

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement (“Settlement Agreement” or “Agreement”), dated as of August 25, 2022, is made and entered into by and among Plaintiffs Travis James, Stefanie Sheehan, Kimberly Gamboa, and Korey Williams, individually and on behalf of the Settlement Class, and Defendants DAVACO, Inc., and DAVACO LP, by and through their respective counsel.

RECITALS

WHEREAS, on September 29, 2021, Plaintiff Travis James filed a class action complaint in the United States District Court for the Northern District of Texas (the “Court”) entitled *James v. DAVACO, Inc.*, Case No. 3:21-cv-02318 (ECF No. 1) (the “Action” or “Litigation”);

WHEREAS, on December 7, 2021, the Court consolidated the related case, *Chacon v. DAVACO, Inc.*, Case No. 3:21-cv-02786, with and into the *James* Action (ECF No. 15);

WHEREAS, on January 10, 2022, Plaintiffs Travis James, Stefanie Sheehan, Kimberly Gamboa, and Korey Williams filed a consolidated class action complaint (“CAC”) with this Court (ECF No. 23);

WHEREAS, the CAC asserts claims against Defendants for: (1) Negligence; (2) Invasion of Privacy; (3) Breach of Implied Contract; (4) Unjust Enrichment; (5) Breach of Fiduciary Duty; (6) Breach of Confidence; (7) violations of the California Consumer Privacy Act, Cal. Civ. Code § 1798.150, *et seq.*; (8) violations of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*; and (9) for Declaratory and Injunctive Relief, arising from the Security Incident, as such term is defined below;

WHEREAS, Defendants have denied and continue to deny (a) each and every allegation and all charges of wrongdoing or liability of any kind whatsoever asserted or which could have been asserted in this Litigation, (b) that the Representative Plaintiffs in the Action and the class they purport to represent have suffered any damage, and (c) that the Action satisfies the requirements to be tried as a class action under Federal Rule of Civil Procedure 23. Without acknowledging any fault or liability on the part of the Defendants, the Settling Parties have agreed to enter into this Agreement as an appropriate compromise of Representative Plaintiffs and Settlement Class Members’ claims to

put to rest all controversy and to avoid the uncertainty, risk, and/or expense of burdensome, protracted, and costly litigation that would be involved in prosecuting and defending this Action. This agreement is for settlement purposes only, and nothing in this agreement shall constitute, be construed as, or be admissible in evidence as any admission of the validity of any claim or any fact alleged by Representative Plaintiffs in this Action or in any other pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Defendants or admission by any of the parties of the validity or lack thereof of any claim, allegation, or defense asserted in this Litigation or in any other action;

WHEREAS, the Settling Parties exchanged informal discovery regarding the Security Incident, the Representative Plaintiffs' claims and Defendants' defenses; and participated in good faith, arms-length settlement discussions during a day-long mediation with Christopher Nolland, Esq. via videoconference on April 7, 2022, and during several hours of follow up mediation sessions with Mr. Nolland on April 12, 2022, April 13, 2022, and April 18, 2022, through which basic terms of a settlement were negotiated and agreed upon;

WHEREAS, Class Counsel conducted a thorough examination and evaluation of the relevant law and facts to assess the merits of the claims to be resolved in this Agreement and how best to serve the interests of the putative class in the Litigation. Based on this investigation and the negotiations described above, Class Counsel have concluded, taking into account the sharply contested issues involved, the risks, uncertainty and cost of further prosecution of this Litigation, and the benefits to be received by the Settlement Class pursuant to this Agreement, that a settlement with Defendants on the terms set forth in this Agreement is fair, reasonable, adequate and in the best interests of the putative class;

WHEREAS, this Settlement Agreement is intended to fully, finally and forever resolve all claims and causes of action asserted, or that could have been asserted based upon the facts alleged in the CAC, against Defendants and the Released Persons, by and on behalf of the Representative Plaintiffs and Settlement Class Members, and any other such actions by and on behalf of any other consumers and putative classes of consumers originating, or that may originate, in jurisdictions in the United States, relating to the Security Incident.

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NOW, THEREFORE, IT IS HEREBY AGREED, by and between the Representative Plaintiffs, Class Counsel, and Defendants, that, subject to the approval of the Court as provided for in this Settlement Agreement, the Litigation and Released Claims (including Unknown Claims) shall be fully and finally settled, compromised and released, and the Litigation shall be dismissed with prejudice, on the following terms and conditions:

I. DEFINITIONS

As used in this Agreement, the following terms have the meanings specified below:

- 1.1 “Agreement” or “Settlement Agreement” means this agreement.
- 1.2 “Approved Claims” means valid Settlement Claims in an amount approved by the Claims Administrator or found to be valid through the Dispute Resolution Process, as set forth in this Agreement.
- 1.3 “Attorneys’ Fees and Expenses Award” means the amount awarded by the Court to be paid to Class Counsel from the Settlement Fund, such amount to be in full and complete satisfaction of Class Counsel’s claim or request (and any request made by any other attorneys) for payment of attorneys’ fees, costs, and litigation expenses in connection with this Litigation.
- 1.4 “Award” means the amount remitted by the Claims Administrator out of the Settlement Fund to Settlement Class Members who submit Approved Claims, as provided in Sections II and VII of this Agreement.
- 1.5 “Claim Form” means the claim form attached hereto as Exhibit A, or a claim form approved by the Court that is substantially similar to Exhibit A.
- 1.6 “Claims Administration” means the processing of Settlement Claims received from Settlement Class Members and the processing of payments of Approved Claims by the Claims Administrator.
- 1.7 “Claims Administrator” means Angeion Group or such other company experienced in administering class action claims generally and specifically those of the type provided for in this Action, as may be jointly agreed upon by the Settling Parties and approved by the Court.
- 1.8 “Claims Deadline” means the deadline by which Settlement Class Members must submit any valid Settlement Claims. The Claims Deadline shall be set by the Court in the Preliminary

Approval Order. The Settling Parties propose a Claims Deadline that is the 120th day after the entry of the Preliminary Approval Order.

1.9 “Claims Period” means the time for Settlement Class Members to submit Settlement Claims, running from the date of entry of the Preliminary Approval Order through the Claims Deadline.

1.10- “Class Counsel” means Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz LLP (“Wolf Haldenstein”); M. Anderson Berry of Clayco C. Arnold, A Professional Law Corp. (“The Arnold Law Firm”); Gayle M. Blatt of Casey Gerry Schenk Francavilla Blatt & Penfield, LLP (“Casey Gerry”); and Joshua B. Swigart of Swigart Law Group, A Professional Corp. (“Swigart”).

1.11 “Class Notice” means the notice of this settlement that is contemplated by this Agreement, and which shall include the Long Notice, Summary Notice and Postcard Notice, substantially in the forms attached hereto as Exhibits B, E and F, respectively.

1.13 “Defendants” means DAVACO, Inc. and DAVACO LP.

1.14 “Dispute Resolution Process” means the process for resolving disputed Settlement Claims as set forth in ¶ 7.2 of this Agreement.

1.15 “Effective Date” means the date on which the Final Approval Order in the Action becomes “Final.” “Final” means: one (1) business day after all of the following conditions have been satisfied: (a) Class Counsel and Defendants execute this Agreement; (b) the Court enters the Preliminary Approval Order; (c) the Final Approval Order has been entered; and (d)(i) if reconsideration and/or appellate review is not sought from the Final Approval Order, the expiration of the time for the filing or noticing of any motion for reconsideration, appeal, petition, and/or writ; or (d)(ii) if reconsideration and/or appellate review is sought from the Final Approval Order: (A) the date on which the Final Approval Order is affirmed without material change and is no longer subject to judicial review, or (B) the date on which the motion for reconsideration, appeal, petition, or writ is dismissed or denied and the Final Approval Order is no longer subject to judicial review.

1.16 “Final Approval Hearing” means the final hearing to be conducted by the Court in connection with the determination of the fairness, adequacy, and reasonableness of this Agreement and the proposed settlement of the Litigation.

1.17 “Final Approval Order” means the Court’s Final Approval Order and Judgment, substantially in the form attached hereto as Exhibit C, which, among other things, approves this Agreement and the settlement as fair, adequate, and reasonable and confirms the final certification of the Settlement Class.

1.18 “Objection Deadline” means 75 days after the date of entry of the Preliminary Approval Order.

1.19 “Opt Out” means a Settlement Class Member (i) who timely submits a properly completed and executed Request for Exclusion, and (ii) who does not rescind that Request for Exclusion before the end of the Opt Out Period, and (iii) as to which there is not a successful challenge to the Request for Exclusion.

1.20 “Opt Out Date” means the date by which Settlement Class Members must mail or submit online through the settlement website their Request for Exclusion in order for it to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes. The Opt Out Date shall be 75 days after the date of entry of the Preliminary Approval Order.

1.21 “Opt Out Period” means the period commencing on the date of entry of the Preliminary Approval Order and ending on the Opt Out Date, during which Settlement Class Members may submit a timely Request for Exclusion.

1.22 “Out of Pocket Expenses” means the following types of expenses actually incurred that are fairly traceable to the Security Incident: (a) unreimbursed payment card fees or unreimbursed bank fees, including unreimbursed card reissuance fees, unreimbursed overdraft fees, unreimbursed charges related to unavailability of funds, unreimbursed late fees, unreimbursed over-limit fees and unreimbursed fees relating to an account being frozen or otherwise unavailable due to the Security Incident; (b) cell, internet or text charges; (c) unreimbursed costs or charges for obtaining credit reports, credit freezes, or credit monitoring or identity theft protection services (up to two years of coverage) incurred on or after June 11, 2021 through the date of the Settlement Class Member’s claim submission during the Claims Period; (d) other unreimbursed costs associated with fraud or identity theft, including attorneys’ fees and accountant fees; and (e) postage costs.

1.23 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.

1.24 “Personal Information” means information that is or could be used, whether on its own or in combination with other information, to identify, locate, or contact a person, and further includes names, Social Security numbers, driver’s license numbers, and government issued identification numbers. The term “Personal Information” is not intended here, nor should be viewed as, having any bearing on the meaning of this term or similar terms in any statute or other source of law beyond this Agreement.

1.25 “Preliminary Approval Order” means the Court’s order granting, among other things, conditional certification of the Settlement Class, preliminary approval of this Agreement and the settlement, and approval of the form and method of Class Notice, substantially in the form attached hereto as Exhibit D.

1.26 “Released Claims” means any and all claims, including but not limited to any claim, liability, right, demand, suit, matter, obligation, damage, including consequential damages, losses or costs, liquidated damages, statutory damages, punitive damages, attorneys’ fees and costs, actions or causes of action of every kind and description, whether in law, in equity, for administrative or declaratory relief, or otherwise, whether known or unknown (including Unknown Claims), suspected or unsuspected, asserted or unasserted, disclosed or undisclosed, liquidated or unliquidated, that the Settlement Class Members had, have, or may have against Defendants and/or the Released Persons that result from, arise out of, are based upon, or relate to the Security Incident and/or the facts or circumstances described in the Litigation and/or CAC, including, but not limited to, any claims, actions, causes of action (including under state consumer protection and privacy statutes, including without limitation those in California), demands, damages, penalties, losses, or remedies relating to, based upon, resulting from, or arising out of (1) the theft, exposure or disclosure of Settlement Class Members’ Personal Information; (2) the maintenance and storage of Settlement Class Members’

Personal Information; (3) the Defendants' information security policies and practices; and/or (4) Defendants' notice of the Security Incident to Settlement Class members. "Released Claims" does not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Agreement and shall not include any claims of Settlement Class Members who have timely excluded themselves from the Settlement Class. "Released Claims" also does not include claims for physical bodily injuries attributable to the Security Incident.

1.27 "Released Persons" means Defendants and their past or present owners, parents, subsidiaries, divisions, and related or affiliated entities of any nature whatsoever, whether direct or indirect, as well as each of Defendants' and these entities' respective predecessors, successors, directors, officers, shareholders, managers, employees, servants, representatives, principals, agents, advisors, consultants, vendors, partners, contractors, attorneys, insurers, reinsurers, subrogees, and includes, but is not limited to, any Person related to any such entity who is, was or could have been named as a defendant in the Litigation, other than any third-party Person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Security Incident or who pleads nolo contendere to any such charge.

1.28 "Representative Plaintiffs" means Travis James, Stefanie Sheehan, Kimberly Gamboa, and Korey Williams.

1.29 "Request for Exclusion" means a fully completed and properly executed written request that is timely delivered to the Claims Administrator by a Settlement Class Member under Section V of this Agreement and is postmarked on or before the end of the Opt Out Period. For a Request for Exclusion to be properly completed and executed, it must: (a) state the Settlement Class Member's full name, address and telephone number; (b) contain the Settlement Class Member's personal and original signature or the original signature of a person authorized by law to act on the Settlement Class Member's behalf with respect to a claim or right such as those asserted in the Litigation, such as a trustee, guardian or person acting under a power of attorney; and (c) state unequivocally the Settlement Class Member's intent to be excluded from the settlement. All Requests

for Exclusion must be submitted individually in connection with a Settlement Class Member, *i.e.*, one request is required for every Settlement Class Member seeking exclusion.

