

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement,” “Settlement” or “Settlement Agreement”) is entered into by and between NCS Pearson, Inc. (“Defendant”) and Tammy Velazquez and Angela Ramirez (individually, “Plaintiff” and collectively, “Plaintiffs”), both individually and on behalf of the Settlement Class, in the case of *Velazquez v. NCS Pearson, Inc.*, Case No. No. 2022-CH-00280, currently pending in the Circuit Court of Cook County, Illinois (the “Litigation”). Defendant and Plaintiffs are each referred to as a “Party” and are collectively referred to herein as the “Parties.”

I. FACTUAL BACKGROUND AND RECITALS

1. On January 13, 2022, Plaintiff Tammy Velazquez filed a class action lawsuit in the Circuit Court of Cook County, Illinois, Chancery Division against Defendant alleging violations of the Illinois Biometric Information Privacy Act, 740 ILCS § 14/1, *et seq.* (“BIPA”). The case was assigned to the Honorable Caroline K. Moreland, Case No. 2022-CH-00280.
2. On March 22, 2022, Plaintiff Velazquez filed the First Amended Class Action Complaint (the “Complaint”).
3. On April 21, 2022, Defendant filed a Motion to Dismiss and to Strike Class Definition seeking to dismiss the First Amended Class Action Complaint.
4. On August 30, 2022, the Court denied Defendant’s Motion to Dismiss and to Strike Class Definition.
5. Defendant filed its Answer to the First Amended Class Action Complaint on September 27, 2022.
6. The Parties subsequently engaged in written discovery, production of documents, and Plaintiff Velazquez was deposed.
7. On July 18, 2023, Defendant filed its First Amended Answer and Defenses to the First Amended Class Complaint, asserting multiple, potentially dispositive defenses.
8. On September 29, 2023, the Court granted Plaintiff’s motion to compel certain discovery. On January 18, 2024, the Court granted Defendant’s motion to be held in “friendly contempt” under Ill. Sup. Cr. R. 304(b)(5) to allow Defendant an opportunity to appeal the September 29, 2023 Order, finding the appeal was sought in good faith. The Appellate Court of Illinois, First District granted Defendant’s motion to withdraw the appeal in that case, Case No. 1-24-0346, on January 14, 2025 in light of the Parties’ settlement.

9. The Parties have agreed to settle the Litigation according to the terms and conditions set forth herein with the understanding that the outcome of any litigation is uncertain and that achieving a final result through litigation would require substantial additional time, expense and risk. In particular, Plaintiffs acknowledge that proceeding with the litigation entailed substantial risks related to class certification and the merits, for reasons including, but not limited to, the applicability of BIPA's Section 25(e) exemption for government contractors and subcontractors.
10. Defendant denies all charges of wrongdoing or liability of any kind whatsoever that Plaintiffs or Settlement Class Members have asserted in this Litigation or may assert in the future. Defendant believes that it is not liable for, and has good defenses to, the claims alleged in the Litigation including, but not limited to the reasons that it does not collection biometric identifiers or information covered by BIPA and alternatively, maintained a BIPA-compliant public policy, provided BIPA-complaint disclosures and obtained BIPA-compliant consent, that it is a government contractor and/or subcontractor exempt from BIPA under Section 25(e) and that a litigation class should not be certified. Nevertheless, Defendant desires to settle the Litigation, and thus avoid the expense, risk, exposure, inconvenience, and distraction of continued litigation of any action or proceeding relating to the matters being fully settled and finally put to rest in this Settlement Agreement. Neither this Settlement Agreement, nor any negotiation or act performed or document created in relation to the Settlement Agreement or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission, concession, presumption, or inference of, or evidence of, any wrongdoing, liability, or of the validity of any claim or any point of law or fact.
11. Following arm's-length negotiations overseen by the Honorable James Epstein (Ret.) of JAMS, the Parties now seek to enter into this Settlement Agreement, after Plaintiffs and Class Counsel have conducted an investigation into the facts and the law regarding the Litigation and have concluded that a settlement according to the terms set forth below is fair, reasonable, and adequate, and beneficial to and in the best interests of Plaintiffs and the Settlement Class recognizing: (1) the existence of complex and contested issues of law and fact; (2) the risks inherent in litigation; (3) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; (4) the magnitude of the benefits derived from the contemplated settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever; and (5) Plaintiffs' determination that the settlement is fair, reasonable, adequate, and will substantially benefit the Settlement Class Members.

12. Considering the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in their respective best interests, and Plaintiffs and Class Counsel believe that the terms and conditions of this Settlement Agreement are in the best interests of the Settlement Class.
13. In consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the undersigned that the Litigation be settled and compromised, and that the Releasing Parties release the Released Parties of the Released Claims, without costs as to the Released Parties, Plaintiffs, Class Counsel, or the Settlement Class, except as explicitly provided for in this Agreement to be recovered from the Settlement Fund, subject to the approval of the Court, on the following terms and conditions.

II. **DEFINITIONS**

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

14. “Administrative Expenses” shall mean expenses associated with the Settlement Administrator (as defined below) including, but not limited to costs in providing Notice, processing claims, communicating with Settlement Class Members, and disbursing payments to the proposed Settlement Class Members.
15. “Claim Form” shall mean the form that Settlement Class Members may submit to the Settlement Administrator to make a claim for compensation under this Settlement. The Claim Form shall be substantially in the form attached hereto as Exhibit A.
16. “Claim Payment” shall mean the pro rata share of the Net Settlement Fund allocated to each Settlement Class Member on the Final Claims List.
17. “Claims Deadline” shall mean the date by which all Claim Forms must be postmarked (if mailed) or submitted (if filed electronically) to be considered timely and shall be set as a date no later than sixty (60) days following the Notice Date, subject to Court approval. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.
18. “Class,” “Settlement Class,” “Class Member,” or “Settlement Class Member” shall mean each member of the settlement class, as defined in Paragraph 52 of this Agreement, who does not timely elect to be excluded from the Settlement Class as provided in Paragraph 94, and includes, but is not limited

to, Plaintiffs.

19. “Class Counsel” shall mean Evan M. Meyers and Eugene Y. Turin of McGuire Law, P.C.
20. “Class List” shall mean the list of individuals eligible for inclusion in the Settlement Class as defined in Paragraph 52.
21. “Counsel” or “Counsel for the Parties” means both Class Counsel and Defendant’s Counsel, collectively.
22. “Court” shall mean the Circuit Court of Cook County, Illinois and the Honorable Caroline K. Moreland, or any other judge presiding over the Litigation.
23. “Defendant” shall mean NCS Pearson, Inc.
24. “Defendant’s Counsel” shall mean Jennifer Quinn-Barabanov, Michael Dockterman and Zachary Schreiber of Steptoe LLP.
25. “Effective Date” shall mean the date when the Settlement Agreement becomes Final.
26. “Fee and Expense Application” shall mean the motion to be filed by Class Counsel, in which they will seek approval of an award of attorneys’ fees, costs, and expenses, as well as Service Awards for the Class Representatives.
27. “Fee Award” means the amount of attorneys’ fees and reimbursement of costs and expenses awarded by the Court to Class Counsel.
28. “Final” shall mean the later of (i) if there are no objections filed or submitted, the date of entry of the Final Approval Order; (ii) if there are one or more objections but no appeal, other than an appeal or appeals solely with respect to any Fee Award (“Fee Award Appeal”), the date upon which the time expires for filing or noticing any appeal of the Final Approval Order; (iii) if there is an appeal or appeals, other than a Fee Award Appeal, the date of completion of all proceedings arising out of the appeal(s) (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal(s) following decisions on remand), so long as completed in a manner that finally affirms and leaves in place the Final Approval Order without any material modification; or (iv) if there is an appeal or appeals, other than a Fee Award Appeal, the date of final dismissal of the appeal(s) or the final dismissal of any proceeding(s) on appeal with respect to the Final Approval Order.

29. “Final Approval Hearing” means the hearing before the Court where Plaintiffs will request a judgment to be entered by the Court approving the Settlement Agreement, approving the Fee Award, and approving a Service Award to the Class Representatives.
30. “Final Approval Order” shall mean an order entered by the Court that:
 - a. Certifies the Settlement Class pursuant to 735 ILCS 5/2-801;
 - b. Finds that the Settlement Agreement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of this Agreement;
 - c. Approves a Fee Award for Class Counsel;
 - d. Dismisses Plaintiffs’ claims pending before it with prejudice and without costs, except as explicitly provided for in this Agreement;
 - e. Approves the Releases provided in Section IX and orders that, as of the Effective Date, the Released Claims will be released as to the Released Parties;
 - f. Reserves jurisdiction over the Settlement and this Agreement; and
 - g. Finds that, pursuant to 735 ILCS 5/2-1301, there is no just reason for delay of entry of final judgment with respect to the foregoing.
31. “Litigation” shall mean the case captioned *Velazquez v. NCS Pearson, Inc.*, Case No. No. 2022-CH-00280, pending in the Circuit Court of Cook County, Illinois, and includes any claims that could have been but were not brought and/or are not pending.
32. “Long Form Notice” means notice of this Settlement, substantially in the form of Exhibit C hereto, which shall be posted on the Settlement Website in accordance with Paragraph 46 below to inform Class Members of their rights and duties under this Settlement.
33. “Net Settlement Fund” means the Settlement Fund after deductions for Administrative Expenses, the Service Awards to the Class Representatives, the Fee Award to Class Counsel, any federal, state, and/or local taxes of any kind (including any interest or penalties thereon), and any and all other fees, costs or expenses approved by the Court.
34. “Notice” means the direct notice of this proposed Settlement, which is to be provided substantially in the manner set forth in this Agreement and in Exhibits B and C and is consistent with the requirements of Due Process.

