Form Notice, which are attached to the Settlement Agreement as **Exhibits B-C**, respectively constitute reasonable notice of the commencement of the action, provide a fair recital of the subject matter and proposed terms of the Settlement, provide Settlement Class Members with details regarding how to request exclusion from or to object to the Settlement Agreement, and are hereby approved. Non-material modifications to these exhibits may be made without further order of the Court. The Settlement Administrator and Froedtert are directed to carry out the Notice Program in conformance with the Settlement Agreement.

Within **thirty (30) Days of the entry of this Preliminary Approval Order** (the “Notice Deadline”), the Settlement Administrator shall send the Short Notice to all Settlement Class Members whose addresses are known to Froedtert by first-class U.S. mail.

8. **Findings and Conclusions Concerning Notice.** The Court finds that the form, content, and method of giving notice to the Settlement Class as described in this Preliminary Approval Order and the Settlement Agreement (including the exhibits thereto) constitutes reasonable notice of the commencement of the action to the Settlement Class. Specifically, the Notices (both Short Form and Long Form in **Exhibits B and C**) themselves are clear and straightforward. They define the Settlement Class; clearly describe the options available to class members and the deadlines for taking action; describe the essential terms of the Settlement, including a description of the subject matter and the proposed terms of the Settlement, including a summary of the monetary or other benefits the class would receive; disclose the requested Service Award for the Class Representative, as well as the amount that Settlement Class Counsel intends to seek in fees, costs, and expenses; describe procedures for making claims, objections, and

requesting exclusion; provide information that will enable Settlement Class Members to calculate their individual recovery; describe the date, time, and place of the Final Fairness Hearing; and prominently display the address and phone number of Settlement Class Counsel and the Settlement Administrator for Settlement Class Members to make further inquiry about the Settlement. Finally, direct mailing, combined with publishing on the Settlement Website, is designed to be the best reasonable notice of the commencement of the action to reach the Settlement Class Members under the circumstances. The Court concludes that the Notice Program meets all applicable requirements of law and constitutes Due Process under the U.S. and Wisconsin Constitutions.

9. **Exclusion from Class.** Any Settlement Class Member who wishes to be excluded from the Settlement Class must personally sign, and timely submit, complete, and mail a request for exclusion (“Opt-Out Request”) to the Settlement Administrator at the address in the Notice. To be effective, an Opt-Out Request must clearly manifest the Settlement Class Member’s intent to be excluded from the Settlement Class, and be postmarked *no later than the final date of the Opt-Out Period, which is the sixty (60)-Day period beginning upon the Notice Deadline.*

All Settlement Class Members who submit timely, valid Opt-Out Requests, shall receive no benefits or compensation under the Settlement Agreement, shall gain no rights from the Settlement Agreement, shall not be bound by the Settlement Agreement, and shall have no right to object to the Settlement or proposed Settlement Agreement or to participate at the Final Approval Hearing. An Opt-Out Request or other request for exclusion that does not fully comply with the requirements for requesting exclusion from the Settlement Class or that is not timely submitted or postmarked, or that is sent to an address other than that set forth in the Notice, will be invalid, and the person submitting such request will be treated as a Settlement Class Member

and will be bound by the Settlement Agreement, including the Release contained therein, and any judgment entered thereon.

Within fourteen (14) Days after the last Day of the Opt-Out Period, the Settlement Administrator shall furnish to Settlement Class Counsel and to Froedtert Counsel a complete list of all timely and valid Opt-Out Requests (the “Opt-Out List”).

10. **Objections.** A Settlement Class Member who complies with the requirements of this Paragraph may object to the Settlement and to Plaintiffs’ Motion for Attorneys’ Fees, Costs, and Service Award for the Class Representative.

No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court, unless the objection is: (a) filed with the Clerk of Court ***by the Objection Deadline, which is no later than sixty (60) Days after the Notice Deadline***, as set forth in the Settlement Agreement and as specified in the Notice; and (b) mailed to Settlement Class Counsel and Froedtert’s Counsel at the addresses listed in the Notice, and postmarked by no later than the Objection Deadline.

Each Objection must (i) set forth the Settlement Class Member’s full name, current address, telephone number, and email address; (ii) contain the Settlement Class Member’s original signature; (iii) contain proof that the Settlement Class Member is a member of the Settlement Class (e.g., copy of settlement notice, copy of original notice of the Website Usage Disclosure); (iv) state that the Settlement Class Member objects to the Settlement, in whole or in part; (v) set forth a statement of the legal and factual basis for the Objection; (vi) provide copies of any documents that the Settlement Class Member wishes to submit in support of his/her position; (vii) identify all counsel representing the Settlement Class Member, if any; (viii) contain the signature of the Settlement Class Member’s duly authorized attorney or other duly authorized representative, along

with documentation setting forth such representation; and (ix) contain a list, including case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement in the past three (3) years.