1.30 “Security Incident” means the data security incident whereby a third party or parties gained unauthorized access to Defendants’ computer systems on or about June 11, 2021, which may have affected Defendants’ past and current employees’ Personal Information.

1.31 “Service Award” means such funds as may be awarded by the Court to the Representative Plaintiffs in recognition of their time, effort, and service to the Settlement Class, expended in pursuing the Action and in fulfilling their obligations and responsibilities as the Representative Plaintiffs.

1.32 “Settlement Claim” means a claim for settlement benefits made under the terms of this Agreement.

1.33 “Settlement Class” means all individuals identified by Defendants and to whom Defendants sent notice on or about July 2, 2021 that their information may have been impacted in the Security Incident. “California Subclass” means all individuals in the Settlement Class who resided in California on June 11, 2021.

1.34 “Settlement Class Member(s)” means a member(s) of the Settlement Class. “California Subclass Member(s)” means a member(s) of the California Subclass. The approximate number of Settlement Class Members is 14,193.

1.35 “Settlement Fund” means Five Hundred Forty Thousand Dollars (\$540,000.00), which is the limit and extent of Defendants’ monetary obligations with respect to the settlement and shall be the sole and exclusive source of all costs of the settlement, including payment to Settlement Class Members, costs of notice and Claims Administration (not including the cost of serving notices under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715), any Attorneys’ Fees and Expenses Award, and any Service Awards.

1.36 “Settling Parties” means, collectively, Defendants and Representative Plaintiffs, individually and on behalf of the Settlement Class.

1.37 “Unauthorized Activity Period” means the time from and including June 11, 2021 through and including the Claims Deadline.

1.38 “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including any of the Representative Plaintiffs, does not know or suspect to exist in their favor or in favor of any member of the putative class they represent at the time of the release of the Released Persons that, if known, might have affected his or her settlement with, and release of, the Released Persons, or might have affected his or her decision to participate in this Settlement Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Representative Plaintiffs and Settlement Class Members expressly shall have and by operation of the Final Approval Order shall have, released any and all Released Claims, including Unknown Claims, and waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

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

Representative Plaintiffs and Settlement Class Members may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Released Claims, but the Representative Plaintiffs and Settlement Class Members expressly shall have, and by operation of the Final Approval Order shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims, including Unknown Claims. The Settling Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Agreement to have acknowledged, that the foregoing waiver is a material element of the Agreement of which this release is a part.

1.39 All time periods herein stated in terms of “days” shall be in calendar days unless otherwise expressly stated.

II. SETTLEMENT CONSIDERATION

2.1 In consideration for the settlement and releases provided herein, Defendants will fund a Settlement Fund in the amount of Five Hundred Forty Thousand Dollars (\$540,000.00) and provide the injunctive relief described in ¶ 2.5. The Settlement Fund shall be the only source of payment for all costs of the settlement, including: (a) payments to Settlement Class Members submitting valid Settlement Claims; (b) payment for identity-theft protection services; (c) costs of notice, Claims Administration; (d) the Attorneys' Fees and Expenses Award, if any, to Class Counsel; and (e) the Service Awards, if any, to Representative Plaintiffs.

2.2 Settlement Class Members may make a Settlement Claim for: (i) a Basic Award of \$185.00, subject to upward or downward proration as described in ¶ 7.3, or identity-theft protection services, as described further in ¶ 2.2.1; (ii) a Reimbursement Award; and (iii) a Time Spent Award. In addition, as explained in ¶ 2.2.4, California Subclass Members are also eligible to receive a California Subclass Award payment of \$175.00 in recognition of their CCPA claim, subject to proration up or down as described in ¶ 7.3, regardless of whether they also receive a Basic Award, identity theft protection services, and/or a Reimbursement Award. Only one Settlement Claim may be submitted per Settlement Class Member. If more than one valid claim is submitted, the largest valid claim filed will be processed and the remaining claims will be denied as duplicative.

2.2.1 Every Settlement Class Member who submits an Approved Claim is eligible to receive either: (1) a Basic Award or (2) identity theft protection services.

(a) *Basic Award.* A Basic Award will initially be set at \$185.00 per Settlement Class Member, as identified by Defendants' records, is subject to upward or downward proration, and will be paid regardless of whether the claimant experienced any fraudulent or unauthorized activity, any identifiable losses, or any identity theft as a result of the Security Incident. The actual amount to be paid for Basic Awards will be calculated further as described in ¶ 7.3 below, including with respect to proration based upon the number of valid claims submitted.

(b) *Identity-Theft Protection.* In lieu of a Basic Award, Settlement Class Members may elect 36 months of free identity-theft protection services, called "Financial Shield"

by Aura. Settlement Class Members can elect to enroll in these services on the Claim Form. For members of the Settlement Class who opted to receive the one or two years of credit monitoring initially offered by Defendants, “Financial Shield” shall be in addition to that time. “Financial Shield” includes, at least, the following, or similar, services:

- i. Up to \$1,000,000 reimbursement insurance through AIG covering losses due to identity theft and stolen funds;
- ii. Financial transaction monitoring, including monitoring of all financial accounts registered by the Settlement Class Member, such as credit card accounts, bank accounts (checking and savings) and investment accounts, for transactions exceeding selected thresholds;
- iii. Continuous monitoring for high-risk transactions, including payday loans, wire transfers, and account openings, that involve the Settlement Class Member’s personal information;
- iv. Notification of attempts to use the Settlement Class Member’s Social Security number as part of an identity verification event, such as requesting a replacement credit or debit card; filing an insurance claim; updating personal information on an existing account; and/or opening a new account;
- v. Fictitious identity monitoring, which notifies the Settlement Class Member when his or her Social Security number is being used in association with someone else’s name and/or address;
- vi. Online tax fraud monitoring and alerts, which monitors online income tax filings through TurboTax and alerts the Settlement Class Member if a tax return is filed using his or her Social Security number;
- vii. Home title monitoring, including monitoring properties identified by a Settlement Class Member and notifying the Settlement Class Member when

- an existing property title is changed, removed, or new titles are added to his or her name;
- viii. Dark web monitoring, which monitors the dark web for the Settlement Class Member's personal information;
 - ix. Public record monitoring, which monitors public records for address changes, automotive tickets, and arrests associated with the Settlement Class Member's name and Social Security number;
 - x. Credit security freeze assistance, which provides the Settlement Class Member a central location to link to one of ten different consumer reporting agencies to freeze and unfreeze his or her credit files; and
 - xi. Lost wallet protection, which provides a customer support line where the Settlement Class Member can receive help in canceling and replacing lost credit cards.

2.2.2 Reimbursement Award. A Settlement Class Member who incurred Out of Pocket Expenses fairly traceable to the Security Incident and submits an Approved Claim for a Reimbursement Award shall be eligible to receive a Reimbursement Award consisting of reimbursement of up to \$5,000.00. In assessing what qualifies as "fairly traceable," the Claims Administrator shall consider (i) whether the timing of the expenses occurred during the Unauthorized Activity Period; and (ii) any other information provided by the Settlement Class Member supporting that reimbursement is appropriate in accordance with the terms of this Agreement.

2.2.3 Time Spent Award. A Settlement Class Member may also claim up to five (5) hours of time spent remedying issues related to the Security Incident at \$20.00 per hour. Settlement Class Members making such a claim must attest on the Claim Form how much was spent (up to 5 hours), in half hour increments, that the time was actually spent remedying issues related to the Security Incident.

2.2.4 California Subclass Award. Every California Subclass Member is eligible to receive a CCPA payment in the amount of \$175.00, regardless of whether he or she experienced

any fraudulent or unauthorized activity or losses, or any identity theft as a result of the Security Incident. This amount is in addition to all other awards for which California Subclass Members may be eligible. California Subclass Members must attest on their Approved Claim forms that they were a California resident on June 11, 2021. While the awards will initially be set at \$175.00 for California Subclass Members, the actual amount to be paid for California Subclass Awards will be calculated further as described in ¶ 7.3 below, including with respect to proration based on the number of valid claims submitted.

2.3 Settlement Class Members seeking an Award under this Agreement must complete and submit a written Claim Form to the Claims Administrator, postmarked or submitted electronically in accordance with the requirements for electronic submission of a Claim Form, on or before the Claims Deadline. The Claim Form must: (a) be signed by the Settlement Class Member with a statement that his or her claim is true and correct to the best of his or her belief; and (b) provide appropriate documentation where required by the Claim Form. Failure to provide supporting documentation as set forth in ¶ 2.3.1 or as requested on the Claim Form or by the Claims Administrator shall result in denial of a Settlement Claim.

2.3.1 *Additional Information Required for a Reimbursement Award of Out of Pocket Expenses.* A Settlement Class Member seeking a Reimbursement Award for Out of Pocket Expenses must provide: (i) documentation sufficient to show unauthorized charges or other losses experienced during the Unauthorized Activity Period that were not reimbursed or denied and all claimed losses from such charges; (ii) documentation that enables the Claims Administrator to determine that the Out of Pocket Expenses were fairly traceable to the Security Incident; and (iii) an attestation that the Settlement Class Member made reasonable efforts to avoid or seek reimbursement for the loss, including from the applicable bank or payment card servicer and through exhaustion of any available credit monitoring insurance and identity theft insurance, but has been unsuccessful.

2.3.2 *Confidentiality of Information Submitted by Settlement Class Members.* Information submitted by Settlement Class Members pursuant to this Agreement and in connection with a Settlement Claim shall be deemed confidential and protected as such by the Settling Parties,

and the Claims Administrator. This provision does not prohibit Class Counsel from reporting to the Court or filing in the public record, upon a request from the Court, the names and cities and states of residence of those Settlement Class Members who have submitted timely and valid Requests for Exclusion. Defendants will not be provided information as to the identity of the Settlement Class Members who make claims under this Agreement.

2.4 Nothing in this Settlement Agreement shall be construed to provide for a double payment for the same loss or injury that was reimbursed or compensated by any other source. No payment shall be made for emotional distress, personal/bodily injury, or punitive damages, as all such amounts are not recoverable pursuant to the terms of the Settlement Agreement. Settlement Class Members must exhaust all available credit monitoring insurance and identity theft insurance before any Reimbursement Award for Out of Pocket Expenses will be authorized or paid. This provision does not prohibit a Settlement Class Member who accepted Defendants' offer, in response to the Security Incident, for a free year or two of identity protection services from also submitting a Settlement Claim under this Settlement Agreement, nor shall it be interpreted to deny a Basic Award, Identity--Theft Protection, or a Time Spent Award to Settlement Class Members who submit valid claims, or a California Subclass Award to any California Subclass Member who submits a valid claim.

2.5 As part of efforts to protect its computer networks, Defendants agree to do the following for a period of no less than 30 months from the time the applicable security control or practice is initiated:

- a) Utilize Microsoft Azure cloud infrastructure, including for email and support of Defendants' applications.
- b) Implement anti-phishing software.
- c) Enhance employee cybersecurity awareness, including through communications that highlight the threat of phishing.
- d) Utilize multi-factor authentication.
- e) Enhance endpoint protection through deployment of a monitoring solution.
- f) Utilize a security information and event management solution to evaluate log data and other information.

III. PRELIMINARY SETTLEMENT APPROVAL AND FINAL APPROVAL

3.1 As soon as practicable after the execution of this Settlement Agreement, Class Counsel shall submit it to the Court and file a motion for preliminary approval of the settlement with the Court requesting entry of a Preliminary Approval Order in the form attached hereto as Exhibit D, or an order substantially similar to such form, which shall, *inter alia*:

- a) Stay all proceedings in the Litigation other than those related to approval of the Settlement;
- b) Preliminarily certify the Settlement Class for settlement purposes only and preliminarily approve this Agreement for purposes of issuing Class Notice;
- c) Appoint Representative Plaintiffs as the class representatives for settlement purposes only;
- d) Appoint Class Counsel as counsel for the Settlement Class, for settlement purposes only;
- e) Approve the notice program, as set forth in Section IV herein (the “Notice Program”);
- f) Approve the form and contents of a long form notice (“Long Notice”) to be posted on the settlement website substantially similar to the one attached hereto as Exhibit B, a Summary Notice to be emailed to Settlement Class Members (“Summary Notice”) substantially similar to the one attached hereto as Exhibit E, and a postcard notice (“Postcard Notice”) substantially similar to the one attached hereto as Exhibit F to be sent via U.S. mail to Settlement Class Members who are deemed to have not received the Summary Notice via email, which together shall include a fair summary of the Settling Parties’ respective litigation positions, the general terms of the settlement set forth in this Settlement Agreement, instructions for how to object to or submit a Request for Exclusion from the settlement, the process and instructions for making Settlement Claims to the extent contemplated herein, and the date, time and place of the Final Approval Hearing;
- g) Approve a Claim Form substantially similar to that attached hereto as Exhibit A;

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- h) Appoint Angeion Group as the Claims Administrator;
- i) Schedule an appropriate Opt Out Date, Objection Deadline, and other settlement-related dates and deadlines to be included in the Class Notice; and
- j) Schedule the Final Approval Hearing.