35. “Notice Date” means the date by which the Notice is disseminated to the Settlement Class, which shall be a date no later than sixty (60) days after entry of Preliminary Approval.
36. “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a person within the Settlement Class must be postmarked and/or filed with the Court, which shall be designated as a date approximately forty-five (45) days after the Notice Date, or such other date as ordered by the Court.
37. “Parties” shall mean Plaintiffs and Defendant, collectively.
38. “Plaintiffs” or “Class Representatives” shall mean the named class representatives, Tammy Velazquez and Angela Ramirez, both individually and on behalf of the Settlement Class.
39. “Preliminary Approval Order” shall mean the Court’s order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing notice of the Settlement to the Settlement Class substantially in the form of the Notice set forth in this Agreement.
40. “Releasing Parties” shall refer, jointly and severally, and individually and collectively, to Plaintiffs, the Settlement Class Members, and to each of their predecessors, successors, present or past heirs, executors, estates, administrators, trustees, assigns, agents, consultants, independent contractors, insurers, reinsurers, attorneys, accountants, financial and other advisors, underwriters, lenders, and any other representative of each of the foregoing, and anyone claiming by, through, or on behalf of them.
41. “Released Claims” means any and all causes of action, suits, claims, liens, demands, judgments, costs, damages, obligations, attorney fees (except as provided for in the Class Settlement), and all other legal responsibilities in any form or nature, including but not limited to, all claims relating to or arising out of the Litigation, the Illinois Biometric Information Privacy Act (“BIPA”) or any state, local, or federal statute, ordinance, regulation, or claim at common law or in equity, whether past, present, or future, known or unknown (including “Unknown Claims” as defined below), asserted or unasserted, that were or could have been brought by Plaintiffs or Settlement Class Members against the Released Parties arising out of or in any way allegedly related to the alleged possession, collection, capture, retention, destruction, purchase, receipt through trade, obtaining, sale, lease, trade, profit from, disclosure, redisclosure, dissemination, storage, transmittal and/or protection from disclosure, or failure to provide notice and/or obtain consent related to any or all of the foregoing, of “biometrics” or other information related to palm scan technology or facial detection, comparison,

authentication or recognition technologies by or on behalf of a Released Party.

42. “Released Parties” means NCS Pearson, Inc., as well as all of its current, former, and future, direct or indirect, parents, predecessors, successors, affiliates, assigns, subsidiaries, divisions, holding companies, brands, joint ventures, partnerships or related corporate entities including, but not limited to Pearson Education, Inc., and all of each of their respective current, future, and former customers, sponsors, vendors, contractors, subcontractors, agents, employees, officers, directors, shareholders, assigns, trustees, administrators, executors, insurers, reinsurers, and attorneys.
43. “Service Award” shall have the meaning ascribed to it as set forth in Paragraph 111 of this Agreement.
44. “Settlement Administrator” means, subject to Court approval, the entity mutually selected and supervised by the Parties to administer the Settlement. The Parties agree to identify a Settlement Administrator acceptable to both Parties who will agree to Pearson’s vendor Privacy & Data Security Addendum, which will be provided to Settlement Administrator candidates on a strictly confidential basis and will not be shared with Plaintiffs, Plaintiffs’ Counsel or third parties.
45. “Settlement Fund” means or refers to the settlement funds to be paid by Defendant in the amount of \$18,224,000.00 (eighteen million two hundred and twenty-four thousand dollars) and established and administered by the Settlement Administrator. All payments from the Settlement Fund are subject to the terms and conditions set forth herein.
46. “Settlement Website” means a website established and administered by the Settlement Administrator, which shall contain information about the Settlement, including electronic copies of the Long Form Notice, this Settlement Agreement, and all Court documents related to the Settlement. A phone number for the Settlement Administrator shall be provided. The URL of the Settlement Website shall be www.bipatestsettlement.com or such other URL that the Parties may agree to and is approved by the Court.
47. “Unknown Claim” means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of § 1542 of the California Civil Code, which provides as follows:

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

Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to § 1542 of the California Civil Code.

III. SETTLEMENT CLASS CERTIFICATION

48. For the purposes of the Settlement only, the Parties stipulate and agree that: (1) the Class shall be certified in accordance with the definition contained in Paragraph 52 below; (2) Plaintiffs shall represent the Class for settlement purposes and shall be the Class Representatives; and (3) Plaintiffs' Counsel shall be appointed as Class Counsel.
49. Defendant does not consent to certification of the Class for any purpose other than to effectuate the Settlement. If the Court does not enter a Final Approval Order approving of the Settlement, or if for any other reason final approval of the Settlement does not occur, is successfully objected to, or challenged on appeal, any certification of any Class will be vacated and the Parties will be returned to their positions with respect to the Litigation as if the Agreement had not been entered into, and the Settlement Fund, less any Administrative Expenses paid to date, shall remain with Defendant.
50. Plaintiff shall file with the Court, contemporaneously with the Unopposed Motion for Preliminary Approval, an agreed motion to lift the stay that allowed for the appellate proceedings described in Paragraph 8. The agreed motion will also move the Court to vacate its contempt finding and monetary sanction imposed in its January 18, 2023 Order. Plaintiffs agree that they will not oppose any motion by Defendant, in the event this Settlement is terminated pursuant to Section XVI, requesting that the Court reissue or issue a new "friendly contempt" Order to allow Defendant to file a new appeal challenging the Court's September 29, 2023 Order, and Plaintiffs further agree not to argue on appeal that Defendant has waived any rights to challenge the September 29, 2023 Order by having filed and withdrawn the currently pending appeal. Plaintiffs further agree that they will not seek to enforce the September 29, 2023 Order unless the Settlement is terminated pursuant to Section XVI, and then only after at least twenty-one (21) days

have passed from the date of termination.

51. In the event that Final Approval of the Settlement is not achieved: (a) any Court orders preliminarily or finally approving the certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, that Defendant did not oppose the certification of a Class under this Agreement, or that the Court preliminarily approved the certification of a Class, shall not be used or cited thereafter by any person or entity in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class, nor shall it be admissible in any such proceeding whether under Illinois law, Rule 23 of the Federal Rules of Civil Procedure, or comparable state laws or rules.

52. Subject to Court approval, the following Settlement Class shall be certified for settlement purposes:

All persons who (1) had their palm vein scanned in connection with an examination administered at a Pearson test center in the State of Illinois from January 13, 2017 through October 25, 2023 and did not consent to the Pearson VUE Biometric Data Policy, effective February 1, 2023, or (2) took a remotely proctored examination through Pearson's OnVUE online testing system from a location within the State of Illinois from August 15, 2019 through February 1, 2023 that may have used facial comparison. Excluded from the Settlement Class are (1) any Judge, Magistrate or Mediator presiding over this action and members of their families; (2) Defendant, Defendant's subsidiaries, parent companies, affiliates, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, or employees; (3) persons who properly execute and file a timely request for exclusion from the Class; and (4) the legal representatives, successors or assigns of any such excluded persons.

53. If for any reason the Settlement is not approved, the Court does not enter a Preliminary Approval Order and/or a Final Approval Order, or final settlement and resolution of this Litigation as provided for in this Agreement is not reached, Defendant's agreement to certification of the Settlement Class shall not be used or cited for any purpose in the Litigation or otherwise including, but not limited to in any request for class certification in the Litigation or any other proceeding.

IV. SETTLEMENT OF LITIGATION AND ALL CLAIMS AGAINST THE RELEASED PARTIES

54. Final approval of this Settlement Agreement will settle and resolve with finality, on behalf of Plaintiffs and the Settlement Class, the Litigation, and

the claims released herein under Section IX and any other claims that have been brought, could have been brought, or could be brought now or at any time in the future against the Released Parties by the Releasing Parties in the Litigation or any other proceeding arising out of, in any manner related to, or connected in any way with the claims released herein under Section IX.

V. SETTLEMENT FUND

55. Establishment of Settlement Fund

- a. Pearson will establish a non-reversionary Settlement Fund in the amount of \$18,224,000.00, which will represent their only monetary obligations under the Settlement and will fully resolve this Litigation on a class-wide basis. Defendant estimates that the class size consists of 283,429 people. Defendant will provide Class Counsel a final class size no later than the date Defendant provides the Class List to the Settlement Administrator. In the event that the number of class members identified on the Class List is greater than 287,000, the Settlement Fund will increase by \$64.30 for each such additional class member, up to 5,000 additional class members (a maximum additional amount of \$321,500). To the extent the number of class members identified on the Class List is greater than 292,000, the Parties agree to negotiate in good faith the value of the relief made available by the Settlement. To the extent that the Parties are unable to come to an agreement, they agree to engage Judge Epstein to come to a resolution.
- b. A Settlement Class Member who timely submits a valid Claim Form shall be entitled to a Claim Payment. Each Settlement Class Member who timely submits a valid Claim Form shall receive the same amount of the Settlement Fund as each other Settlement Class Member who timely submits a valid Claim Form.
- c. Defendant shall initially fund the Settlement Fund in the amount of \$375,000.00 within fourteen (14) days after entry of a Preliminary Approval Order to pay any initial Administrative Expenses. Defendant shall fund the remainder of the Settlement Fund, within thirty (30) days of the last of the following to occur: (1) the Effective Date; and (2) receipt by Defendant's counsel of complete payment instructions, including a completed W-9 form.
- d. All funds provided to the Settlement Administrator by Defendant under this Agreement shall be maintained by an escrow agent as a Court-approved Qualified Settlement Fund pursuant to Section 1.468B-1, *et seq.*, of the Treasury Regulations promulgated under Section 468B of the Internal Revenue Code of 1986, as amended, and

shall be deposited in an interest-bearing account.