Any Settlement Class Member who fails to comply in full with the requirements for objecting in the Settlement Agreement, the Notice, and any Court orders will forever waive and forfeit any and all rights he or she may have to raise any objection to the Settlement Agreement, will not be permitted to object to the approval of the Settlement at the Final Approval Hearing, will be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by appeal or other means, and will be bound by the Settlement Agreement and by all proceedings, orders, and judgments in the Lawsuit.

11. **Claims Process and Settlement Administration.** Class Representative and Froedtert have created a process for assessing and determining the validity of claims and a payment methodology to Settlement Class Members who submit a timely, valid Claim Form. The Court preliminarily approves the plan for remuneration described in the Settlement Agreement and directs that the Settlement Administrator effectuate the distribution of Settlement consideration according to the terms of the Settlement Agreement, should the Settlement be finally approved.

Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Notice and the Claim Form. If the Final Order and Judgment is entered, all Settlement Class Members who qualify for any benefit under the Settlement, but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and the Claim Form, shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Settlement Agreement, the Release included in that Settlement Agreement, and the Final Order

and Judgment.

12. **Termination of Settlement.** This Preliminary Approval Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing as of the date of the execution of the Settlement Agreement, if the Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Preliminary Approval Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

13. **Use of Order.** This Preliminary Approval Order shall be of no force or effect if a Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Froedtert of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this Preliminary Approval Order be construed or used as an admission, concession, or declaration by or against the Class Representative or any other Settlement Class Member that his or her claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this Lawsuit or in any other lawsuit.

14. **Stay of Proceedings.** Except as necessary to effectuate this Preliminary Approval Order, all proceedings and deadlines in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Order and Judgment, or until such further order of this Court. Further, any actions brought by Settlement Class Members concerning the Released Claims are hereby enjoined and stayed pending the Final Approval Hearing and issuance of the Final Order and Judgment, or until such further order of this Court.

15. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website maintained by the Settlement Administrator.

16. **Summary of Deadlines.** The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Preliminary Approval Order include, but are not limited to:

EVENT	DATE
Notice Deadline	30 Days after Preliminary Approval
Deadline for Plaintiff to File Motion for Attorneys' Fees, Costs, Expenses, and Service Award	14 Days Prior to Opt-Out and Objection Deadlines
Deadline for Settlement Class Members to Opt-Out of or Object to Settlement Agreement	60 Days after Notice Deadline
Deadline for Class Members to Submit Claim Forms (Electronically or Postmarked by Mail)	90 Days after Notice Deadline
Deadline for Plaintiffs to File Motion for Final Approval of Settlement	14 Days Prior to Final Approval Hearing
Final Approval Hearing	Not less than 120 days after Preliminary Approval (COURT TO FILL IN DATE) _____, 2023

IT IS SO ORDERED this ____ day of _____, 2023..

EXCLUSION FORM

XXXX00000000

XXXXX00000000

**Keefe JOHN and JILLIAN CATHERINE KLUG v. FROEDTERT HEALTH, INC.,
CASE NO. 2023CV001935**

**Class Action Settlement
Exclusion Form**

COMPLETE THIS FORM IF YOU WISH TO EXCLUDE YOURSELF FROM THE SETTLEMENT.

DEADLINE: The exclusion form must be postmarked on or before **XX-XX-XX**. You may submit this form online or mail the form to:

John, et al. v. Froedtert Health, Inc.
c/o Kroll Settlement Administration – Request for Exclusion
P.O. Box #####
New York, NY 10150-####

By completing this form, you are opting out and excluding yourself from this Settlement. You will retain your right to sue Froedtert Health, Inc. for the claims involved in this Settlement. However, you will not be able to file a claim, object, or receive money or benefits from this Settlement.

Instructions: Fill out each section of this form and sign where indicated. You must fill out each section that is marked with an asterisk.

Name *:		
<i>First Name*</i> _____	<i>M.I.</i> _____	<i>Last Name *</i> _____
Street Address *: _____		
City *: _____		
State *: _____	Zip Code *: _____	
Email Address: _____ @ _____ . _____		
Optional -- Phone Number*: (_____) _____ - _____		

By signing this Exclusion Request Form, I hereby opt out of this Settlement and understand that I will have no right to receive any money or benefits under the Settlement in this case, and I will have no right to object to the Settlement and be heard at the Final Approval Hearing.

SIGNATURE *: _____	PRINTED NAME *: _____
DATED *: ____ / ____ / _____	