3.2 Defendants will not oppose entry of the Preliminary Approval Order so long as it is substantially in the form attached to this Agreement as Exhibit D, and is otherwise consistent with this Agreement. Defendants reserve the right to contest any motion to certify a class for any purpose other than this settlement.

3.3 Class Counsel and Defendants' counsel shall request that the Court hold a Final Approval Hearing after Class Notice is completed and at least 35 days after the Opt Out Date, and grant Final Approval of the settlement set forth herein.

3.4 The proposed Final Approval Order that shall be filed with the motion for final approval and shall be in the form set forth in Exhibit C as agreed upon by Defendants and Class Counsel and shall, among other things:

- a) Determine that the Settlement Agreement is fair, adequate, and reasonable;
- b) Finally certify the Settlement Class for settlement purposes only;
- c) Determine that the Notice Program satisfies due process requirements;
- d) Dismiss all claims in the CAC with prejudice;
- e) Bar and enjoin any Settlement Class Members who did not timely Opt Out in accordance with the requirements of the Agreement from asserting any of the Released Claims;
- f) Award attorneys' fees and reasonable expenses to Class Counsel and Service Awards to the Class Representatives, if any; and
- g) Release and forever discharge Defendants and the Released Persons from the Released Claims, as provided for in this Agreement.

IV. NOTICE PROGRAM

4.1 No later than 10 business days after entry of the Preliminary Approval Order, Defendants will provide the Claims Administrator with a Settlement Class Member list in Excel

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format that includes, to the extent reasonably available, the name, email addresses, telephone numbers, and mailing address of each Settlement Class Member as reflected in Defendants' business records. The Claims Administrator shall cause Class Notice to be disseminated to the Settlement Class pursuant to the Preliminary Approval Order and the Notice Program as described below, and in compliance with all applicable laws, including, but not limited to, the Due Process clause of the United States Constitution and Federal Rule of Civil Procedure 23, and be effectuated pursuant to the provisions set forth below, the costs of which shall be costs of Claims Administration.

4.2 Class Notice shall be provided to the Settlement Class by the Claims Administrator as follows:

4.2.1. Within 14 days of receiving the Settlement Class Member data from Defendants, the Claims Administrator shall email the Summary Notice to Settlement Class Members for whom it has a valid email address. Within 11 days of emailing the Summary Notice to Settlement Class Members, the Claims Administrator shall send Postcard Notice via First Class U.S. Mail, postage pre-paid, to Settlement Class Members whose email Summary Notice could not be delivered. For any Settlement Class Members for which the Claims Administrator receives returned mail from the U.S. Postal Service indicating that the initial mailing was not delivered, the Claims Administrator shall undertake reasonable efforts to confirm the address, and to resend notice within 11 days after receiving such returned mail. No later than 30 days prior to the end of the Claims Period, the Claims Administrator shall send a reminder postcard to Settlement Class Members who have not yet filed a claim via email and First Class U.S. Mail.

4.2.2. Within 7 days of receiving the Settlement Class Member data from Defendant, the Claims Administrator shall establish a dedicated settlement website that includes this Settlement Agreement, the Long Notice, the Summary Notice, and the Claim Form approved by the Court. The Claims Administrator shall maintain and update the website throughout the Claims Period. The Claims Administrator will also post on the settlement website copies of the motion for final approval of the settlement and the motion for Attorneys' Fees and Expenses Award and Service Awards. A

toll-free number with interactive voice response, FAQs, and an option to speak to a live operator shall also be made available to address Settlement Class Members' inquiries.

4.3 The Notice Program shall be subject to approval by the Court as meeting the requirements of Rule 23(c) of the Federal Rules of Civil Procedure.

4.4 The Long Notice, Summary Notice, Postcard Notice, and Claim Form approved by the Court may be adjusted by the Claims Administrator, respectively, in consultation and agreement with the Settling Parties, as may be reasonable and necessary and not inconsistent with such approval.

4.5 Prior to the Final Approval Hearing, counsel for the Settling Parties shall cause to be filed with the Court an appropriate declaration from the Claims Administrator demonstrating compliance with the Court-approved Notice Program.

V. OPT OUT PROCEDURES

5.1 Each Settlement Class Member wishing to exclude themselves from the Settlement Class must individually sign and timely mail to the address designated by the Claims Administrator or submit through the settlement website a written Request for Exclusion.

5.2 To be effective, a Request for Exclusion must be submitted online or postmarked no later than 75 days after the date of entry of the Preliminary Approval Order.

5.3 Within 7 days after the Opt Out Date, the Claims Administrator shall provide the Settling Parties with a complete and final list of all Opt Outs who have timely and validly excluded themselves from the Settlement Class and, upon request, copies of all completed Requests for Exclusion. Class Counsel may present to the Court the number of Opt-Outs (if any), no later than 14 days prior to the Final Approval Hearing, but may not provide their Personal Information (though should alert the Court that such information is maintained by the Claims Administrator), except that upon the Court's request, Class Counsel may provide the Court a list of Opt Outs with all Personal Information other than names and cities and states of residence redacted.

5.4 All persons who Opt Out from the Settlement Class shall not receive any benefits of 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 shall be bound by the terms of this Settlement Agreement and the Final Approval Order entered thereon.

VI. OBJECTION PROCEDURES

6.1 Any Settlement Class Member who does not file a timely Request for Exclusion may file a notice of intent to object to the Settlement. The Class Notice shall instruct Settlement Class Members who wish to object to the Settlement Agreement to send their written objection to the Claims Administrator. The Class Notice shall make clear that the Court can only approve or deny the Settlement Agreement and cannot change the terms. The Class Notice shall advise Settlement Class Members of the deadline for submission of any objections.

6.2 All objections to the Settlement Agreement must be written and must include all of the following: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class; (iii) a statement as to whether the objection applies only to the Settlement Class Member, to a specific subset of the Settlement Class, or to the entire Settlement Class; (iv) a clear and detailed written statement of the specific legal and factual bases for each and every objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of any counsel representing the objector, if any; (vi) a statement whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying that counsel; (vii) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objections; and (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative, if any.

6.2 To be timely, written notice of an objection in the appropriate form must be postmarked no later than the Objection Deadline.

6.3 Except upon a showing of good cause, any Settlement Class Member who fails to substantially comply with the requirements in Section VI for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of Section VI.

VII. CLAIMS ADMINISTRATION

7.1 The Claims Administrator shall administer and calculate the Settlement Claims submitted by Settlement Class Members. Class Counsel and Defendants' counsel shall periodically be given reports as to both Settlement Claims and distribution, and have the right to review and obtain supporting documentation and challenge such reports if they believe them to be inaccurate or inadequate. The determination by the Claims Administrator of the validity or invalidity of all Settlement Claims shall be binding, subject to the Dispute Resolution Process set forth in this Section VII.

7.2 For each Settlement Claim submitted, the Claims Administrator, in its sole discretion to be reasonably exercised, will determine whether: (1) the claimant is a Settlement Class Member; (2) the claimant has provided all information required to complete the Claim Form by the Claims Deadline, including documentation and information required under ¶ 2.3.1; and (3) the information submitted for a Settlement Claim for a Reimbursement Award would lead a reasonable person to conclude that the alleged expenses are fairly traceable to and plausibly arose from the Security Incident. The Claims Administrator may, at any time, request from the claimant, in writing, additional information as the Claims Administrator may reasonably require in order to evaluate the Settlement Claim.

7.2.1 Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the Settlement Claim is valid, the Claims Administrator shall request additional information and give the claimant 30 days to cure the defect before rejecting the Settlement Claim. Such requests shall be made within 30 days after the Claims Deadline. In the event of unusual circumstances interfering with compliance during the 30-day period, the claimant may request and, for good cause shown shall be given, a reasonable extension of the 30-day deadline in which to comply; however, in no event shall the deadline be extended to later than 60 days from the Effective Date. If the defect is not cured, then the Settlement Claim will be deemed invalid and there shall be no obligation to pay the Settlement Claim.

7.2.2 Following receipt of additional information requested by the Claims Administrator pursuant to ¶ 7.2.1, the Claims Administrator shall have 30 days to accept, in whole or

lesser amount, or reject each Settlement Claim. If after review of the Settlement Claim and all documentation submitted by the claimant, the Claims Administrator determines that such a Settlement Claim is valid, then the Settlement Claim shall be paid within the time period provided by ¶ 7.5 to the extent that the Claims Administrator finds the Settlement Claim to be valid. If the Settlement Claim remains invalid because the claimant does not provide the requested information needed to complete the Claim Form and evaluate the Settlement Claim, then the Claims Administrator may reject the Settlement Claim without any further action apart from providing a notice of rejection of the Settlement Claim.

7.2.3 Settlement Class Members shall have 30 days from receipt of the offer to accept or reject any offer of partial payment received from the Claims Administrator. If a Settlement Class Member rejects an offer from the Claims Administrator, the Claims Administrator shall have 15 days to reconsider its initial adjustment amount and make a final determination. The approved amount shall be the total and final amount to be paid.

7.3 The Claims Administrator shall adjust the payment amount of all Awards as follows:

7.3.1 If, after the Effective Date, the total dollar value of all Approved Claims is less than the amount remaining in the Settlement Fund necessary to cover valid Basic Awards, the cost of the “Financial Shield” identity-theft protection services, Reimbursement Awards, Time Spent Awards, valid California Subclass Awards, the Attorneys’ Fees and Expenses Award, Service Awards, and notice and Claims Administration costs, the payment amount for all Approved Claims under this Agreement shall be increased *pro rata* among all Settlement Class Members who submitted Approved Claims for Basic Awards and California Subclass Awards until the amounts remaining in the Settlement Fund are exhausted (or as nearly as possible). These *pro rata* determinations shall be performed by the Settlement Administrator.

7.3.2 If, after the Effective Date, the total dollar value of all Approved Claims exceeds the amount remaining in the Settlement Fund necessary to cover valid Basic Awards, the cost of the “Financial Shield” identity-theft protection services, Reimbursement Awards, Time Spent Awards, valid California Subclass Awards, the Attorneys’ Fees and Expenses Award, Service Awards, and notice and Claims Administration costs, the payment amount for all Approved Claims

shall be reduced *pro rata* among all Settlement Class Members who submitted Approved Claims for Basic Awards and California Subclass Awards. These *pro rata* determinations shall be performed by the Settlement Administrator.

7.4 The \$540,000 Settlement Fund will be paid by Defendants to the Claims Administrator in two installments: (a) Defendants shall pay \$60,000 within ten (10) business days following entry of the Preliminary Approval Order; and (b) Defendants shall pay the balance of the Settlement Fund within ten (10) business days following the Effective Date. The Claims Administrator shall agree to hold the Settlement Fund in a non-interest-bearing account, and administer the Settlement Fund, subject to the continuing jurisdiction of the Court and from the earliest possible date, as a qualified settlement fund as defined in Treasury Regulation § 1.468B-1, *et seq.* Any taxes owed by the Settlement Fund shall be paid by the Claims Administrator out of the Settlement Fund. Defendants will pay, separate from the Settlement Fund, the cost of serving notices under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, within the timelines specified by 28 U.S.C. § 1715(b), which shall be the only payment that Defendants are obligated to pay separate from the Settlement Fund. Defendants shall not have any other financial obligation under the Settlement Agreement. In addition, under no circumstances will Defendants have any liability for taxes or tax expenses under the Settlement Agreement.

7.5 The Claims Administrator will mail Award checks or send funds electronically (in an electronic payment format recommended by the Claims Administrator, such as PayPal, and agreed-upon by the Settling Parties) for Approved Claims within the later of 90 days after the Effective Date or 30 days after all disputed claims have been resolved. No distributions will be made without authorization from the Settling Parties. The Claims Administrator will conduct skip tracing and re-send checks that were returned as undeliverable. Award checks shall be valid for a period of 180 days from issuance, and shall state, in words or substance, that the check must be cashed within 180 days, after which time it will become void. In the event a settlement check becomes void, the Settlement Class Member to whom that settlement check was made payable will forfeit the right to payment and will not be entitled to have the check reissued or to any further distribution from the Settlement Fund or to any further recourse against the Released Parties, and the Settlement Agreement

and Release will in all other respects be fully enforceable against the Settlement Class Member. No later than 190 days from the issuance of the Award checks, the Claims Administrator shall take all steps necessary to stop payment on any Award checks that remain uncashed.

7.6 If there is any balance remaining in the Settlement Fund account 90 days after the Claims Administrator completes the process for stopping payment on any Award checks that remain uncashed, the Settling Parties will return to the Court seeking direction as to the disposition of these funds, including the selection of a *cy pres* recipient, which shall be a 501(c)(3) selected by the Settling Parties (subject to Court approval). The funds distributed pursuant to the *cy pres* provision set forth in this Paragraph shall not be considered unclaimed property under the laws of California or any other state.