- e. If the Settlement Agreement is not finally approved for any reason, Plaintiffs shall not be entitled to any portion of the Settlement Fund. Plaintiffs shall have no financial responsibility for any Administrative Expenses paid out of the Settlement Fund.
- f. In the event the uncashed check amounts from the Settlement Fund following the first distribution of payments to Settlement Class Members who filed valid Claims (including checks disbursed to Settlement Class Members that remain uncashed for any reason within 90 days of issuance of the check) totals or exceeds \$300,000.00, this amount, less any additional Administrative Expenses, shall be redistributed *pro rata* to the settlement class members who cashed their initial checks. If the uncashed check amounts after the first distribution do not total \$300,000.00, this amount will be transferred to the Chicago Bar Foundation. If there is a second distribution, any uncashed check amounts 90 days after the second distribution, less any additional Administrative Expenses, shall be distributed to the Chicago Bar Foundation.
- g. The Settlement Fund represents the total extent of Defendant's monetary obligations under the Settlement Agreement. Defendant's contributions to the Settlement Fund shall be fixed under this Agreement and final. Defendant shall have no obligation to make further payments to the Settlement Fund and shall have no financial responsibility or obligation relating to the Settlement beyond the Settlement Fund.
- h. The Court may require changes to the method of allocation to Settlement Class Members without invalidating this Settlement Agreement, provided that the other material terms of the Settlement Agreement are not altered including, but not limited to the scope of the Release, the scope of the Settlement Class, and the terms and amount of the Settlement Fund.
- i. The Settlement Administrator shall be responsible for making all reporting and filings with respect to amounts payable to Settlement Class Members required pursuant to any federal, state, or local tax law or regulation hereunder. The Settlement Administrator shall also be responsible for filing and sending Form 1099 to any applicable recipient of money from the Settlement Fund.
- j. Plaintiffs and all other Settlement Class Members will be solely responsible for all taxes, interest, penalties, or other amounts due with respect to any payment received pursuant to the Settlement. No

opinion or advice concerning the tax consequences of the Settlement to Plaintiffs or any other Settlement Class Member is being given or will be given by the Parties or Counsel. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each Settlement Class Member.

VI. SUBMISSION AND EVALUATION OF CLAIMS

56. In order to receive a Claim Payment, a Settlement Class Member must submit a Claim Form providing the Settlement Class Member's (i) full legal name; (ii) personal attestation that, while within the State of Illinois, they either had their palm scanned at a Pearson test center in connection with a Pearson-administered examination, or took a remotely proctored examination through Pearson's OnVUE online testing system that may have used facial comparison; (iii) the name of the Sponsor(s) of any exam(s) they took during the Class Period; (iv) mailing address; (v) contact telephone number; (vi) contact email address; and (vii) a signature.
57. The Claim Form must be submitted (either electronically submitted or else postmarked) on or before the Claims Deadline. The Claim Form shall be substantially in the form attached hereto as Exhibit A.
58. Completed Claim Forms shall be submitted directly to the Settlement Administrator electronically via the Settlement Website, via e-mail, or via U.S. Mail or courier service, for processing, assessment, and payment.
59. Any Claim Form that lacks the requisite information will be deemed to be incomplete and ineligible for payment. However, for any partially completed Claim Forms, the Settlement Administrator shall attempt to contact the Settlement Class Member who submitted the Claim Form at least one time by e-mail or, if no e-mail address is available, by telephone where a telephone number is available or regular U.S. Mail (i) to inform the Settlement Class Member of any error(s) and/or omission(s) in the Claim Form and (ii) to give the Settlement Class Member an opportunity to cure any errors and/or omissions in the Claim Form. The Settlement Class Member shall have until the Claims Deadline, or fourteen (14) days after the Settlement Administrator sends the e-mail or regular mail notice to the Settlement Class Member regarding the deficiencies in the Claim Form, whichever is later, to cure the error(s) and/or omission(s) in the Claim Form.
60. A Settlement Class Member is not entitled to a Claim Payment if he or she submits a Claim Form after the Claims Deadline, or if the Claim Form is incomplete after at least one opportunity to cure any error(s) and/or omission(s) or contains false information as set forth in Paragraph 59.

61. Within fourteen (14) days after a Claim Form is initially submitted, the Settlement Administrator shall process and determine whether the claim is valid and initially approved or if it is initially rejected. The Settlement Administrator may accept or reject any Claim Form submitted, and may, upon its sole discretion, request additional information from the claimant or Defendant's Counsel prior to initially rejecting or accepting any Claim Form submitted. The Settlement Administrator shall employ reasonable procedures to screen Claim Forms for abuse and/or fraud, and shall deny Claim Forms which are incomplete and/or where there is evidence of abuse and/or fraud.
62. Beginning seven (7) days after making its first determination whether a Claim Form is valid or rejected, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with regular reports at weekly intervals containing information concerning Notice, administration, and implementation of the Settlement Agreement, which report shall, at a minimum, (i) include the number of claims initially approved; (ii) include the number of claims initially rejected; and (iii) identify those initially approved claims from claimants who did not appear on the Class List.
63. Within twenty-one (21) days of the Claims Deadline, the Settlement Administrator will submit to Counsel for the Parties a report sufficient to show the number of initially approved claims, with each initially approved claim being identifiable by a claim number ("Initially Approved Claims List"). Within twenty-one (21) days after the Claims Deadline, the Settlement Administrator will also submit to the Counsel for the Parties a report sufficient to show the number of, and reason for, initially rejected claims, with each initially rejected claim being identifiable by a claim number ("Initially Rejected Claims List").
64. Counsel for the Parties shall have seven (7) days from receipt of the Initially Approved Claims List and the Initially Rejected Claims List to seek clarification about the rationale for the Settlement Administrator's approval or rejection of any claim. The Settlement Administrator will then have fourteen (14) days to make any changes, at its sole discretion, to its claim approval and rejection decisions, on which date the claim determinations will be final ("Claims Finalization Date").
65. Within seven (7) days of the Claims Finalization Date, the Settlement Administrator shall provide Counsel for the Parties a spreadsheet setting forth the claim number for each approved claim (the "Final Claims List").
66. No person or entity shall have any claim against the Plaintiffs, Class Counsel, the Settlement Administrator, or any other agent designated by Class Counsel, or the Released Parties and/or Counsel, arising from distributions made substantially in accordance with this Agreement. The Parties and

Counsel, and all other Released Parties shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the determination, administration, calculation, or payment of any claim or nonperformance of the Settlement Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

VII. TIMING OF PAYMENTS FROM SETTLEMENT FUND

67. Administrative Expenses, the Service Awards to the Class Representatives, the Fee Award to Class Counsel, any federal, state, and/or local taxes of any kind (including any interest or penalties thereon), and any and all other fees, costs or expenses approved by the Court will all be paid exclusively from the Settlement Fund.
68. Within seven (7) days of the later of (a) the Effective Date or (b) the provision by the Settlement Administrator to Counsel for the Parties of the Final Claims List, the Settlement Administrator shall determine the amount of the Net Settlement Fund by deducting from the Settlement Fund:
 - a. The amount of any Fee Award awarded to Settlement Class Counsel;
 - b. The amount of any Service Awards to the Class Representatives;
 - c. The total amount of Administrative Expenses;
 - d. The amount of any federal, state, and/or local taxes of any kind (including any interest or penalties thereon) paid; and
 - e. The amount of any and all other costs, expenses, and payments not specifically enumerated in subsections (a) through (d) of this paragraph that are expressly contemplated under this Settlement Agreement or are otherwise reasonably necessary to effectuate the Settlement Agreement, with the consent of both Class Counsel and Defendant's Counsel, or as approved by the Court.
69. The Settlement Administrator shall then calculate the Claim Payment as the *pro rata* share of the Net Settlement Fund allocated to each Settlement Class Member on the Final Claims List.
70. Within forty-five (45) days after the later of (a) the Effective Date or (b) the provision by the Settlement Administrator to Counsel for the Parties of the Final Claims List, the Settlement Administrator shall send a check for the amount of the Claim Payment by First Class U.S. Mail to each Settlement Class Member on the Final Claims List. The Settlement Administrator shall notify the Parties that all Approved Claims have been paid within five (5) business

days of the last such payment.

71. Checks sent to Settlement Class members shall remain valid and negotiable for ninety (90) days from the date of their issuance and will thereafter become void if not cashed within that time period. Within fourteen (14) days of the expiration of the ninety-day period, if the uncashed check amounts from the Settlement Fund following the first distribution of payments to Settlement Class Members who filed valid Claims (including checks disbursed to Settlement Class Members that remain uncashed for any reason within 90 days of issuance of the check) totals or exceeds \$300,000.00, then, in accordance with Paragraph 55(f), the Settlement Administrator shall redistribute the amount of such uncashed checks, less any additional Administrative Expenses, evenly amongst Settlement Class members who cashed their initial check. This second round of checks shall again be valid and negotiable for ninety (90) days from the date of their issuance and will thereafter become void if not cashed within that time period. The amount of any checks remaining uncashed after the second distribution, or of any checks remaining uncashed after the first distribution if the amount of uncashed checks did not total or exceed \$300,000.00, shall be distributed within fourteen (14) days to the Chicago Bar Foundation in accordance with Paragraph 55(f). The Court may revise the *cy pres* provision as necessary without terminating or otherwise impacting this Settlement Agreement, provided the Court's revision does not increase the amount that Defendant would otherwise pay under this Settlement Agreement.
72. On or before forty-five (45) days after the Effective Date, the Settlement Administrator shall pay to Class Counsel from the Settlement Fund the amount awarded by the Court in the Fee Award. The Fee Award shall be paid solely from the Settlement Fund via electronic wire transfer to an account designated by Class Counsel.
73. On or before forty-five (45) days after the Effective Date, the Settlement Administrator shall pay the Service Awards solely from the Settlement Fund by check made payable to Plaintiffs and mailed to the addresses identified on the W-9 tax forms provided by Plaintiffs to the Settlement Administrator in advance thereto.
74. To the extent any payments to Plaintiffs or the Class Members are tax reportable by the Settlement Administrator, the funds shall be reported on IRS Form 1099. Neither Defendant, the other Released Parties, nor Defendant's Counsel have made any representations regarding the tax consequences of any amounts Plaintiffs or any Class Member receive pursuant to this Agreement.

VIII. NON-MONETARY RELIEF

75. While Defendant maintains its prior policies and disclosures were BIPA-compliant, Defendant revised its Privacy Policy and BIPA disclosures during the pendency of the litigation, and Class Counsel has not pursued and has no present intention to pursue claims that followed such revisions. Notwithstanding the foregoing, Defendant shall have the right to unilaterally modify, update, and/or enhance its biometric policies and notice/consent forms in the future.