7.7 No Person shall have any claim against the Claims Administrator, Defendants, Defendants' counsel, Class Counsel, and/or the Representative Plaintiffs based on distributions of benefits to Settlement Class Members or to the *cy pres* recipient, if applicable.

7.8 All Settlement Class Members who fail to timely submit a valid Settlement Claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments or benefits pursuant to the Settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Final Approval Order.

7.9 All costs incurred by the Claims Administrator shall be paid out of the Settlement Fund.

VIII. RELEASES

8.1 Upon the Effective Date, and in consideration of the settlement benefits described herein, each Settlement Class Member, including Representative Plaintiffs, whether or not they received an Award, will be deemed by this Agreement and by operation of the Final Approval Order to have completely and unconditionally released, forever discharged and acquitted the Released Persons from any and all of the Released Claims, including Unknown Claims.

8.2 The Settlement Agreement shall be the sole and exclusive remedy for any and all Released Claims of Settlement Class Members. Upon entry of the Final Approval Order, each member of the Settlement Class shall be barred from initiating, asserting, or prosecuting against any Released Person any Released Claims, including Unknown Claims.

8.3 Upon entry of the Final Approval Order, Defendants shall have fully, finally and forever released, relinquished and discharged as against Representative Plaintiffs and Class Counsel, all claims arising out of, relating to or in connection with the institution, prosecution, assertion, defense, settlement or resolution of the Litigation.

IX. CLASS COUNSEL'S ATTORNEYS' FEES AND COSTS; AND REPRESENTATIVE PLAINTIFFS' SERVICE AWARDS

9.1 Class Counsel intend to apply to the Court for an award of reasonable attorneys' fees, payable solely from the Settlement Fund, in an amount not to exceed thirty-three (33 1/3) percent of the Settlement Fund (*i.e.*, \$180,000). Class Counsel also intend to apply to the Court for reimbursement of their reasonable costs and litigation expenses incurred, also payable solely from the Settlement Fund. Class Counsel will apply to the Court for such approval and will serve Defendants' counsel with such application no later than 21 days prior to the Objection Deadline. Class Counsel will also cause their fees and expenses application to be posted to the settlement website immediately after its filing.

9.2 Class Counsel will request from the Court service awards for the Representative Plaintiffs in the amount of \$2,500 each, to be paid solely from the Settlement Fund. This request will be included in Class Counsel's application for an award of attorneys' fees and expenses.

9.3 Within ten (10) business days after the Effective Date the Claims Administrator shall pay the Attorneys' Fees and Expenses Award and Service Awards from the Settlement Fund to Clayco C. Arnold, A Professional Law Corp. The Attorneys' Fees and Expenses Award will be allocated among Class Counsel by Class Counsel.

9.4 The finality or effectiveness of the Settlement Agreement shall not depend upon the Court awarding any particular Attorneys' Fees and Expenses Award or Service Awards. No order of

the Court, or modification or reversal or appeal of any order of the Court concerning the amount(s) of any attorneys' fees, costs and expenses, and/or Service Awards ordered by the Court to Class Counsel or Representative Plaintiffs shall affect whether the Judgment is final or constitute grounds for cancellation or termination of this Settlement Agreement.

9.5 Defendants shall have no responsibility for, interest in, or liability whatsoever with respect to any payment or allocation of Attorneys' Fees, Expenses Award, or Service Awards under this Agreement.

X. CONDITIONS OF SETTLEMENT, CANCELLATION, OR TERMINATION

10.1 This Agreement is subject to and conditioned upon the occurrence of all of the following events:

- a) The Court has entered a Preliminary Approval Order as provided by ¶ 3.1;
- b) The Court has entered a Final Approval Order as provided by ¶ 3.4; and
- c) The Effective Date has occurred, as defined in ¶ 1.16.

10.2 If the Court does not enter a Preliminary Approval Order as provided by ¶ 3.1, the Court does not enter a Final Approval Order as provided by ¶ 3.4, or the Effective Date as defined in ¶ 1.16 does not occur, the Settlement Agreement shall, without notice, be automatically terminated unless Class Counsel and Defendants' counsel mutually agree in writing to proceed with the Settlement Agreement.

10.3 This Agreement shall survive any Court order issued prior to a ruling on Plaintiffs' motion for final approval of the settlement, including any order which has the effect of: (1) dismissing this action; (2) denying class certification; or (3) compelling arbitration of Plaintiffs' claims, and in any such case the Parties shall endeavor in good faith to pursue consummation of the Settlement Agreement on the terms herein to the extent practicable. Nothing herein is intended to waive any conditions to the effectiveness of the settlement, including as described in ¶ 10.1 of this Agreement.

10.4 If more than a specified number of Settlement Class Members Opt Out, as agreed to by the Settling Parties, Defendants may in their sole discretion terminate this Agreement.

10.5 In the event of termination, this Agreement shall have no further force or effect regarding the Settling Parties' rights and the Settling Parties shall jointly request the Court to hold a scheduling conference for the purpose of establishing a new case schedule. In addition, the Settling Parties agree that any Court orders preliminarily or finally approving certification of the Settlement Class and any other orders entered pursuant to the Agreement shall be deemed null and void and vacated.

10.6 Defendants conditionally agree and consent to certification of the Settlement Class for settlement purposes only, and within the context of the Settlement Agreement only. If the Settlement Agreement, for any reason, is not finally approved or is otherwise terminated, Defendants reserve the right to assert any and all objections and defenses to certification of a class, and neither the Settlement Agreement nor any Order or other action relating to the Settlement Agreement shall be offered by any Person as evidence or cited in support of a motion to certify a class for a purpose other than this settlement.

XI. NO ADMISSION OF WRONGDOING

11.1 This Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Settling Parties prior to execution of this Agreement or in connection with this Agreement or any communications or negotiations related to this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses that has or could be asserted or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

11.2 This Agreement, whether or not executed, any communications and negotiations related to this Agreement or the settlement, and any proceedings or actions taken pursuant to this settlement may not (i) be deemed to be or be used as an admission or evidence of the validity of any claim made by Representatives Plaintiffs or the Settlement Class; or (2) be deemed to be or be used as an admission or evidence of any fault or omission by Released Persons in the Litigation or in any other proceeding.

XII. MISCELLANEOUS PROVISIONS

12.1 The Settling Parties and their counsel agree to undertake commercially reasonable efforts and mutually cooperate to effectuate this Agreement and the terms of the proposed settlement set forth herein, including taking all steps and efforts contemplated by this Agreement. The Settling Parties further agree to defend this Agreement against objections made to the settlement or the Final Approval Order at the Final Approval Hearing or in any appeal of the Final Approval Order or in any collateral attack on this Agreement or Final Approval Order.

12.2 The Settling Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settling Parties each agree that the settlement and this Agreement were negotiated in good faith and at arm's-length by the Settling Parties, and reflects a settlement that was reached voluntarily after consultation with competent legal counsel.

12.3 The Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest. Amendments and modifications may be made without additional notice to the Settlement Class Members unless such notice is required by the Court.

12.4 Except as otherwise provided, this Agreement contains the entire agreement between the Settling Parties, and supersedes any prior agreements or understandings between them. All terms of this Agreement are contractual and not mere recitals, and shall be construed as if drafted by all Settling Parties to this Agreement. The terms of this Agreement are and shall be binding upon each of the Settling Parties to this Agreement, their agents, attorneys, employees, successors and assigns, and upon all other Persons or entities claiming any interest in the subject matter hereof, including any Settlement Class Member.

12.5 Defendants shall not be liable for any additional Attorneys' Fees and expenses of any Settlement Class Members' counsel, including any potential objectors or counsel representing a Settlement Class Member individually, other than what is expressly provided for in this Agreement. Class Counsel agree to hold Defendants harmless from any claim regarding the division of any award of attorneys' fees and expenses to Class Counsel, and any claim that the term "Class Counsel" (as

defined in ¶ 1.11 of this Agreement) fails to include any counsel, Person, or firm who claims that they are entitled to a share of any Attorneys' Fees awarded to Class Counsel in this Lawsuit.

12.6 This Agreement shall be subject to, governed by, construed, and enforced pursuant to the laws of California.

12.7 Any individual signing this Agreement on behalf of any Person represents and warrants that he or she has full authority to execute and enter into the terms and conditions of this Agreement on behalf of such Person.

12.8 The Settling Parties and each Settlement Class Member irrevocably submit to the exclusive jurisdiction of the Court for any suit, action, proceeding or dispute arising out of or relating to this Agreement or the applicability of the Agreement and its exhibits, but for no other purpose.

12.9 All agreements made and orders entered during the course of Litigation relating to the confidentiality of information shall survive this Agreement.

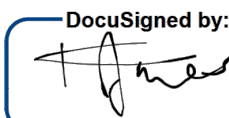
12.10 Any notice, instruction, application for Court approval or application for Court orders sought in connection with this Agreement or other document to be given by any Party to any other Party shall be in writing and delivered by email, if to Defendants to the attention of the Defendants' counsel, or if to the Settlement Class to Class Counsel, or to other recipients as the Court may specify.

12.11 This Agreement may be executed by the Settling Parties or their authorized representatives in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Scanned signatures or signatures sent by email or facsimile shall be as effective as original signatures.

IT IS SO AGREED.

Proposed Class Representatives

8/26/2022
Dated: August __, 2022

DocuSigned by:

By: 25833998F9654BF...
Travis James

Dated: August __, 2022

By: _____
Stefanie Sheehan

Dated: August __, 2022

By: _____
Kimberly Gamboa

Dated: August __, 2022

By: _____
Korey Williams

Proposed Class Counsel

Dated: August __, 2022

By: _____

M. Anderson Berry
**CLAYEO C. ARNOLD, A PROFESSIONAL
LAW CORP.**

Dated: August __, 2022

By: _____

Rachele R. Byrd
**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

Proposed Class Representatives

Dated: August __, 2022 By: _____
Travis James

Dated: August __, 2022 By: _____
Stefanie Sheehan
Stefanie Sheehan

Dated: August __, 2022 By: _____
Kimberly Gamboa

Dated: August __, 2022 By: _____
Korey Williams

Proposed Class Counsel

Dated: August __, 2022 By: _____

M. Anderson Berry
**CLAYEO C. ARNOLD, A PROFESSIONAL
LAW CORP.**

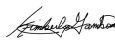
Dated: August __, 2022 By: _____

Rachele R. Byrd
**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

Proposed Class Representatives

Dated: August __, 2022 By: _____
Travis James

Dated: August __, 2022 By: _____
Stefanie Sheehan

Dated: August __, 2022 By:  _____
Kimberly Gamboa

Dated: August __, 2022 By: _____
Korey Williams

Proposed Class Counsel

Dated: August __, 2022 By: _____

M. Anderson Berry
**CLAYEO C. ARNOLD, A PROFESSIONAL
LAW CORP.**

Dated: August __, 2022 By: _____

Rachele R. Byrd
**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

Proposed Class Representatives

Dated: August __, 2022

By: _____
Travis James

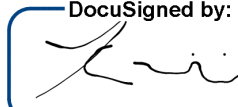
Dated: August __, 2022

By: _____
Stefanie Sheehan

Dated: August __, 2022

By: _____
Kimberly Gamboa

8/25/2022
Dated: August __, 2022

DocuSigned by:

By: _____
F4FEA5EA9FA04F5...
Corey Williams

Proposed Class Counsel

Dated: August __, 2022

By: _____

M. Anderson Berry
**CLAYEO C. ARNOLD, A PROFESSIONAL
LAW CORP.**

Dated: August 25, 2022

By: Rachele R. Byrd

Rachele R. Byrd
**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

Proposed Class Representatives

Dated: August __, 2022 By: _____
Travis James

Dated: August __, 2022 By: _____
Stefanie Sheehan

Dated: August __, 2022 By: _____
Kimberly Gamboa

Dated: August __, 2022 By: _____
Korey Williams

Proposed Class Counsel

Dated: August 26, 2022 By:  _____

M. Anderson Berry
**CLAYEO C. ARNOLD, A PROFESSIONAL
LAW CORP.**

Dated: August __, 2022 By: _____

Rachele R. Byrd
**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

Dated: August 26, 2022 By: Gayle M Blatt

Gayle M Blatt
CASEY GERRY SCHENK FRANCAVILLA
BLATT & PENFIELD LLP

Dated: August __, 2022 By: _____

Joshua B. Swigart
SWIGART LAW GROUP, APC

Defense Counsel

Dated: August __, 2022 By: _____

Adam Cooke
HOGAN LOVELLS US LLP

Dated: August __, 2022

By: _____

Gayle M Blatt
**CASEY GERRY SCHENK FRANCAVILLA
BLATT & PENFIELD LLP**

Dated: August 25, 2022

By: Joshua Swigart

Joshua B. Swigart
SWIGART LAW GROUP, APC

Defense Counsel

Dated: August __, 2022

By: _____

Adam Cooke
HOGAN LOVELLS US LLP

Dated: August __, 2022

By: _____

Gayle M Blatt
**CASEY GERRY SCHENK FRANCAVILLA
BLATT & PENFIELD LLP**

Dated: August __, 2022

By: _____

Joshua B. Swigart
SWIGART LAW GROUP, APC

Defense Counsel

Dated: August 26, 2022

By:  _____

Adam Cooke
HOGAN LOVELLS US LLP

EXHIBIT A

SETTLEMENT CLAIM FORM

This Claim Form should be filled out online or submitted by mail if you were employed by DAVACO, Inc. or DAVACO LP prior to June 11, 2021 and/or received a Notice of Data Security Incident from DAVACO, Inc. or DAVACO LP.