IX. RELEASES

76. In addition to the effect of any final judgment entered in accordance with this Agreement, upon final approval of this Agreement, and for other valuable consideration as described herein, the Released Parties shall be completely released, acquitted, and forever discharged from any and all Released Claims.
77. Settlement Class Release.
- a. As of the Effective Date, and with the approval of the Court, all Releasing Parties hereby fully, finally, and forever release, waive, discharge, surrender, forego, give up, abandon, and cancel all Released Claims against the Released Parties. As of the Effective Date, all Releasing Parties will be forever barred and enjoined from prosecuting any action against the Released Parties asserting any and/or all Released Claims.
 - b. Releasing Parties acknowledge they may have claims that are presently Unknown Claims and that the release of their Released Claims contained in this Settlement Agreement is intended to and will fully, finally, and forever discharge all claims against Defendant and the other Released Parties, whether now asserted or not asserted, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, which if known, might have affected her decision to enter this release. Releasing Parties agree that, although they may discover facts in addition to or different from those that are currently known or believed to be true with respect to their Released Claims, it is their intention to fully, finally, and forever settle and release any and all Released Claims, without regard to the subsequent discovery or existence of such additional or different facts.
78. Each Releasing Party waives any and all defenses, rights, entitlements, and benefits that may be derived from the provisions of applicable law in any jurisdiction that, absent such waiver, may limit the extent or effect of the release contained in this Settlement Agreement

79. **Named Plaintiff General Release.**
As of the Effective Date, each of the named Plaintiffs, Tammy Velazquez and Angela Ramirez, further agrees, as Releasing Parties, knowingly and voluntarily, to release and forever discharge Defendant and any and all Released Parties of and from any and all claims, causes of action, agreements, attorneys' fees, costs, and debts, known claim or Unknown Claim, asserted and unasserted, which Plaintiff has or may have against any and all Released Parties.
80. The Released Parties do not admit any liability or wrongdoing. The Settlement Agreement may not be construed in whole or in part as an admission, presumption, or inference of fault, liability, or wrongdoing by the Released Parties. The Released Parties agree to this settlement to avoid the burden and expense of litigation without in any way acknowledging any fault, liability, or wrongdoing of any kind. Neither this Settlement Agreement, nor any negotiation or act performed or document created in relation to the Settlement Agreement or negotiation or discussion thereof, in whole or in part, is, or may be deemed to be, or may be used as, an admission, concession, presumption, or inference of, or evidence of, any wrongdoing, liability, or of the validity of any claim or any point of law or fact.

X. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER

81. This Settlement shall be subject to approval of the Court. As set forth in Paragraph 104, either Party shall have the right to withdraw from the Settlement if the Court does not approve the material aspects of this Settlement.
82. Plaintiffs, through Class Counsel, shall submit this Settlement Agreement, together with its Exhibits, to the Court and shall file an unopposed motion for an order preliminarily approving the settlement on the terms set forth in this Agreement, conditionally certifying the Settlement Class, appointing Class Counsel and the Class Representatives, setting a date for the Final Approval Hearing, and approving the Notice, substantially in the form attached hereto as Exhibits B and C, for dissemination in accordance with the applicable notice provisions of this Agreement ("the Unopposed Motion for Preliminary Approval").
83. Plaintiffs shall file the Unopposed Motion for Preliminary Approval on or before February 7, 2025, contemporaneously with their filing of a Second Amended Class Action Complaint. Plaintiffs shall file an unopposed Second Amended Class Action Complaint, on or before February 7, 2025, in the form attached as Exhibit D hereto, and without Defendant admitting any allegations or liability asserted therein, to add Angela Ramirez as a Plaintiff and Class Representative and to conform the pleadings to the settlement, including amending the proposed class to match the class definition set forth

in Paragraph 52. In the event that Final Approval of the Settlement is not achieved, the fact that Defendant did not oppose the filing of the Second Amended Class Action Complaint shall not be used or cited thereafter by any person or entity in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class, nor shall it be admissible in any such proceeding whether under Illinois law, Rule 23 of the Federal Rules of Civil Procedure, or comparable state laws or rules.

84. Plaintiffs, through Class Counsel, shall acknowledge in the Unopposed Motion for Preliminary Approval that proceeding with the litigation entailed substantial risks related to class certification and the merits, for reasons including, but not limited to, the applicability of BIPA's Section 25(e) exemption for government contractors and subcontractors.
85. Until the Unopposed Motion for Preliminary Approval is filed, Plaintiffs and Plaintiffs' Counsel agree to maintain the terms and existence of this Agreement in complete confidence, and not to disclose such information to any third party except for candidates to serve as Settlement Administrator approved by both Parties. The Settlement Administrator shall be required to maintain information related to the Settlement confidential unless and until the Unopposed Motion for Preliminary Approval is filed.
86. At the hearing on the Unopposed Motion for Preliminary Approval, the Parties will jointly appear and support the granting of the Unopposed Motion for Preliminary Approval.
87. Should the Court decline to preliminarily approve any material aspect of the Settlement Agreement, the Settlement Agreement will be null and void, the Parties will have no further obligations under the Agreement, and the Parties will revert to their prior positions in the Litigation as if the Settlement had not occurred.
88. At the time of the submission of this Settlement Agreement to the Court as described above, the Parties shall request that, after Notice is given, the Court hold a Final Approval Hearing approximately one hundred and thirty-five (135) days after entry of the Preliminary Approval Order and approve the Settlement of the Litigation as set forth herein.
89. At least ten (10) days prior to the Final Approval Hearing, or by some other date if so directed by the Court, Plaintiffs will move for: (i) final approval of the Settlement; (ii) final appointment of the Class Representatives and Class Counsel; and (iii) final certification of the Settlement Class, including for the entry of a Final Order and Judgment, as that term is used in Paragraph 102, and file a memorandum in support of the motion for final approval.

XI. NOTICE TO PROPOSED SETTLEMENT CLASS MEMBERS

90. Class List

- a. Defendant shall create the Class List using the most recent contact information within its possession.
- b. The Class List shall include the names, last known mailing addresses, and email addresses available to Defendant, based on information in Defendant's records. Defendant shall provide the Class List to the Settlement Administrator within forty-five (45) days after entry of the Preliminary Approval Order. The Settlement Administrator shall keep the Class List strictly confidential and shall not use the information contained therein, or any other information provided by Defendant, for any purpose except as contemplated by this Agreement. Any information provided by Defendant to the Settlement Administrator to effectuate notice and/or validate claims shall be strictly confidential and shall not be disclosed to Plaintiffs, Plaintiffs' counsel or any third party. For the avoidance of doubt, this confidentiality is a material term of the Agreement.

91. Type of Notice Required

- a. The Notice, which shall be substantially in the form of Exhibits B and C attached hereto, shall be used for the purpose of informing proposed Settlement Class Members, prior to the Final Approval Hearing, that there is a pending settlement, and to further inform Settlement Class Members how they may: (a) protect their rights regarding the Settlement; (b) file a Claim Form to obtain benefits under the Settlement (c) request exclusion from the Settlement Class and the proposed Settlement, if desired; (d) object to any aspect of the proposed Settlement, if desired; and (e) participate in the Final Approval Hearing, if desired. The Notice shall make clear the binding effect of the Settlement on all persons who do not timely request exclusion from the Settlement Class.
- b. Dissemination of the Notice shall be the responsibility of the Settlement Administrator. The text of the Notice shall be agreed upon by the Parties and shall be substantially in the forms attached as Exhibits B and C hereto.
- c. Individual notice (substantially in the form of Exhibit B) shall be sent via both electronic mail where Defendant has an electronic mail address and by U.S. Mail where Defendant has a last-known mailing address or the address information can be determined by the Settlement Administrator. Prior to mailing, the Settlement

Administrator shall run the Class Members' addresses through the U.S. Postal Service's National Change of Address database and mail the Notice using the most current mailing address information. For any Class Member whose Notice is returned as undeliverable without a forwarding address, the Settlement Administrator shall promptly conduct a firm level skip trace and re-send the Notice per the address (if any) determined by the skip trace. For any Class Member whose Notice is returned as undeliverable with a forwarding address, the Settlement Administrator shall promptly re-mail the Notice using the forwarding address.

- d. Notice of the settlement (substantially in the form of Exhibit C) shall be posted to the Settlement Website by the Notice Date.

92. **Notice Deadline**

The Settlement Administrator shall disseminate Notice in accordance with Paragraph 91(c) no later than the Notice Date, which shall be sixty (60) days after the entry of the Preliminary Approval Order.

XII. EXCLUSIONS

93. **Exclusion Period**

Settlement Class Members will have up to the Objection/Exclusion Deadline to exclude themselves from the Settlement in accordance with this Section. If the Settlement is finally approved by the Court, all Settlement Class Members who have not validly opted out, as provided in Paragraph 94 below, by the end of the Objection/Exclusion Deadline will be bound by the Settlement and will be deemed a Releasing Party as defined herein.

94. **Exclusion Process**

- a. A member of the Settlement Class may request to be excluded from the Settlement Class in writing by a request postmarked, or submitted electronically to the Settlement Administrator via email or the Settlement Website, on or before the Objection/Exclusion Deadline.
- b. To exercise the right to be excluded, a member of the Settlement Class must timely send an individual written request for exclusion to the Settlement Administrator, and must include in any such exclusion request: (a) their full name, address, email address, and current telephone number; (b) the case name and number of this Litigation; (c) the name, date and sponsor(s) of the exam(s) taken during the relevant time period; (d) a statement that they wish to be excluded from the Settlement Class; (e) a statement whether they have received

or been offered any payment in exchange for making the requests; and (f) the requestor's personal signature. If represented by counsel with respect to this Litigation or any other litigation against Defendant, the Settlement Class Member requesting to be excluded must also provide the name and telephone number of their counsel. So-called "mass" or "class" exclusion requests shall not be allowed.

- c. A request to be excluded that is sent to an address other than that designated in the Class Notice, or that is not sent individually or is not electronically submitted or postmarked on or before the Objection/Exclusion Deadline, shall be invalid and the person serving such a request shall be considered a member of the Settlement Class and shall be bound as Settlement Class Members by the Agreement, if approved.
 - d. Any member of the Settlement Class who validly elects to be excluded shall not: (i) be bound by the Settlement or any order or judgment in the Litigation; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement. A member of the Settlement Class who requests to be excluded from the Settlement Class also cannot object to the Settlement Agreement. Any member of the Settlement Class who attempts to both object to and exclude themselves from this Settlement Agreement will be deemed to have excluded themselves and will forfeit the right to object to the Settlement or any of its terms.
 - e. Within three (3) business days after the Objection/Exclusion Deadline, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel a report sufficient to show only the number of timely and valid exclusions filed, with each exclusion being identifiable by a claim number, and if represented by counsel, counsel's name. Periodic reports shall be provided by the Settlement Administrator if requested by Class Counsel or Defendant's Counsel. The Settlement Administrator will separately provide Defendant's Counsel a written list reflecting all timely and valid exclusions from the Settlement Class that includes, for each exclusion, the claim number, first and last name, address, exam date, exam location, and if represented by counsel, counsel's name.
95. Defendant may elect to terminate and cancel this Settlement, at its sole discretion, if more than 375 of the Settlement Class Members timely and validly exclude themselves from the Settlement.

XIII. OBJECTIONS

96. The Notice shall advise Settlement Class Members of their rights, including the right to be excluded from or object to the Settlement Agreement and its terms. The Notice shall specify that any objection to this Settlement Agreement, and any papers submitted in support of said objection, shall be received by the Court at the Final Approval Hearing only if, on or before the Objection/Exclusion Deadline approved by the Court, the person making an objection shall file notice of their intention to do so and at the same time: (i) file copies of such papers they propose to submit at the Final Approval Hearing with the Clerk of the Court; and (ii) send copies of such papers via United States mail, hand delivery, or overnight delivery to both Class Counsel and Defendant's Counsel. A copy of the objection must also be mailed to the Settlement Administrator at the address that the Settlement Administrator will establish to receive requests for exclusion or objections and any other communication relating to this Settlement.
97. Any Settlement Class Member who intends to object to this Settlement must include in any such objection: (i) their full name, address, email address, and current telephone number; (ii) a personal attestation that, while within the State of Illinois, they either had their palm scanned at a Pearson test center in connection with a Pearson-administered examination, or took a remotely proctored examination through Pearson's OnVUE online testing system that may have used facial comparison; (iii) the name of the Sponsor(s) and date(s) of any exam(s) they took during the Class Period; (iv) the case name and number of the Litigation; (v) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (vi) the identification of any other objections they have filed, or have had filed on their behalf, in any other class action cases in the last four years; and (vii) the objector's signature. If represented by counsel with respect to this Litigation or any other litigation against Defendant, the objecting Settlement Class Member must also provide the name and telephone number of their counsel. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, they must state as such in the written objection, and must also identify any witnesses they may call to testify at the Final Approval Hearing and all exhibits they intend to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, the written objection.
98. Any Settlement Class Member who fails to timely file and serve a written objection and notice of intent to appear at the Final Approval Hearing pursuant to this Agreement, shall not be permitted to object to the approval of the Settlement at the Final Approval Hearing and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means.
99. Settlement Class Members cannot both object to and exclude themselves

from this Settlement Agreement. Any Settlement Class Member who attempts to both object to and exclude themselves from the Settlement Agreement will forfeit the right to object to this Settlement Agreement or any of its terms.

XIV. FINAL APPROVAL HEARING

100. The Parties will jointly request that the Court hold a Final Approval Hearing approximately one hundred and thirty-five (135) days after entry of the Preliminary Approval Order. At the Final Approval Hearing, the Parties will request that the Court consider whether the Settlement Class should be certified as a class pursuant to 735 ILCS § 5/2-801 for settlement purposes only and, if so, (i) consider any properly-filed objections, (ii) determine whether the Settlement is fair, reasonable and adequate, was entered into in good faith and without collusion, and should be approved, and shall provide findings in connections therewith, and (iii) enter the Final Approval Order, including final approval of the Settlement Class and the Settlement Agreement, a Fee Award, and Service Awards.

XV. FINAL APPROVAL ORDER

101. The Parties shall jointly seek entry of a Final Approval Order, the text of which the Parties shall agree upon. The dismissal orders, motions or stipulation to implement this Section shall, among other things, seek or provide for a dismissal with prejudice and waiving any rights of appeal.
102. The Parties shall jointly submit to the Court a proposed Final Approval Order and shall request entry of a Final Order and Judgment that, without limitation:
 - a. Approves finally this Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Settlement Class Members within the meaning of 735 ILCS 5/2-801 and directing its consummation according to its terms;
 - b. Awards a Fee Award to Class Counsel;
 - c. Declares the Agreement to be binding on, and have res judicata and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of, Plaintiffs and Releasing Parties;
 - d. Dismisses, with prejudice, all claims of the Plaintiffs, the Settlement Class and the Settlement Class Members against Defendant in the Litigation, without costs and fees except as explicitly provided for in this Agreement;
 - e. Dismisses the Litigation;

- f. Incorporates the Released Claims set forth above, and forever discharges the Released Parties as set forth herein;
 - g. Permanently bars and enjoins all Settlement Class Members from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit or other action in any jurisdiction based on the Released Claims; and
 - h. Reserves continuing and exclusive jurisdiction over the Settlement and this Agreement, including but not limited to the Litigation, Plaintiffs, the Settlement Class, the Settlement Class Members, Defendant, and the Settlement for the purposes of administering, consummating, supervising, construing and enforcing the Settlement Agreement and the Settlement Fund.
103. Class Counsel shall use their best efforts and take all steps necessary and appropriate to otherwise effectuate all aspects of this Agreement, and to obtain dismissal with prejudice of the Litigation.

XVI. TERMINATION OF THE SETTLEMENT

104. The Settlement is conditioned upon preliminary and final approval of the Parties' written Settlement Agreement, and all terms and conditions thereof, without material change, material amendments, or material modifications by the Court (except to the extent such changes, amendments or modifications are agreed to in writing between the Parties). All Exhibits attached hereto are incorporated into this Settlement Agreement. Accordingly, either Party may elect to terminate and cancel this Settlement Agreement within ten (10) days of any of the following events:
- a. This Settlement Agreement is changed in any material respect to which the Parties have not agreed in writing;
 - b. The Court refuses to grant preliminary approval of this Agreement in any material respect;
 - c. The Court refuses to grant final approval of this Agreement in any material respect;
 - d. The Court refuses to enter a final judgment in this Litigation in any material respect; or
 - e. The Court's order granting preliminary or final approval is substantially modified or reversed.

105. As set forth in Paragraph 110, any refusal by the Court to approve Class Counsel's fee petition or modification of Class Counsel's proposed fee award does not provide a basis for terminating this agreement.
106. In addition, Defendant may elect to terminate and cancel this Settlement, at its sole discretion, if more than 375 of the Settlement Class Members timely and validly exclude themselves from the Settlement.
107. In the event the Settlement Agreement is not approved or does not become final, or is terminated consistent with the provisions herein, the Parties, pleadings, and proceedings will return to the *status quo ante* as if no settlement had been negotiated or entered into, and the Parties will negotiate in good faith to establish a new schedule for the Litigation, and Plaintiffs shall not be entitled to any part of the Settlement Fund.

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

108. Class Counsel's fees were negotiated separate and apart from and only after the benefits and relief to the Settlement Class were negotiated.
109. At least twenty-one (21) days prior to the Objection/Exclusion Deadline, Class Counsel will file a Fee and Expense Application with the Court. Class Counsel have agreed, with no consideration from Defendant, not to seek an award of attorneys' fees of greater than 38% of the Settlement Fund, plus expenses. Any refusal by the Court to approve Class Counsel's fee petition or modification of Class Counsel's proposed fee award does not provide a basis for terminating this agreement. Payment of the Fee Award shall be made from the Settlement Fund, and should the Court award less than the amount sought by Class Counsel, the difference in the amount sought and the amount ultimately awarded pursuant to this section shall remain in the Settlement Fund and be distributed to Settlement Class Members.
110. Notwithstanding any contrary provision of this Agreement, the Court's consideration of the Fee Award is to be conducted separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement, and any award made by the Court with respect to Class Counsel's attorneys' fees or expenses, or any proceedings incident thereto, including any appeal thereof, shall not operate to terminate or cancel this Agreement or be deemed material thereto.
111. Prior to or at the same time as Plaintiff seeks final approval of the Settlement Agreement, Class Counsel shall move the Court for a Service Award for Class Representative Tammy Velazquez in an amount not to exceed \$10,000.00 (ten thousand dollars) and a Service Award for Class Representative Angela Ramirez in an amount not to exceed \$6,000.00 (six

thousand dollars).

112. Class Counsel shall provide the Settlement Administrator with its completed IRS Form W-9 before the payment of the Fee Award is due, as well as Plaintiffs' completed IRS Form W-9's before the payment of the Service Award is due.
113. In no event will Defendant's liability for attorneys' fees, expenses, and costs, Administration Expenses, and/or the Service Awards exceed its funding obligations set out in this Agreement. Defendant shall have no financial responsibility for this Settlement Agreement outside of the Settlement Fund. Defendant shall have no further obligation for attorneys' fees or expenses to any counsel representing or working on behalf of either one or more individual Settlement Class Members or the Settlement Class. Defendant will have no responsibility, obligation, or liability for allocation of the Fee Award, Administrative Expenses, the Service Awards, or any other costs, fees, and/or expenses among Class Counsel, Plaintiffs, and/or Class Members except for payment of the Settlement Fund.

XVIII. MISCELLANEOUS REPRESENTATIONS

114. The Parties agree that the Settlement Agreement provides fair, equitable and just compensation, and a fair, equitable, and just process for determining eligibility for compensation for any given Settlement Class Member related to the Released Claims.
115. The Parties (i) acknowledge that it is their intent to consummate this Settlement Agreement, and (ii) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement. Class Counsel and Defendant's Counsel agree to cooperate with each other to effectuate all aspects of this Agreement, including in seeking Court approval of the Preliminary Approval Order, the Settlement Agreement, and the Final Approval Order, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Settlement.
116. The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiffs and the Settlement Class, and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Litigation was brought by Plaintiffs or defended by Defendant, or each or any of them, in bad faith or without a reasonable basis.