You may receive a payment if you properly and timely complete this Claim Form, the Settlement is approved, and you are found to be eligible for a payment.

The Notice describes your legal rights and options. You can obtain the Notice and further information about the Litigation, the Settlement Agreement, and your legal rights and options on the official Settlement website, www. .com, or by calling 1-800-xxx-xxxx.

Your claim must be submitted online or postmarked by , 202 to be considered for payment. You can submit your claim for a settlement award in two ways:

1. Online at www. .com by following instructions on the “Submit a Claim” page; or
2. By mail to the Claims Administrator at this address: [INSERT CLAIMS ADMINISTRATOR ADDRESS].

Only one Settlement Claim may be submitted per Settlement Class Member.

1. CLASS MEMBER INFORMATION (REQUIRED)

Name (First, MI, Last): _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Email (if any): _____

2. PAYMENT ELIGIBILITY INFORMATION AND IDENTITY-THEFT PROTECTION (REQUIRED)

For more information about this Section of the Claim Form and the types of awards available and rules for receiving an award, please review the Notice and Sections 2.1 through 2.4 of the Settlement Agreement (available at www. .com).

- A. Settlement Class Members may receive **either** a: (1) **\$185.00** Basic Award (subject to proration); **or** (2) 36 months of Identity-Theft Protection services. Which award are you claiming? (Check only one):

☐ **\$185** Basic Award (complete sections 5 and 6)

OR

Settlement Class Members may receive 36 months of free identity-theft protection, called “Financial Shield” by Aura (a.k.a. Pango), instead of the Basic Award. If you opted to receive the one year of credit monitoring initially offered by Defendants, “Financial Shield” shall be in addition to that year. If you are claiming the identity-theft protection, check this box:

☐ Identity-Theft Protection (complete section 7)

B. Additionally, all Settlement Class Members who incurred Out-of-Pocket expenses fairly traceable to the Security Incident may claim a Reimbursement Award:

☐ Reimbursement Award (complete Sections 3, 4, 6 and 7)

C. All Settlement Class Members who spent time remedying issues related to the Security Incident may also claim a Time Spent Award up to five (5) hours of time at \$20.00 per hour. Settlement Class Members making such a claim must attest on the Claim Form how much time they spent (up to 5 hours), in half hour increments, and that the time was actually spent remedying issues relating to the Security Incident:

☐ Time Spent Award (complete Sections 5, 6, and 7)

D. California Subclass Members may **also** receive a **\$175.00** California Subclass Award. If you are a Settlement Class Member, you resided in California on June 11, 2021, and are claiming this award, check this box:

☐ **\$175** California Subclass Award (complete section 5 and 6)

3. ADDITIONAL INFORMATION REQUIRED ONLY FROM SETTLEMENT CLASS MEMBERS SEEKING A REIMBURSEMENT AWARD.

You must complete this Section 3 if you are seeking a Reimbursement Award. Please provide as much information as possible.

☐ **Required:** I attest under penalty of perjury that I experienced one or more fraudulent charges and/or identified losses from June 11, 2021 through [INSERT CLAIMS DEADLINE].

☐ **Required:** Such charges or losses have not been reimbursed.

☐ **Required:** I believe in good faith such charges were more likely than not the result of the Security Incident that affected the DAVACO computer network described in the Class Notice.

The total amount of unreimbursed fraudulent charges that I am claiming is \$ _____

Examples: Fraudulent charges that were made on your credit or debit card account and that were not reversed or repaid even though you reported them to your bank or credit card company.

Required: Attach a copy of statements that show the fraudulent charges and any correspondence showing that you reported them as unauthorized. (Please redact all unrelated transactions). If you do not have any written correspondence reporting the charges, describe

when and how you reported them and to whom you reported them (attached pages as necessary):

☐ (**Required**). I have made good faith efforts to have these unauthorized charges reversed or repaid, including through my bank or credit card company, and have exhausted all available credit monitoring, identity theft insurance, or other applicable insurance policies, but have not been successful at having the charges reversed, have not received payment, and have no insurance coverage for these unauthorized charges.

If you are seeking reimbursement for Out-of-Pocket Expenses as part of your claim for a Reimbursement Award, complete Section 4. Otherwise, go to Section 6.

4. ADDITIONAL INFORMATION REQUIRED ONLY FROM SETTLEMENT CLASS MEMBERS SEEKING REIMBURSEMENT FOR OUT-OF-POCKET EXPENSES IN CONNECTION WITH A REIMBURSEMENT AWARD.

☐ I attest under penalty of perjury that I am making a claim for a Reimbursement Award, and that I incurred between June 11, 2021 and **[INSERT CLAIMS DEADLINE]** the following Out-of-Pocket Expenses fairly traceable to the Security Incident that affected the DAVACO computer network described in the Notice.

Check all that apply, stating the total amount you are claiming for each category and attaching documentation of the charges as described below. Round total amounts to the nearest dollar.

☐ Unreimbursed payment card fees or bank fees:

Total amount claimed for this category: \$ _____

Examples: Unreimbursed card reissuance fees, unreimbursed overdraft fees, unreimbursed charges related to unavailability of funds, unreimbursed late fees, unreimbursed over-limit fees and unreimbursed fees relating to an account being frozen or otherwise unavailable due to the Security Incident.

Required: A copy of a bank or credit card statement or other proof of claimed fees or charges (please redact unrelated transactions).

☐ Cell, internet or text charges:

Total amount claimed for this category: \$ _____

Examples: Long distance or cell phone charges (if charged by the minute), or data charges (if charged based on the amount of data used).

Required: A copy of the bill from your telephone company, cell phone company, or internet service provider showing the claimed charges.

☐ Unreimbursed costs or charges for obtaining credit reports, credit freezes, or credit monitoring or identity theft protection services (up to two years of coverage):

Total amount claimed for this category: \$ _____

Examples: The cost of purchasing a credit report or placing a credit freeze.

Required: A copy of a receipt of other proof of purchase for each credit report, credit freeze, or credit monitoring or identity theft protection services (up to two years of coverage) purchased or placed.

☐ Postage costs:

Total amount claimed for this category: \$ _____

Examples: Postage for correspondence with your bank or credit card company about unauthorized charges. The cost of submitting this form is not included.

Required: A copy of any receipt or proof of purchase for all postage costs claimed showing date, amount and vendor.

5. ADDITIONAL INFORMATION REQUIRED FROM SETTLEMENT CLASS MEMBERS SEEKING A TIME SPENT AWARD

You must complete this Section 5 if you are seeking a Time Spent Award.

☐ **Required:** I attest that I spent _____ hours (up to five (5) in half-hour increments) remediating issues related to the Security Incident.

6. PAYMENT METHOD

Please select the manner in which payment will be issued for your valid Claims.

- | | | |
|-------------------------|--------------------------|------------------------------|
| • PayPal*: | <input type="checkbox"/> | _____ (PayPal Email Address) |
| • Venmo*: | <input type="checkbox"/> | _____ (Venmo Email Address) |
| • Zelle*: | <input type="checkbox"/> | _____ (Zelle Email Address) |
| • Paper Check via Mail: | <input type="checkbox"/> | |

*If you select payment via PayPal, Venmo or Zelle, the email address entered on this form will be used to process the payment to your account linked to that email address. If you do not have a PayPal, Venmo or Zelle account, you will be prompted to open one using the email address entered on this form.

7. CERTIFICATION

The information I have supplied in this Claim Form is true and correct to the best of my recollection and this form was executed on the date set forth below.

I understand that all information provided on this Claim Form is subject to verification and that I may be asked to provide supplemental information by the Claims Administrator before my claim will be considered complete and valid.

Signature: _____

Print Name: _____

Date: _____

Once you've completed all applicable sections, please mail this Claim Form and all required supporting documentation to the address provided below, postmarked by _____, 202__.

[INSERT CLAIMS ADMINISTRATOR ADDRESS]

EXHIBIT B

To: All individuals identified by DAVACO and to whom DAVACO sent notice on or about July 2, 2021 that their information may have been impacted in the Security Incident, defined below (the “Settlement Class Members”).

A proposed settlement has been reached in a class action lawsuit titled, *James, et al. v. DAVACO, Inc., et al.*, No. 3:21-CV-02318-M (N.D. Tex.). The lawsuit asserted claims against Defendants DAVACO, Inc. and DAVACO LP (collectively “DAVACO” or “Defendants”) related to a security incident that occurred on or about June 11, 2021 and about which DAVACO notified potentially impacted individuals in July 2021 (the “Security Incident”). Defendants deny all of the claims and deny that they did anything wrong.

The settlement offers payments to Settlement Class Members who were sent notice that they were potentially affected by the Security Incident. Certain of the amounts paid will depend upon how many people submit valid claims but initially are set at the following amounts:

- (1) If you are a Settlement Class Member you may claim a Basic Award of **\$185.00 or 36 months** of free identity-theft protection, called “Financial Shield” by Aura (a.k.a. Pango). The Basic Award is subject to upward or downward adjustment based on the number of valid claims made;
- (2) If you are a Settlement Class Members and you were a resident of California on June 11, 2021, you may **also** claim a California Subclass Award of **\$175.00**, subject to upward or downward adjustment based on the number of claims made;
- (3) If you are a Settlement Class Member and you experienced unauthorized charges or other identifiable losses that were not denied, reversed or otherwise credited or reimbursed to you and which you believe in good faith were more likely than not caused by the Security Incident, you may **also** file a claim for a Reimbursement Award as explained below; and
- (4) If you are a Settlement Class Member and you spent time addressing or remedying issues related to the Security Incident, you may **also** claim a Time Spent Award up to five (5) hours of time at \$20.00 per hour.

If you are a Settlement Class Member, your options are:

SUBMIT A CLAIM FORM DEADLINE: _____	You must submit a valid claim form to receive a payment from this Settlement.
DO NOTHING	You will receive no payment and will no longer be able to sue Defendants over the claims resolved in the settlement.
EXCLUDE YOURSELF DEADLINE: _____	You may exclude yourself from this settlement and keep your right to sue separately. If you exclude yourself, you receive no payment. Exclusion instructions are provided in this notice.
OBJECT DEADLINE: _____	If you do not exclude yourself, you may write to the Court to comment on or detail why you do not like the settlement by following the instructions in this notice. The Court may reject your objection. You must still file a claim if you desire any monetary relief under the settlement.

The court must give final approval to the settlement before it takes effect, but has not yet done so. No payments will be made until after the court gives final approval and any appeals are resolved.

Please review this notice carefully. You can learn more about the settlement by visiting **www. .com** or by calling **1-800-XXX-XXXX**.

Further Information about this Notice and the Lawsuit

1. Why was this Notice issued?

Settlement Class Members are eligible to receive payment from a proposed settlement of the class action lawsuit entitled *James, et al. v. DAVACO, Inc., et al.*, United States District Court, Northern District of Texas, Case No. 3:21-cv-02318-M (the “Lawsuit”). The court overseeing the Lawsuit authorized this Notice to advise Settlement Class Members about the proposed settlement that will affect their legal rights. This Notice explains certain legal rights and options Settlement Class Members have in connection with the settlement.

2. What is the Lawsuit about?

The Lawsuit is a proposed class action lawsuit brought on behalf of current and former DAVACO employees whose Personal Information may have been accessed and/or taken by unauthorized individuals as part of the Security Incident. The affected information may include names, Social Security numbers, and driver’s license or government issued identification numbers.

The Lawsuit claims Defendants are legally responsible for the Security Incident and asserts various legal claims, including negligence, declaratory relief, and violations of the California Consumer Privacy Act. Defendants deny these claims and deny that they did anything wrong.

3. Why is the Lawsuit a class action?

In a class action, one or more representative plaintiffs bring a lawsuit on behalf of others who have similar claims. Together, all of these people are the “class” and each individually is a “class member.” There are four Representative Plaintiffs in this case: Travis James, Stefanie Sheehan, Kimberly Gamboa, and Korey Williams. The class in this case is referred to in this Notice as the “Settlement Class.”

4. Why is there a settlement?

The Representative Plaintiffs in the Lawsuit, through their attorneys, investigated the facts and law relating to the issues in the Lawsuit. The Representative Plaintiffs and Class Counsel believe that the settlement is fair, reasonable, and adequate and will provide substantial benefits to the Settlement Class. The Court has not decided whether the Representative Plaintiffs’ claims or Defendants’ defenses have any merit, and it will not do so if the proposed settlement is approved. By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit valid claims will receive compensation. The settlement does not mean that Defendants did anything wrong, or that the Representative Plaintiffs and the Class would or would not win their case if it were to go to trial.