117. Nothing express or implied in this Agreement is intended or shall be construed to confer upon or give any person or entity other than the Parties, Released Parties, and Settlement Class Members any right or remedy under or by reason of this Agreement. Each of the Released Parties is an intended third-party beneficiary of this Agreement with respect to the Released Claims and shall have the right and power to enforce the release of the Released Claims in his, her or its favor against all Releasing Parties.
118. The Parties have relied upon the advice and representation of counsel, selected by themselves, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully this Settlement Agreement, including its Exhibits, and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by this Settlement.
119. Any headings used herein are used for the purpose of convenience only and are not meant to have legal effect.
120. The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any prior or subsequent breach of this Agreement.
121. This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents.
122. This Agreement may not be amended, modified, altered, or otherwise changed in any manner except by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.
123. The Parties agree that Exhibits A through D to this Settlement Agreement are material and integral parts thereof and are fully incorporated herein by this reference.
124. The Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Agreement.
125. Except as otherwise provided herein, each Party shall bear its own costs.
126. Plaintiffs represent and warrant that they have not assigned any claim or right or interest therein as against the Released Parties to any other person or party.

127. The Parties represent that they have obtained the requisite authority to enter this Settlement Agreement in a manner that binds all Parties to its terms.
128. The Parties specifically acknowledge, agree and admit that this Settlement Agreement and its Exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, correspondence, orders or other documents shall be considered a compromise within the meaning of Illinois Rules of Evidence Rule 408, and any other equivalent or similar rule of evidence, and shall not (1) constitute, be construed, be offered, or received into evidence for any purpose, including, without limitation, as an admission of the validity of any claim or defense, or the truth of any fact alleged or other allegation in the Litigation 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 any Party, or (2) be used to establish a waiver of any defense or right, or to establish or contest jurisdiction or venue.
129. The Parties also agree that this Settlement Agreement and its Exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, correspondence, orders or other documents entered in furtherance of this Settlement Agreement, and any acts in the performance of this Settlement Agreement are not intended to establish grounds for certification of any class involving any Settlement Class Member other than for certification of the Settlement Class for settlement purposes.
130. This Settlement Agreement, whether approved or not approved, revoked, or made ineffective for any reason, and any proceedings related to this Settlement Agreement and any discussions relating thereto, shall be inadmissible for any purposes, including, without limitation, as a presumption, inference, or evidence of any liability or wrongdoing whatsoever and shall not be offered as evidence of any liability or wrongdoing in any court or other tribunal in any state, territory, or jurisdiction, or in any manner whatsoever. Further, neither this Settlement Agreement, the Settlement contemplated by it, nor any proceedings taken under it, will be construed or offered or received into evidence as an admission, concession, inference, or presumption that class certification is appropriate, except to the extent necessary to consummate this Agreement and the binding effect of the Final Order and Judgment as that term is used in Paragraph 102.
131. The provisions of this Settlement Agreement, and any orders, pleadings or other documents entered in furtherance of this Settlement Agreement, may be offered or received in evidence solely (1) to enforce the terms and provisions hereof or thereof, (2) as may be specifically authorized by a court of competent jurisdiction after an adversary hearing upon application of a Party hereto, (3) in order to establish payment, or an affirmative defense of preclusion or bar in a subsequent case, (4) in connection with any motion to

enjoin, stay or dismiss any other action, and/or (5) to obtain Court approval of the Settlement Agreement.

132. Except as provided herein, there shall be no comments made to the press or any third party, or any other disclosure by or through the Parties or their attorneys or agents, comprising opinions as to the Litigation. Prior to the Final Approval Order, Plaintiffs, Class Counsel, and Defendant shall not make any public statement of opinion, including any statement to the press, regarding the Settlement Agreement or settlement aside from the following agreed upon statement: “[The Parties] have reached a proposed agreement and look forward to the Court’s review and decision” or words to that effect. After the Final Approval Order, Plaintiffs, Class Counsel, and Defendant shall not make any public statement, including any statement to the press, regarding the Settlement Agreement or settlement aside from the following agreed upon statement: “[The Parties] are pleased to have put this matter behind them by resolving this dispute on terms the Court agreed were just and reasonable” or words to that effect. This paragraph shall not be construed to limit or impede the notice requirements of Section XI above; nor shall this paragraph be construed to prevent Class Counsel or Defendant from notifying or explaining to potential Settlement Class Members or others that this case has settled and how to obtain settlement benefits; nor shall this paragraph limit the representations that the Parties or Counsel for the Parties may make to the Court to assist in its evaluation of the proposed settlement; nor shall this paragraph limit Defendant’s ability to discuss in a confidential manner the terms of this settlement with its clients, customers, business partners, insurers, reinsurers, attorneys, accountants, and financial and other advisors; nor shall this paragraph limit Defendant’s ability to provide accurate information about any financial impact of the Settlement on the Defendant to shareholders, investors, the media, or other entities. If a Party is required by a valid, enforceable subpoena or government information request to disclose information about the settlement, such Party shall provide reasonable prior notice (to the extent permitted by applicable law) to the other Party to allow the other Party to seek to prevent such disclosure. A Party may also provide necessary and accurate information about the settlement to its shareholders and other persons or entities as required by securities laws or other applicable laws or regulations.
133. This Agreement may be executed in one or more counterparts exchanged by hand, messenger, or PDF as an electronic mail attachment, and any such signature exchanged shall be deemed an original signature for purposes of this Settlement Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument, provided that counsel for the Parties to this Agreement all exchange signed counterparts.
134. This Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and the Released Parties, including, without limitation, their respective

predecessors, successors, present or past heirs, executors, estates, administrators, trustees, assigns, agents, consultants, independent contractors, insurers, reinsurers, attorneys, accountants, financial and other advisors, underwriters, lenders, and any other representative of each of the foregoing, and anyone claiming by, through, or on behalf of them.

135. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and the Parties hereby submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.
136. This Agreement shall be governed by and construed in accordance with the laws of the state of Illinois, without giving effect to any conflict of laws or choice of law principles.
137. This Agreement is deemed to have been prepared by counsel for all Parties as a result of arm's-length negotiations among the Parties. Whereas all Parties have contributed substantially and materially to the preparation of this Agreement and its Exhibits, it shall not be construed more strictly against one Party than another.
138. Unless otherwise stated herein, any notice required or provided for under this Agreement shall be in writing and shall be sent by electronic mail or hand delivery, postage prepaid, as follows:

If to Class Counsel:

Eugene Y. Turin
MCGUIRE LAW, P.C
55 W. Wacker Drive, 9th Fl.
Chicago, IL 60601
eturin@mcgpc.com


If to Defendant's Counsel:

Jennifer Quinn-Barabanov
Steptoe LLP
1330 Connecticut Ave. NW
Washington, DC 20036
jqinnbarabanov@steptoe.com

139. This Agreement shall be deemed executed as of the date that the last party signatory signs the Agreement.

IN WITNESS HEREOF, the undersigned have caused this Settlement Agreement to be executed as of the dates set forth below.

TAMMY VELAZQUEZ, individually and as the Class Representative

Signature  Tammy Velazquez (Feb 5, 2025 13:54 CST)

Date 05/02/2025

ANGELA RAMIREZ, individually and as the Class Representative

Signature  Angela Ramirez (Feb 5, 2025 12:53 CST)

Date 05/02/2025

MCGUIRE LAW, P.C., as Class Counsel

Signature  Eugene Y. Turin, Esq., Partner

Date 2/5/2025

NCS PEARSON, INC.

Signature _____

Date _____

STEPTOE, LLP, as Defendant's Counsel

Signature _____

Date _____

139. This Agreement shall be deemed executed as of the date that the last party signatory signs the Agreement.

IN WITNESS HEREOF, the undersigned have caused this Settlement Agreement to be executed as of the dates set forth below.

TAMMY VELAZQUEZ, individually and as the Class Representative

Signature _____

Date _____

ANGELA RAMIREZ, individually and as the Class Representative

Signature _____

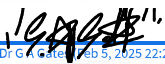
Date _____

MCGUIRE LAW, P.C., as Class Counsel

Signature _____


Date _____

NCS PEARSON, INC.

Signature  Dr G. A. G. Feb 5, 2025 22:22 GMT

Date 02/05/2025

STEPTOE, LLP, as Defendant's Counsel

Signature 

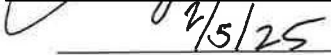
Date 

EXHIBIT A

CLAIM FORM

**TO RECEIVE A CASH PAYMENT FROM THE SETTLEMENT FUND,
YOU MUST COMPLETE THIS CLAIM FORM AND SUBMIT IT BY
_____, 2025.**

IMPORTANT NOTE: You must complete and submit this claim form by [Date] in order to receive payment. To complete this claim form, read the instructions below in Step 1; truthfully provide the requested information in Step 2; and submit the claim form using one of the methods stated in Step 3.

Each Settlement Class Member is entitled to submit only one claim form regardless of the number of times they provided a palm scan or took a remotely-proctored exam that may have used facial comparison with NCS Pearson, Inc. There can be only one claim for any given Settlement Class Member.

STEP 1 – DIRECTIONS

In the spaces below, print your (i) name, (ii) address, (iii) telephone number, (iv) email address, (v) the sponsor of the exam taken, and (vi) your personal attestation. Remember that only individuals who (1) had their palm scanned in connection with an examination administered at a Pearson test center in the state of Illinois from January 13, 2017 through October 25, 2023 and did not consent to the Pearson VUE Biometric Data Policy, effective February 1, 2023, or (2) took a remotely proctored examination through Pearson's OnVUE online testing system from a location within the state of Illinois from August 15, 2019 through February 1, 2023 that may have used facial comparison, are eligible claimants.

STEP 2 – CLAIMANT INFORMATION

Name: _____
(First) (Middle Initial) (Last)

Address: _____
(Street)

(City) (State) (Zip Code)

Telephone number: (____) ____ - ____

Email Address: _____

Exam Sponsor(s): _____

Attestation: By signing my name below, I hereby declare that, while within the state of Illinois, I either (1) had my palm scanned at a Pearson test center in connection with a Pearson-administered examination between January 13, 2017 and October 25, 2023 and did not consent to the Pearson VUE Biometric Data Policy, effective February 1, 2023, or (2) took a remotely proctored examination through Pearson's OnVUE online testing system between August 15, 2019 and February 1, 2023 that may have used facial comparison. I also declare that the exam was sponsored by the Exam Sponsor identified above.