Terms of the Proposed Settlement

5. *Who is in the Settlement Class?*

The Settlement Class is defined by the Court as all individuals identified by DAVACO and to whom DAVACO sent notice that their information may have been impacted in the Security Incident.

6. *What are the terms of the settlement?*

The proposed settlement would create a Settlement Fund of \$540,000.00 that would be used to pay all costs of the settlement, including: (i) payments to Settlement Class Members who submit valid claims; (ii) costs of Claims Administration and notice (approximately \$60,000); (iii) any attorneys' fees and costs awarded by the Court to Class Counsel (up to \$180,000 plus litigation costs and expenses of approximately \$15,000); (iv) the cost of providing members of the Settlement Class 36 months of identity theft protection services; and (v) any service awards to the Representative Plaintiffs awarded by the Court (up to \$10,000 total). The settlement also releases all claims or potential claims of Settlement Class Members against Defendants arising from or related to the Security Incident, as detailed in the Settlement Agreement.

7. *What claims are Settlement Class Members giving up under the settlement?*

Settlement Class Members who do not validly exclude themselves from the settlement will be bound by the Settlement Agreement and any final judgment entered by the Court, and will give up their right to sue Defendants for the claims being resolved by the settlement, including all claims or potential claims of Settlement Class Members against Defendants arising from or related to the Security Incident. The claims that Settlement Class Members are releasing are described in Section 1.27 of the Settlement Agreement and the persons and entities being released from those claims are described in Section 1.28 of the Settlement Agreement. Section VIII of the Settlement Agreement explains when such releases will occur.

Payments to Settlement Class Members

8. *What kind of payments can Settlement Class Members receive?*

Settlement Class Members who submit valid claims and any required documentation may receive one or more of three types of payments to be paid from the Settlement Fund: (1) a Basic Award of **\$185** or Identity-Theft Protection Services; (2) a California Subclass Award of **\$175**; (2) a Reimbursement Award; and (3) a Time Spent Award. Settlement Class Members who were residents of California on June 11, 2022 ("California Settlement Subclass Members") who submit valid claims will receive the \$175 California Subclass Award in addition to the Reimbursement Award, the Time Spent Award, and either the \$185 Basic Award or Identity-Theft Protection Services. Other Settlement Class Members may receive only a Reimbursement Award, a Time Spent Award, and either a \$185 Basic Award or Identity-Theft Protection Services, but not both. Depending on how many valid claims are submitted, the amounts of the Basic Award and California Subclass Award will be adjusted upward or downward proportionally among Settlement Class Members submitting valid claims for those awards, as explained further below in Question 11.

9. *What are the Basic Award and the California Subclass Award?*

Every Settlement Class Member is eligible to receive a **\$185** Basic Award, and every California Settlement Subclass Member is eligible to receive an additional **\$175** California Subclass Award regardless of whether he or she experienced any unauthorized charges or identifiable losses related to the Security Incident. Settlement Class Members seeking a Basic Award and/or a California Subclass Award must provide the information required on the Claim Form. The \$185 Basic Award and the \$175 California Subclass Award are subject to upward or downward adjustment as described below in Question 11.

Eligibility for any award, including the Basic Award and California Subclass Award, is within the discretion of the Settlement Administrator as outlined in Paragraph 16.

10. *What is a Reimbursement Award?*

Settlement Class Members who, at any time from June 11, 2021 to **ENTER CLAIMS DEADLINE**, experienced unauthorized charges or identifiable losses that were not denied, reversed or otherwise credited or reimbursed, which charges are fairly traceable to the Security Incident, and certain out-of-pocket expenses related to the Security Incident, are eligible to receive a Reimbursement Award of up to \$5,000 as reimbursement for those charges and expenses. The following types of out of pocket expenses may be claimed:

- payment card fees or bank fees, including card reissuance fees, overdraft fees, charges related to unavailability of funds, late fees, over-limit fees and fees relating to an account being frozen or otherwise unavailable due to the Security Incident;
- cell, internet or text charges;
- costs or charges for obtaining credit reports, credit freezes, or credit monitoring or identity theft protection services (up to two years of coverage); and
- postage costs.

You cannot recover for emotional distress. Claimants must exhaust all available credit monitoring insurance and identity theft insurance before seeking a Reimbursement Award. Settlement Class Members seeking a Reimbursement Award must provide the information and documents required on the Claim Form.

11. *When and how will the amount of settlement payments be adjusted?*

The amounts paid for all Basic Awards and California Subclass Awards will be adjusted upward or downward from the amounts listed in Question 9 depending on how many Settlement Class Members submit valid claims.

If the total dollar value of all valid claims is less than the amount of money available in the Settlement Fund for payment of those claims, the amounts for Basic Awards and California Subclass Awards will be adjusted upward proportionally among all valid claims for those awards, until the amounts remaining in the Settlement Fund are exhausted (or as nearly as possible).

If the total dollar value of all valid claims is more than the amount of money available in the Settlement Fund for payment of those claims, the amount of the payments for Basic Awards and California Subclass Awards will be adjusted downward proportionally among all Settlement Class Members who submitted valid claims for Basic Awards and California Subclass Awards.

12. *What happens after all claims are processed and there are funds remaining?*

If there are any funds remaining after all valid claims are processed and the time to cash any payment checks has passed, those funds shall be distributed as directed by the Court, including potential distribution to a charitable organization. No remaining funds will be returned to Defendants.

Your Options as a Settlement Class Member

13. *If I am a Settlement Class Member, what options do I have?*

If you are a Settlement Class Member, you do not have to do anything to remain in the settlement. **However, if you wish to seek an award under the settlement, you must complete and submit a Claim Form postmarked or submitted online at www. .com by [INSERT DATE].**

If you do not want to give up your right to sue Defendants about the Security Incident or the issues raised in this case, you must exclude yourself (or “opt out”) from the Settlement Class. See Question 17 below for instructions on how to exclude yourself.

If you wish to object to the settlement, you must remain a Settlement Class Member (*i.e.*, you may not also exclude yourself from the Settlement Class by opting out) and submit a written objection. See Question 20 below for instructions on how to submit an objection.

14. *What happens if I do nothing?*

If you do nothing, you will get no award from this settlement. Unless you exclude yourself, after the settlement is granted final approval and the judgment becomes final, you will be bound by the judgment and you will never be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants related to the claims released by the settlement.

15. *How do I submit a claim?*

You may complete the Claim Form online at www. .com. You may also obtain a paper Claim Form by downloading it at www. .com or by calling the claims administrator at [INSERT TOLL-FREE NUMBER]. If you choose to complete a paper Claim Form, you may either submit the completed and signed Claim Form and any supporting materials electronically at www. .com or mail them to: [INSERT CLAIMS MAILING ADDRESS].

16. *Who decides my settlement claim and how do they do it?*

The Claims Administrator will decide whether a Claim Form is complete and valid and includes all required documentation. The Claims Administrator may require additional information from

any claimant. Failure to timely provide all required information will invalidate a claim and it will not be paid.

17. How do I exclude myself from the settlement?

To opt out of the settlement you must make a signed, written request that (i) says you wish to exclude yourself from the Settlement Class in this Lawsuit, and (ii) includes your name, address and phone number. You must submit your request through the settlement website (www. .com) or mail your request to this address:

[INSERT REQUEST FOR EXCLUSION MAILING ADDRESS]

Your request must be submitted online or postmarked by **[INSERT DATE]**.

18. If I exclude myself, can I receive any payment from this settlement?

No. If you exclude yourself, you will not be entitled to any award. However, you will also not be bound by any judgment in this Lawsuit.

19. If I do not exclude myself, can I sue Defendants for the Security Incident later?

No. Unless you exclude yourself, you give up any right to sue Defendants for the claims that this settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form requesting a payment.

20. How do I object to the settlement?

All Settlement Class Members who do not request exclusion from the Settlement Class have the right to object to the settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed settlement must be in writing and it and any supporting papers must be mailed to the Claims Administrator at the following address:

[INSERT CLAIMS ADMINISTRATOR ADDRESS].

Objections must be postmarked no later than **[INSERT DATE]**.

To be considered by the Court, your objection must list the name of this Lawsuit, *James v. Davaco, Inc.*, and the case number, Case No. 3:21-cv-02318-M, and include all of the following information: (i) your name, address, phone number, and an email address (if you have one); (ii) a statement that you are a member of the Settlement Class and any proof of your membership (e.g., a copy of Defendants' notice of the Security Incident sent to your physical or email address or a copy of the notice of this settlement sent to your physical or email address); (iii) whether your objection applies only to yourself, to a specific subset of the Settlement Class, or to the entire class; (iv) a detailed statement of the specific legal and factual bases for all of your objections, along with any applicable legal support; (v) the identity of any lawyer representing you; (vi) whether you intend to appear at the Final Approval Hearing and the identity of any lawyer(s) who will attend that hearing with you or on your behalf; (vii) a list of anyone you plan to have testify at the Final

Approval Hearing in support of your objections; and (viii) your signature and the signature of your attorney or other authorized representative, if any.

If you submit a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Court Approval of the Settlement

21. How, when and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing to decide whether to approve the settlement. That hearing is scheduled for [REDACTED], 2022 at [REDACTED] p.m. at the United States District Court, Northern District of Texas, 1100 Commerce Street, Dallas, TX 75242, Courtroom 1570. Please visit the Court's website at <https://www.txnd.uscourts.gov> for current information regarding courthouse access and court hearings. At the Final Approval Hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider Class Counsel's request for attorneys' fees and costs, and the request for service awards for the Representative Plaintiffs. After the hearing, the Court will decide whether to approve the settlement.

It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check www.txnd.uscourts.gov or access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.txnd.uscourts.gov/cgi-bin/ShowIndex.pl> to confirm the schedule if you wish to attend.

22. Do I have to attend the hearing?

No. You do not need to attend the hearing unless you object to the settlement and wish to appear in person. It is not necessary to appear in person in order to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 20. You or your own lawyer are welcome to attend the hearing at your expense, but are not required to do so.

23. What happens if the Court approves the settlement?

If the Court approves the settlement and no appeal is taken, the Settlement Fund will be fully funded. The Claims Administrator will pay any attorney fees' and costs award and any Representative Plaintiffs' service awards from the Settlement Fund. Then, within the later of 90 days after the Effective Date or 30 days after all disputed claims have been resolved, the Claims Administrator will send Settlement Payments to Settlement Class Members who submitted timely and valid Settlement Claims.

If any appeal is taken, it is possible the settlement could be disapproved on appeal.

24. What happens if the Court does not approve the settlement?

If the Court does not approve the settlement, no Settlement Fund will be created, there will be no Settlement Payments to Settlement Class Members, Class Counsel or the Representative Plaintiffs, and the case will proceed as if no settlement had been attempted.

Lawyers for the Settlement Class and Defendants25. *Who represents the Settlement Class?*

The Court has appointed the following Class Counsel to represent the Settlement Class in this Lawsuit:

Rachele R. Byrd Wolf Haldenstein Adler Freeman & Herz LLP 750 B Street, Suite 1820 San Diego, CA 92101 619-239-4599	M. Anderson Berry Clayco C. Arnold, A Professional Law Corporation 865 Howe Avenue Sacramento, CA 95825 916-777-7777
Gayle M. Blatt Casey Gerry Schenk Francavilla Blatt & Penfield LLP 110 Laurel Street San Diego, CA 92101 619-238-1811	Joshua B. Swigart Swigart Law Group, APC 2221 Camino del Rio South, Ste. 308 San Diego, CA 92108 866-219-3343

Settlement Class Members will not be charged for the services of Class Counsel; Class Counsel will be paid out of the Settlement Fund, subject to Court approval. However, you may hire your own attorney at your own cost to advise you in this matter or represent you in making an objection or appearing at the Final Approval Hearing.

26. *How will the lawyers for the Settlement Class be paid?*

Class Counsel will request the Court's approval of an award for attorneys' fees up to one-third (33.33%) of the Settlement Fund (or up to \$180,000), plus reasonable costs and expenses (approximately \$15,000), which shall be paid from the Settlement Fund. Class Counsel will also request approval of service awards of \$2,500 to each of the Representative Plaintiffs (a total of \$10,000), which shall also be paid from the Settlement Fund.

27. *Who represents Defendants in the Lawsuit?*

Defendants are represented by the following lawyers:

Adam A. Cooke Hogans Lovells US LLP Columbia Square 555 Thirteenth Street, NW Washington, DC 20004 202-637-5600	Russell A. Welch Hogan Lovells US LLP 609 Main Street Suite 4200 Houston, TX 77002 713-632-1400
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For Further Information28. *What if I want further information or have questions?*

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the Settlement Agreement available at www._____.com, by contacting Class Counsel at the phone numbers provided in response to Question 25 above, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.txnd.uscourts.gov/cgi-bin/ShowIndex.pl>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of Texas, Dallas Division, 1100 Commerce Street, Dallas, TX 75242 between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

Angeion Group, LLC will act as the Claims Administrator for the settlement. You can contact the Claims Administrator at:

[INSERT CONTACT INFO FOR CLAIMS ADMINISTRATOR]

Please do not contact the Court.