I further declare that I have not submitted more than one Claim Form related to this Settlement, and I have not agreed, in any other matter or proceeding, to release claims otherwise covered by the Settlement.

I understand that the Settlement Administrator and the Parties have the right to verify the accuracy of any information I provide, and that it may ultimately be determined that I am not entitled to receive the requested Class Benefit.

Signature

Date

STEP 3 – METHODS OF SUBMISSION

Please complete the Claim Form above and return it by one of the following methods:

1. Online by visiting www.BIPATestSettlement.com and submitting an online Claim Form no later than midnight, U.S. Central Standard Time, on [Date]; OR
2. By emailing the completed Claim Form to info@BIPATestSettlement.com no later than midnight, U.S. Central Time, on [Date]; OR
3. By mailing via U.S. mail a completed and signed Claim Form to the Settlement Administrator, postmarked no later than [Date], and addressed to:

NCS Pearson, Inc. BIPA Settlement
c/o [Settlement Administrator]
[Address]

EXHIBIT B

YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU SCANNED YOUR PALM IN CONNECTION WITH AN EXAMINATION ADMINISTERED AT A PEARSON TEST CENTER, OR TOOK A REMOTELY-PROCTORED EXAMINATION ADMINISTERED BY PEARSON, BETWEEN JANUARY 13, 2017 AND OCTOBER 25, 2023 IN ILLINOIS.

For more information, visit www.BIPATestSettlement.com
Para una notificación en Español, visitar www.BIPATestSettlement.com

A proposed settlement has been reached in a class action lawsuit against NCS Pearson, Inc., regarding the use of palm scan technology and/or facial comparison technology as part of the administration of examinations for test candidates, purportedly in violation of the law. The case is *Tammy Velazquez v. NCS Pearson, Inc.*, Case No. 2022-CH-00280, currently pending in the Circuit Court of Cook County, Illinois, Chancery Division. The proposed Settlement is not an admission of wrongdoing by NCS Pearson Inc., and it denies that it violated the law. The Court has not decided who is right or wrong. Rather, to save the time, expense, and uncertainty of litigation, the Parties have agreed to settle the lawsuit.

Why Am I Being Contacted? Our records indicate that you either: (1) had your palm scanned in connection with an examination administered at a Pearson test center in the state of Illinois from January 13, 2017 through October 25, 2023 and did not consent to the Pearson VUE Biometric Data Policy, effective February 1, 2023, or (2) took a remotely proctored examination through Pearson's OnVUE online testing system from a location within the state of Illinois from August 15, 2019 through February 1, 2023 that may have used facial comparison. Any individual meeting the preceding criteria may be eligible to receive cash benefits from this Settlement.

What Does The Settlement Provide? NCS Pearson, Inc. has agreed to create a \$18,224,000.00 Settlement Fund to pay valid claims, settlement administration expenses, attorneys' fees, costs and expenses, and Class Representative service awards. Each Class Member who submits a timely, valid Claim Form may receive a cash payment from the Settlement Fund. The exact amount of each Class Member's payment is unknown at this time. The per-person payment to each valid claimant depends on unknown factors to be determined, including the total number of valid Claim Forms submitted. To receive an equal cash payment from the fund, you must submit a Claim Form by **XXX XX, 2025**. Class Members can submit a Claim Form online at www.BIPATestSettlement.com, or visit that website and download a Claim Form and submit it by email or by mail. Visit the website below or call for more information on submitting your claim. *Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement, and is the only thing you need to do to receive a payment.*

Your Rights May Be Affected. If you do not want to be legally bound by the Settlement, you must exclude yourself by **XXX, XX, 2025**. If you do not exclude yourself, you may object to it by **XXX, XX, 2025**. The detailed notice, available at the settlement website listed below or through the Settlement Administrator, explains how to exclude yourself or object. The Court will hold a hearing on **XXX, XX, 2025**, to consider whether to approve the Settlement, Class Counsel's request for attorneys' fees of up to 38 percent of the Settlement Fund, plus their costs and expenses, and the service award for the Class Representatives of up to \$10,000.00 and \$6,000.00, respectively. You can appear at the hearing, but you do not have to. If you want, you can hire your own attorney, at your own expense, to appear or speak for you at the hearing. *Visit the settlement website, www.BIPATestSettlement.com, or contact the Settlement Administrator at _____, for details about options and deadlines.*

For more information and to submit a Claim Form, visit www.BIPATestSettlement.com or call 1-XXX-XXX-XXXX.

EXHIBIT C

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Velazquez v. NCS Pearson, Inc., No. 2022-CH-00280 (Cir. Ct. Cook Cnty., Ill.)

For more information, visit www.BIPATestSettlement.com.

Para informacion en Espanol, visitar www.BIPATestSettlement.com.

PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT IF YOU SCANNED YOUR PALM IN CONNECTION WITH AN EXAMINATION ADMINISTERED AT A PEARSON TEST CENTER, OR TOOK A REMOTELY-PROCTORED EXAMINATION ADMINISTERED BY PEARSON, BETWEEN JANUARY 13, 2017 AND OCTOBER 25, 2023 IN ILLINOIS.

This is a court-authorized notice of a proposed class action settlement. This is not a solicitation from a lawyer and is not notice of a lawsuit against you.

WHY DID I GET THIS NOTICE?

This is a court authorized notice of a proposed settlement in a class action lawsuit, *Velazquez v. NCS Pearson, Inc.*, No. 2022-CH-00280, pending in the Circuit Court of Cook County, Illinois before the Honorable Judge Caroline K. Moreland. The Settlement would resolve a lawsuit brought on behalf of persons who allege that NCS Pearson, Inc. (“Defendant”) used palm scan technology and/or facial comparison technology as part of the administration of examinations for test candidates, purportedly without first providing them with legally-required written disclosures and obtaining valid written consent. If you received a notice by mail or email, you have been identified as someone who either: (1) had your palm scanned in connection with an examination administered at a Pearson test center in the state of Illinois from January 13, 2017 through October 25, 2023 and did not consent to the Pearson VUE Biometric Data Policy, effective February 1, 2023, or (2) took a remotely proctored examination through Pearson’s OnVUE online testing system from a location within the state of Illinois from August 15, 2019 through February 1, 2023 that may have used facial comparison. The Court has granted preliminary approval of the Settlement and has conditionally certified the Settlement Class for purposes of settlement only. This notice explains the nature of the class action lawsuit, the terms of the Settlement, and the legal rights and obligations of the Settlement Class Members. *Please read the instructions and explanations below so that you can better understand your legal rights.*

WHAT IS THIS LAWSUIT ABOUT?

The Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, prohibits, with some exceptions, private companies from capturing, obtaining, storing, transferring, and/or using the biometric identifiers and/or information, such as palm or facial scans, of another individual, without first providing such individual with certain written disclosures and obtaining written consent. This lawsuit alleges that Defendant violated BIPA by administering examinations to test candidates within the state of Illinois where their palm or face was scanned as part of that administration without first providing sufficient disclosures or obtaining valid consent. Defendant

contests these claims and denies that BIPA applies to the conduct at issue or that it violated BIPA if it does apply.

WHY IS THIS A CLASS ACTION?

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

WHY IS THERE A SETTLEMENT?

To resolve this matter without the expense, delay, and uncertainties of litigation, the Parties have reached a Settlement, which resolves all claims against Defendant and its affiliated entities. The Settlement requires Defendant to pay money to the Settlement Class, as well as pay settlement Administration Expenses, attorneys’ fees and costs to Class Counsel, and a Service Award to the Class Representatives, if approved by the Court. The Settlement is not an admission of wrongdoing by Defendant and does not imply that there has been, or would be, any finding that Defendant violated the law.

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

WHO IS IN THE SETTLEMENT CLASS?

You are a member of the Settlement Class if you either: (1) had your palm scanned in connection with an examination administered at a Pearson test center in the state of Illinois from January 13, 2017 through October 25, 2023 and did not consent to the Pearson VUE Biometric Data Policy, effective February 1, 2023, or (2) took a remotely proctored examination through Pearson’s OnVUE online testing system from a location within the state of Illinois from August 15, 2019 through February 1, 2023 that may have used facial comparison. If you are a member of the Settlement Class, then you may visit the settlement website, www.BIPATestSettlement.com, to submit a claim for payment.

WHAT DOES THE SETTLEMENT PROVIDE?

Cash Payments. Defendant has agreed to create a \$18,224,000.00 Settlement Fund for the Class Members, which will be used to pay valid claims, settlement administration expenses, attorneys’

fees, costs and expenses, and the Class Representative Service Awards. All Settlement Class Members are entitled to submit a Claim Form in order to receive a cash payment out of the Settlement Fund. If the Settlement is approved, each Settlement Class Member who submits a timely Claim Form that is deemed valid will be entitled to an equal payment from the Settlement Fund. The exact amount of each Class Member's payment is unknown at this time. The per-person payment to each valid claimant depends on unknown factors to be determined, including the total number of valid Claim Forms submitted. The Settlement Administrator will issue a check to each Class Member who submits a valid Claim Form following Final Approval of the Settlement. All checks issued to Settlement Class Members will expire and become void 90 days after they are issued. Additionally, the attorneys who brought this lawsuit (listed below) will ask the Court to award them attorneys' fees in an amount up to 38% of the Settlement Fund, plus their reasonable costs and expenses, for the substantial time, expense and effort spent investigating the facts, litigating the case and negotiating the Settlement. The Class Representatives also will apply to the Court for a payment of up to \$10,000.00 and \$6,000.00, respectively, for their time, effort, and service in this matter.

WHAT ARE MY OPTIONS?