EXHIBIT C

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TRAVIS JAMES, et al.

Plaintiffs

v.

DAVACO, INC., et al.,

Defendants.

Case No.: 3:21-cv-02318-M

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGEMENT**

On _____, 2022, the Court entered an order granting preliminary approval (the “Preliminary Approval Order”) to the August __, 2022 Settlement Agreement and Release (“Settlement Agreement”) between Plaintiffs Travis James, Stefanie Sheehan, Kimberly Gamboa, and Korey Williams, individually and on behalf of the Settlement Class (as defined below), and Defendants DAVACO, Inc. and DAVACO LP.¹

Commencing on _____, pursuant to the notice requirements in the Settlement Agreement and the Preliminary Approval Order, _____ (the “Claims Administrator”) provided Notice to Settlement Class Members in compliance with Section IV of the Settlement Agreement and the Notice Program, due process, and Rule 23 of the Federal Rules of Civil Procedure. The notice:

- (a) fully and accurately informed Settlement Class Members about the Litigation and the existence and terms of the Settlement Agreement;
- (b) advised Settlement Class Members of their right to request exclusion from the settlement and provided sufficient information so that Settlement Class Members were able to decide whether to accept the benefits offered, opt out and pursue their own remedies, or object to the proposed settlement;
- (c) provided procedures for Settlement Class Members to file written objections to the proposed settlement, to appear at the Final Approval Hearing, and to state objections to the proposed settlement; and
- (d) provided the time, date, and place of the Final Approval Hearing.

On _____, 202__, the Court held a Final Approval Hearing to determine whether the proposed settlement is fair, reasonable and adequate and whether judgment should be entered dismissing this Litigation with prejudice. The Court reviewed (a) Plaintiffs’ Motion for Final

¹ Capitalized terms used in this Final Approval Order shall have the same meanings as defined in the Settlement Agreement, unless otherwise expressly stated.

Approval of Class Action Settlement and Plaintiffs' Motion for an Award off Attorneys' Fees, Reimbursement of Expenses and Service Awards (together, the "Motions") and all supporting materials, including but not limited to the Settlement Agreement and the exhibits thereto; (b) any objections filed with or presented to the Court; and (c) the Parties' responses to any objections. The Court also considered the oral argument of counsel and any objectors who appeared. Based on this review and the findings below, the Court finds good cause to grant the Motions.

IT IS HEREBY ORDERED:

1. The Court has jurisdiction over the subject matter of this Litigation, all claims raised therein, and all Parties thereto, including the Settlement Class.

2. The Settlement Agreement is fair, reasonable, adequate and in the best interests of Settlement Class Members. The Settlement Agreement was negotiated at arm's-length, in good faith and without collusion, by capable and experienced counsel, with full knowledge of the facts, the law, and the risks inherent in litigating the Litigation, and with the active involvement of the Parties. Moreover, the Settlement Agreement confers substantial benefits on the Settlement Class Members, is not contrary to the public interest, and will provide the Parties with repose from further litigation. The Parties faced significant risks, expense, and/or uncertainty from continued litigation of this matter, which further supports the Court's conclusion that the Settlement is fair, reasonable, adequate and in the best interests of the Settlement Class Members.

3. The Court grants final approval of the Settlement Agreement in full, including but not limited to the releases therein and the procedures for distribution of the Settlement Fund. All Settlement Class Members who have not excluded themselves from the Settlement Class are bound by this Final Approval Order.

4. The Parties shall carry out their respective obligations under the Settlement Agreement in accordance with its terms. The benefits provided for in the Settlement Agreement shall be made available to the various Settlement Class Members submitting valid Claim Forms, pursuant to the terms and conditions in the Settlement Agreement. The Settlement Agreement is incorporated herein in its entirety as if fully set forth herein and shall have the same force and effect of an order of this Court.

OBJECTIONS AND REQUESTS FOR EXCLUSION

5. _____ objections to the Settlement were submitted by Settlement Class Members. The Court has considered all objections and finds that they do not warrant or support rejection or non-approval of the Settlement. All objections are hereby overruled in all respects. All persons who did not object to the Settlement in the manner set forth in the Settlement Agreement are deemed to have waived any objections, including but not limited to by appeal, collateral attack, or otherwise.

6. _____ persons made valid and timely requests to be excluded from the Settlement and the Settlement Class (the “Opt-Out Members”). The Opt-Out Members are not bound by the Settlement Agreement and this Final Approval Order and shall not be entitled to any of the benefits afforded to Settlement Class Members under the Settlement Agreement.

CERTIFICATION OF THE SETTLEMENT CLASS

7. Solely for purposes of the Settlement Agreement and this Final Approval Order, the Court hereby certifies the following Settlement Class:

All individuals identified by Defendants and to whom Defendants sent notice on or about July 2, 2021 that their information may have been impacted in the Security Incident.

8. Solely for purposes of the Settlement Agreement and this Final Approval Order, the Court hereby certifies the following California Settlement Subclass:

All individuals in the Settlement Class who resided in California on June 11, 2021.

9. The Court incorporates its preliminary conclusions in the Preliminary Approval Order regarding the satisfaction of Federal Rules of Civil Procedure 23(a) and 23(b). Because the Settlement Class and California Settlement Subclass are certified solely for purposes of settlement, the Court need not address any issues of manageability for litigation purposes.

10. The Court grants final approval to the appointment of Representative Plaintiffs Travis James, Stefanie Sheehan, Kimberly Gamboa, and Korey Williams as the class representatives, and concludes that they have fairly and adequately represented the Settlement Class and shall continue to do so.

11. The Court grants final approval to the appointment of Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz LLP; Gayle Blatt of Casey Gerry Schenk Francavilla Blatt & Penfield, LLP; Joshua Swigart of The Swigart Law Group, APC and M. Anderson Barry of Clayco C. Arnold, A Professional Law Corporation as Class Counsel. Class Counsel have fairly and adequately represented the Settlement Class and shall continue to do so.

NOTICE TO THE CLASS

12. The Court finds that the Notice Program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order: (i) was the best notice practicable under the circumstances; (ii) was reasonably calculated to provide, and did provide, due and sufficient notice to the Settlement Class regarding the existence and nature of the Litigation, certification of the Settlement Class and California Settlement Subclass for settlement purposes only, the existence and terms of the Settlement Agreement, and the rights of Settlement Class Members to exclude themselves from the Settlement, to object and appear at the Final Approval Hearing, and to receive benefits under the Settlement Agreement; and (iii) satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and all other applicable law.

ATTORNEYS' FEES AND COSTS, SERVICE AWARDS

13. The Court awards Class Counsel \$_____ in fees and reimbursement of \$_____ in costs. The Court finds these amounts to be fair and reasonable. Payment shall be made from the Settlement Fund pursuant to the procedures in paragraph 9.3 of the Settlement Agreement.

14. The Court awards \$_____ each to Mr. James, Ms. Sheehan, Ms. Gamboa and Mr. Willaims as service awards. The Court finds these amounts are justified by their service to the Settlement Class. Payment shall be made from the Settlement Fund pursuant to the procedures in paragraph 9.3 of the Settlement Agreement.

RELEASE

15. Each Settlement Class Member, including Representative Plaintiffs, are: (1) deemed to have completely and unconditionally released, forever discharged and acquitted Defendants and the other Released Persons from any and all of the Released Claims (including

Unknown Claims) as defined in the Settlement Agreement; and (2) barred and permanently enjoined from asserting, instituting, or prosecuting, either directly or indirectly, these claims. The full terms of the release described in this paragraph are set forth in Paragraphs 1.26-1.27 and 8.1 of the Settlement Agreement and are specifically approved and incorporated herein by this reference (the “Release”). In addition, Representative Plaintiffs and Settlement Class Members are deemed to have waived (i) the provisions of California Civil Code § 1542, which provides that “[a] general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party, and (ii) any law of any state or territory of the United States that is similar, comparable, or equivalent to California Civil Code § 1542.

16. Every Settlement Class Member who did not timely and validly exclude himself or herself from the Settlement Class fully, finally, and forever releases any and all Released Claims in accordance with the terms of the Settlement Agreement. All Settlement Class Members shall be bound by the terms of the Settlement Agreement upon entry of this Final Approval Order. The Settlement Agreement and this Final Approval Order and Judgment shall have maximum res judicata, collateral estoppel, and all other preclusive effect in any and all causes of action, claims for relief, suits, demands, petitions, or any other challenges or allegations that arise out of or relate to the subject matter of the Litigation and/or the Complaint.

OTHER PROVISIONS

17. The Settlement Fund, consisting of five hundred forty thousand dollars and no cents (\$540,000.00), shall be used to pay all costs of the settlement, including all Awards and payments to Settlement Class Members including the cost of identity-theft protection services, costs of notice and Claims Administration, the Attorneys’ Fees and Expenses Award to Class Counsel, and the Representative Plaintiffs’ Service Awards.

18. If any money remains in the Settlement Fund after the payment of all settlement payments to Settlement Class Members, cost of identity-theft protection services, costs of notice and Claims Administration, the Attorneys’ Fees and Expenses Award to Class Counsel, and the

Representative Plaintiffs' Service Awards, the Parties shall return to the Court seeking direction as to the disposition of these funds, including the selection of a *cy pres* recipient, pursuant to Paragraph 7.6 of the Settlement Agreement.

19. The Settlement Agreement and this Final Approval Order, and all documents, supporting materials, representations, statements and proceedings relating to the settlement, are not, and shall not be construed as, used as, or deemed evidence of, any admission by or against Defendant of liability, fault, wrongdoing, or violation of any law, or of the validity or certifiability for litigation purposes of the Settlement Class or any claims that were or could have been asserted in the Litigation.

20. The Settlement Agreement and this Final Approval Order, and all documents, supporting materials, representations, statements and proceedings relating to the settlement shall not be offered or received into evidence, and are not admissible into evidence in any action or proceeding, except that the Settlement Agreement and this Final Approval Order may be filed in any action by any of the Defendants or the Settlement Class Members seeking to enforce the Settlement Agreement or the Final Approval Order.

21. Consistent with Paragraph 10.5 of the Settlement Agreement, if the Effective Date does not occur for any reason, the following will occur: (a) the Final Approval Order and all of its provisions, will be vacated, including, but not limited to the Attorneys' Fees and Expenses Award and the Representative Plaintiffs' Service Awards, and the Final Approval Order will not waive, release or otherwise impact the Parties' rights or arguments in any respect; and (b) the Litigation will revert to the status that existed before the Settlement Agreement's execution date, and the Parties shall be restored to their respective positions in the Litigation as if the Settlement Agreement had never been entered into. No term or draft of the Settlement Agreement, or any part of the Parties' settlement discussions, negotiations, or documentation, will have any effect or be admissible in evidence for any purpose in the Litigation or any other action or proceeding.

22. Without affecting the finality of this Final Approval Order, the Court will retain jurisdiction over this Litigation and the Parties with respect to the interpretation, implementation and enforcement of the Settlement Agreement for all purposes.

23. The Court hereby dismisses the Action in its entirety with prejudice, and without fees or costs except as otherwise provided for herein.

NOW, THEREFORE, the Court hereby enters judgment in this matter pursuant to rule 58 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED:

DATED: _____

HON. BARBARA M. G. LYNN
UNITED STATES DISTRICT COURT JUDGE

EXHIBIT D

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TRAVIS JAMES, et al.

Plaintiffs

v.

DAVACO, INC., et al.,

Defendants.

Case No.: 3:21-cv-02318-M

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

This matter is before the Court on Plaintiffs' motion for preliminary approval of the proposed class action settlement. Plaintiffs, individually and on behalf of the proposed Settlement Class, and Defendants have entered into a Settlement Agreement and Release, dated August __, 2022 (the "Settlement Agreement") that, if approved, would settle the above-captioned litigation. Having considered the motion, the Settlement Agreement together with all exhibits thereto, the record in this matter, and the briefs and arguments of counsel, IT IS HEREBY ORDERED as follows:

1. Unless otherwise defined herein, all terms capitalized herein shall have the same meanings ascribed to those terms in the Settlement Agreement.

2. The Court has jurisdiction over this Litigation, Representative Plaintiffs, Defendants, Settlement Class Members, and any party to any agreement that is part of or related to the Settlement Agreement.

PRELIMINARY APPROVAL

3. The Court has reviewed the terms of the Settlement Agreement, the exhibits thereto, Plaintiffs' motion papers and briefs, and the declarations of counsel and the Claims Administrator. Based on its review of these papers, the Court finds that the Settlement Agreement appears to be the result of serious, informed, non-collusive negotiations conducted with the assistance of Christopher Nolland, Esq. during a day-long mediation session on April 7, 2022, and during several hours of follow-up mediation sessions on April 12, 2022, April 13, 2022, and April 18, 2022, through which the basic terms of the settlement were negotiated and finalized. The Court further observes that the Settlement Agreement is the product of an informal exchange of fact discovery. The terms of the Settlement Agreement fall within the range of possible approval as fair, reasonable, and adequate.

4. The Court therefore GRANTS preliminary approval of the Settlement Agreement and all of the terms and conditions contained therein.

PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS

5. Pursuant to Federal Rule of Civil Procedure 23, the Court preliminarily certifies, for settlement purposes only, the Settlement Class defined in the Settlement Agreement as follows:

All individuals identified by Defendants and to whom Defendants sent notice on or about July 2, 2021 that their information may have been impacted in the Security Incident.

6. Pursuant to Federal Rule of Civil Procedure 23, the Court preliminarily certifies, for settlement purposes only, the California Settlement Subclass defined in the Settlement Agreement as follows:

All individuals in the Settlement Class who resided in California on June 11, 2021.

7. The Court preliminarily finds that the Settlement Class and California Settlement Subclass (together, the “Settlement Class”) satisfy the requirements of Federal Rule of Civil Procedure 23(a) for settlement purposes: (1) the Settlement Class Members are so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the Settlement Class; (3) the Representative Plaintiffs’ claims are typical of those of Settlement Class Members; and (4) the Representative Plaintiffs will fairly and adequately protect the interests of the Settlement Class.

8. The Court preliminarily finds that the Settlement Class satisfies the requirements of Federal Rule of Civil Procedure 23(b)(3) for settlement purposes: (1) the questions of law or fact common to the Settlement Class predominate over individual questions; and (2) class action litigation is superior to other available methods for the fair and efficient adjudication of this controversy.

9. The Court hereby appoints Travis James, Stefanie Sheehan, Kimberly Gamboa, and Corey Williams as the Representative Plaintiffs of the Settlement Class.

10. The Court hereby appoints as Class Counsel Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz LLP; M. Anderson Berry of Clayco C. Arnold, A Professional Law Corp; Gayle M. Blatt of Casey Gerry Schenk Francavilla Blatt & Penfield, LLP; and Joshua B. Swigart of Swigart Law Group, APC.

NOTICE AND ADMINISTRATION

11. Pursuant to the Settlement Agreement, the Parties have designated Angeion Group, LLC (“Angeion”) as the Claims Administrator. Angeion shall perform all the duties of the Claims Administrator set forth in the Settlement Agreement.

12. The Court finds that the Class Notice and Notice Program set forth in the Settlement Agreement satisfy the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure and provide the best notice practicable under the circumstances. The Class Notice and Notice Program are reasonably calculated to apprise Settlement Class Members of the nature of this Litigation, the scope of the Settlement Class, the terms of the Settlement Agreement, the right of Settlement Class Members to object to the Settlement Agreement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. The Court therefore approves the Class Notice and Notice Program and directs the parties and the Claims Administrator to proceed with providing notice to Settlement Class Members pursuant to the terms of the Settlement Agreement and this Order.

13. The Claims Administrator shall commence the Notice Program within the time required by the Settlement Agreement.

14. The Court also approves the Claim Form.

EXCLUSION AND OBJECTIONS

15. Settlement Class Members who wish to opt-out and exclude themselves from the Settlement Class may do so by notifying the Claims Administrator in writing, postmarked no later than _____, 202_ (75 calendar days after entry of this Order). To be valid, each request for exclusion must be made in writing and: (a) state the Settlement Class Member's full name, address and telephone number; (b) contain the Settlement Class Member's personal and original signature or the original signature of a person authorized by law to act on the Settlement Class Member's behalf with respect to a claim or right such as those asserted in the Litigation, such as a trustee, guardian or person acting under a power of attorney; and (c) state unequivocally the Settlement Class Member's intent to be excluded from the Settlement. All Requests for Exclusion must be submitted individually in connection with a Settlement Class Member, *i.e.*, one request is required for every Settlement Class Member seeking exclusion.

16. All Settlement Class Members who do not opt out and exclude themselves shall be bound by the terms of the Settlement Agreement upon entry of the Final Approval Order.

17. Settlement Class Members who wish to object to the Settlement may do so by submitting a written objection to the Claims Administrator in accordance with the procedures outlined in the Class Notice, filed or postmarked no later than _____, 202_ (75 calendar

days after entry of this Order). Any Settlement Class Member wishing to comment on or object to the Settlement Agreement shall mail the comment or objection to the Claims Administrator at: [insert address]. The written objection must contain: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class; (iii) whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire class; (iv) a clear and detailed written statement of the specific legal and factual bases for each and every objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of any counsel representing the objector; (vi) a statement whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying that counsel; (vii) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objections; and (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative, if any.

18. Any Settlement Class Member who does not timely submit a written objection in accordance with these procedures and the procedures detailed in the Class Notice and Settlement Agreement shall be deemed to have waived any objection, shall not be permitted to object to the Settlement, and shall be precluded from seeking any review of the Settlement Agreement and/or the Final Approval Order by appeal or other means.

FINAL APPROVAL HEARING

19. The Court will hold a Final Approval Hearing on _____, 202_ in Courtroom 1570 of the United States District Court, Northern District of Texas, 1100 Commerce Street, Dallas, TX 75242.

20. At the Final Approval Hearing, the Court will consider whether: (a) the Settlement is fair, reasonable, and adequate; (b) the Settlement Class should be finally certified for settlement purposes; (c) a final judgment should be entered; (d) Class Counsel's motion for attorneys' fees and costs should be granted; and (e) the service awards sought for Representative Plaintiffs should be granted.

21. The Court reserves the right to continue the date of the Final Approval Hearing without further notice to Settlement Class Members.

DEADLINES, INJUNCTION & TERMINATION

Event	Date
Defendants to provide Settlement Class Member data to Claims Administrator	10 business days after entry of this Order
Notice Program per Settlement Agreement commences with the establishment of the settlement website	7 days after Claims Administrator receives Settlement Class Member data
Class Counsel's Motion for Attorneys' Fees and Costs and Service Awards	21 days prior to the Objection Deadline
Opt-Out and Objection Deadlines	75 days after entry of this Order
Motion for Final Approval	42 days prior to the Final Approval Hearing
Replies in Support of Motion for Final Approval and Motion for Attorneys' Fees and Costs	14 days prior to the Final Approval Hearing
Final Approval Hearing	At the Court's convenience at least ___ 130 days after entry of this Order

22. All proceedings and deadlines in this matter, except those necessary to implement this Order and the settlement, are hereby stayed and suspended until further order of the Court.

23. All Settlement Class Members who do not validly opt out and exclude themselves are hereby enjoined from pursuing or prosecuting any of the Released Claims as set forth in the Settlement Agreement until further order of the Court.

24. In the event that the Settlement Agreement is terminated pursuant to the terms of the Settlement Agreement: (a) the Settlement Agreement and this Order shall become void, shall have no further force or effect, and shall not be used in the Litigation or any other proceedings for any purpose other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination; (b) this matter will revert to the status that existed before execution of the Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the Settling Parties' settlement discussions, negotiations or documentation (including any briefs filed in support of preliminary or final approval of the settlement) shall (i) be admissible into evidence for any purpose in this Litigation or in any other action or proceeding other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination, (ii) be

deemed an admission or concession by any settling party regarding the validity of any of the Released Claims or the propriety of certifying any class, or (iii) be deemed an admission or concession by any settling party regarding the truth or falsity of any facts alleged in the Litigation or the availability or lack of availability of any defense to the Released Claims.

IT IS SO ORDERED.

DATED: _____

HON. BARBARA M. G. LYNN
UNITED STATES DISTRICT COURT JUDGE

EXHIBIT E

EXHIBIT E

To: <<class member email address>>

From: <<Claims Administrator>>

Re: Notice of Class Action Settlement

(Email body:)

YOU MAY BE A CLASS MEMBER IN A PROPOSED CLASS ACTION SETTLEMENT IF YOU ARE OR WERE EMPLOYED BY DAVACO AND DAVACO PREVIOUSLY NOTIFIED YOU THAT YOUR INFORMATION MAY HAVE BEEN IMPACTED IN A SECURITY INCIDENT THAT AFFECTED ITS COMPUTER NETWORK

A proposed settlement has been given preliminary approval in a class action lawsuit against DAVACO, Inc. and DAVACO LP (“Davaco”) related to a security incident that involved unauthorized access to Davaco’s computer network on or about June 11, 2021, and was previously disclosed to employees by Davaco in July of 2021. (*James, et al. v. Davaco, Inc., et al.*, United States District Court, Northern District of Texas, Case No. 3:21-cv-02318-M.) Davaco denies all of the claims and denies that it did anything wrong. **The sole purpose of this notice is to inform you of the lawsuit and the settlement so that you may decide what steps to take in relation to it.**

The settlement provides payments to Settlement Class Members of either a Basic Award of **\$185** or 36 months of free identity theft services; a Reimbursement Award; and a Time Spent Award. Those Settlement Class Members who were California residents on June 11, 2021 are also eligible to receive an additional payment (the California Subclass Award) of **\$175**. The Basic Award and the California Subclass Award are subject to a pro rata increase or decrease depending upon the number of valid claims submitted. The settlement provides, as an alternative to a Basic Award, 36 months of free identity theft services called “Financial Shield” from Aura (a.k.a. Pango) for Settlement Class Members who file a claim. If you experienced unauthorized charges or identifiable losses that were not denied, reversed or otherwise credited or reimbursed and which you believe in good faith were more likely than not caused by the Security Incident and/or you incurred out of pocket expenses related to the security incident, you may also file a claim for a Reimbursement Award.

For more information regarding the settlement, including information about the Basic Award, California Subclass Award, Reimbursement Award, Time Spent Award, and Aura Financial Shield, your rights under the settlement, instructions on how to be excluded from the settlement or object to the settlement, and a form to fill out to obtain settlement benefits, please visit www. .com, where you will find a more detailed notice.

Please visit www. .com to obtain important information regarding the settlement and your rights.

There are deadlines associated with the choices you may make regarding the settlement. The last day to exclude yourself from the settlement or to object to the settlement is [\[INSERT DATE\]](#).

EXHIBIT F

**Legal Notice of
Class Action Settlement**

James, et al. v. DAVACO, Inc., et al.
Settlement
[Settlement Administrator address]



Why am I getting this Notice? You may be a class member in a proposed class action settlement if you are or were employed by Davaco and Davaco previously notified you that your information may have possibly been exposed in a security incident that affected its computer network.

[Class member]

For more information on the settlement, see the reverse of this card or go to www. .com

Class Action Settlement in *James, et al. v. DAVACO, Inc., et al.*

YOU ARE A CLASS MEMBER IN A PROPOSED CLASS ACTION SETTLEMENT IF DAVACO PREVIOUSLY NOTIFIED YOU IN JULY 2021 THAT YOUR INFORMATION MAY HAVE BEEN IMPACTED IN A SECURITY INCIDENT THAT AFFECTED ITS COMPUTER NETWORK

A proposed settlement has been given preliminary approval in a class action lawsuit against DAVACO, Inc. and DAVACO LP (“Davaco”) related to a security incident that involved unauthorized access to Davaco’s computer network on or about June 11, 2021, and was previously disclosed to potentially impacted persons by Davaco in July of 2021. (*James, et al. v. DAVACO, Inc., et al.*, United States District Court, Northern District of Texas, Case No. 3:21-cv-02318-M.) Davaco denies all of the claims and denies that it did anything wrong. **The sole purpose of this notice is to inform you of the lawsuit and the settlement so that you may decide what steps to take in relation to it. You must make a claim to obtain the Settlement benefits.**

The settlement provides payments to Settlement Class Members of either a Basic Award of **\$185** or 36 months of identity theft services called “Financial Shield” from Aura (a.k.a. Pango); a Reimbursement Award; a Time Spent Award; and an additional payment (the California Subclass Award) of **\$175** to those Settlement Class Members who were California residents on June 11, 2021. The Basic Award and the California Subclass Award are subject to a pro rata increase or decrease depending upon the number of valid claims submitted. The Settlement also provides for 36 months of identity theft services called “Financial Shield” from Aura (a.k.a. Pango), which you may claim instead of a Basic Award. If you experienced unauthorized charges or identifiable losses that were not denied, reversed or otherwise credited or reimbursed and which you believe in good faith were more likely than not caused by the Security Incident, or you incurred out of pocket expenses related to the security incident, you may file a claim for a Reimbursement Award.

For more information regarding the settlement, including information about the Basic Award, the California Subclass Award, the Reimbursement Award, the Time Spent Award, Aura Financial Shield, your rights under the settlement, instructions on how to be excluded from the settlement or object to the settlement, and a form to fill out to obtain settlement benefits, please visit www. .com, where you will find a more detailed notice.

Please visit www. .com to obtain important information regarding the settlement and your rights.

There are deadlines associated with the choices you may make regarding the settlement. The last day to exclude yourself from the settlement or to object to the settlement is [\[INSERT DATE\]](#).