(1) Submit a Claim Form and obtain money from the Settlement

To accept the Settlement, you must submit a Claim Form by **XX, XX, 2025**. You may submit a Claim Form directly at www.BIPATestSettlement.com, or you may obtain a copy of the Claim Form at www.BIPATestSettlement.com and submit it by email to the Settlement Administrator at info@BIPATestSettlement.com or by U.S. Mail to the Settlement Administrator at _____. If the Settlement is approved and your claim is deemed valid, a check will be mailed to you. ***Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement, and is the only thing you need to do to receive a payment.***

(2) Exclude yourself

You may exclude yourself from the Settlement. If you do so, you will not receive any cash payment, but you will not release any claims you may have against the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have by pursuing your own lawsuit against the Released Parties at your own risk and expense. To exclude yourself from the Settlement, you must mail a signed letter to the Settlement Administrator at _____, **postmarked by XX, XX, 2025**. You may also exclude yourself online at www.BIPATestSettlement.com by **XX, XX, 2025**. The exclusion letter must state that you exclude yourself from this Settlement and include (a) your full name, address, email address, and current telephone number; (b) the case name and number of this Litigation; (c) the name, date and sponsor(s) of the exam(s) taken during the relevant time period; (d) a statement that you wish to be excluded from the Settlement Class; (e) a statement whether you have received or been offered any payment in exchange for making the objection; and (f) your personal signature. If represented by counsel with respect to this Litigation or any other litigation against Defendant, you must also provide the name and telephone number of your counsel.

(3) Object to the Settlement

If you wish to object to the Settlement, you must submit your objection in writing to the Clerk of the Court of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 West Washington Street, Room 802, Chicago, Illinois 60602. The objection must be **postmarked no later than XX, XX, 2025**. You must also send a copy of your objection to the attorneys for all Parties to the lawsuit, including Class Counsel (Eugene Y. Turin of McGuire Law, P.C., 55 West Wacker Drive, 9th Floor, Chicago, Illinois 60601), as well as Defendant's counsel (Jennifer Quinn-Barabanov of Steptoe LLP, 1330 Connecticut Avenue NW, Washington, D.C. 20036, **postmarked no later than XX, XX, 2025**). Any objection to the proposed Settlement must include (i) your full name, address, email address, and current telephone number; (ii) a personal attestation that, while within the state of Illinois, you either had your palm scanned at a Pearson test center in connection with a Pearson-administered examination, or took a remotely proctored examination through Pearson's OnVUE online testing system that may have used facial comparison; (iii) the name of the Sponsor(s) and date(s) of any exam(s) you took during the Class Period; (iv) the case name and number of the Litigation; (v) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (vi) the identification of any other objections you have filed, or have had filed on your behalf, in any other class action cases in the last four years; and (vii) your signature. If represented by counsel with respect to this Litigation or any other litigation against Defendant, you must also provide the name and telephone number of your counsel. If you hire an attorney in connection with making an objection, that attorney must also file with the court a notice of appearance by the objection deadline of **XX, XX, 2025**. If you do hire your own attorney, you will be solely responsible for payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

You may appear at the Final Approval Hearing, which will be held on _____, **2025 at a.m./p.m.**, in Courtroom 2302 of the Circuit Court of Cook County, Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602 via Zoom [Meeting ID: 952 6244 1199, Password: 541722], personally or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate. Participating in the hearing is not necessary; however, persons wishing to be heard orally in opposition to the Final Approval of the Settlement, the request for attorneys' fees and expenses, and/or the request for Service Awards to the Class Representatives are required to indicate in their written objection their intention to appear at the hearing on their own behalf or through counsel and to identify the names of any witnesses they intend to call to testify at the Final Approval Hearing, as well as any exhibits they intend to introduce at the Final Approval Hearing. The hearing date and time, and whether the hearing will be conducted in person, is subject to change by the Court, so please check the Settlement Website, www.BIPATestSettlement.com, for updates.

(4) Do Nothing

If you do nothing, you will receive no money from the Settlement Fund, but you will still be bound by all orders and judgments of the Court. Unless you exclude yourself from the Settlement, you will not be able to file or continue a lawsuit against Defendant or other Released Parties regarding any of the Released Claims. *Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement.*

To submit a Claim Form, or for information on how to request exclusion from the class or file an objection, please visit the Settlement Website, www.BIPATestSettlement.com, or call (XXX) XXX-XXXX.

WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?

Unless you exclude yourself from this Settlement, you will be considered a member of the Settlement Class, which means you give up your right to file or continue a lawsuit against Defendant relating to the use or collection of test candidate biometric data for exam administration purposes. Giving up your legal claims is called a release. The precise terms of the release are contained in the Settlement Agreement, which is available on the Settlement Website. Unless you formally exclude yourself from this Settlement, you will release your claims whether or not you submit a Claim Form and receive payment. If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Class, or you are welcome to talk to any other lawyer of your choosing at your own expense.

WHEN WILL I BE PAID?

The Parties cannot predict exactly when (or whether) the Court will give Final Approval of the Settlement, so please be patient. However, if the Court finally approves the Settlement, you will be paid as soon as possible after the court order becomes final, which should occur within approximately 30-60 days after the Settlement has been finally approved. If there is an appeal of the Settlement, payment may be delayed. Updated information about the case is available at www.BIPATestSettlement.com, or you can call the Settlement Administrator at XXX-XXX-XXXX, or contact Class Counsel at the address provided below.

WHEN WILL THE COURT RULE ON THE SETTLEMENT?

The Court has already given preliminary approval to the Settlement. A final hearing on the Settlement, called a Final Approval Hearing, will be held to determine the fairness of the Settlement. At the Final Approval Hearing, the Court will also consider whether to make final the certification of the Class for settlement purposes, hear any proper objections and arguments to the Settlement, as well as any requests for an award of attorneys' fees, costs, and expenses and the Class Representatives' Service Award that may be sought by Class Counsel. The Court will hold the Final Approval Hearing on **XX, XX, 2025** at XX am/pm. The hearing date and time is subject to change by the Court, so please check the Settlement Website, www.BIPATestSettlement.com, for updates.

If the Settlement is given final approval, the Court will not make any determination as to the merits of the claims against Defendant or its defenses to those claims. Instead, the Settlement's terms will take effect and the lawsuit will be dismissed on the merits with prejudice. Both sides have agreed to the Settlement in order to achieve an early and certain resolution to the lawsuit, in a manner that provides specific and valuable benefits to the members of the Settlement Class. If the Court does not approve the Settlement, if it approves the Settlement and the approval is reversed on appeal, or if the Settlement does not become final for some other reason, you will not

be paid at this time and Class Members will receive no benefits from the Settlement Fund. Plaintiff, Defendant, and all of the Class Members will be in the same position as they were prior to the execution of the Settlement, and the Settlement will have no legal effect, no class will remain certified (conditionally or otherwise), and Plaintiff and Defendant will continue to litigate the lawsuit. There can be no assurance that if the Settlement is not approved, the Settlement Class will recover more than is provided in the Settlement, or indeed, anything at all.

WHO REPRESENTS THE CLASS?

The Court has approved the following attorneys to represent the Settlement Class. They are called “Class Counsel.” You will not be charged for these lawyers. If you want to be represented by your own lawyer instead, you may hire one at your own expense.

<p>Evan M. Meyers Eugene Y. Turin MCGUIRE LAW, P.C 55 W. Wacker Dr., 9th Floor Chicago, IL 60601 Tel: 312-893-7002 emeyers@mcgpc.com eturin@mcgpc.com</p>

WHERE CAN I GET ADDITIONAL INFORMATION?

This Notice is only a summary of the proposed Settlement of this lawsuit. More details are contained in the Settlement Agreement which, along with other documents, can be obtained at www.BIPATestSettlement.com. If you have any questions, you can also call the Settlement Administrator at XXX-XXX-XXXX or contact Class Counsel at the numbers or email addresses set forth above. In addition to the documents available on the case website, all pleadings and documents filed in court may be reviewed or copied in the Office of the Clerk. Please do not call the Judge or the Clerk of the Court about this case. They will not be able to give you advice on your options.

EXHIBIT D

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

TAMMY VELAZQUEZ, ANGELA)
RAMIREZ, individually and on behalf of)
all similarly situated individuals,)
)
 Plaintiffs,)
)
 v.)
)
NCS PEARSON, INC., a Minnesota)
Corporation,)
)
 Defendant.)

No. 2022-CH-00280

Hon. Caroline K. Moreland

SECOND AMENDED CLASS ACTION COMPLAINT WITH JURY DEMAND

Plaintiffs Tammy Velazquez and Angela Ramirez (“Plaintiffs”), individually and on behalf of all similarly situated individuals, bring this Class Action Complaint against Defendant NCS Pearson, Inc. (“Defendant”) for its violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), and to obtain redress for persons injured by its conduct. Plaintiffs allege the following based on personal knowledge as to Plaintiffs’ own experiences, and as to all other matters, upon information and belief, including an investigation conducted by Plaintiffs’ attorneys.

INTRODUCTION

1. Plaintiffs seek to represent a class of individuals who had their unique biometrics collected and used without their consent or authorization by Defendant when they utilized Defendant’s testing services.

2. Plaintiffs and the other members of the putative class have suffered a concrete injury resulting from their biometrics being collected and used without their knowledge or consent, thus materially decreasing the security of this intrinsically inalterable information, and

substantially increasing the likelihood that they will suffer as victims of fraud and/or identity theft in the future.

3. On behalf of themselves and the proposed Class defined below, Plaintiffs seek an award of statutory damages to the Class, together with costs and reasonable attorneys' fees.

PARTIES

4. At all relevant times, Plaintiff Tammy Velazquez was a resident of Cook County, Illinois.

5. At all relevant times, Plaintiff Angela Ramirez was a resident of Cook County, Illinois.

6. Defendant NCS Pearson, Inc. is a Minnesota corporation that conducts, and is licensed by the Illinois Secretary of State to conduct, business throughout Illinois, including in Cook County, Illinois.

JURISDICTION AND VENUE

7. This Court may assert personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant conducts business within this state and because Plaintiffs' claims arise out of Defendant's unlawful in-state actions, as Defendant captured, collected, stored, and used Plaintiffs' biometric identifiers and/or biometric information in this state.

8. Venue is proper in Cook County, Illinois pursuant to 735 ILCS 5/2-101, because Defendant conducts business in Cook County, Illinois, and thus resides there under § 2-102, and because the transactions out of which this cause of action arises occurred in Cook County, Illinois.

THE BIOMETRIC INFORMATION PRIVACY ACT

9. “Biometrics” refers to a “biology-based set[s] of measurements.” *Rivera v. Google Inc.*, 238 F. Supp. 3d 1088, 1094 (N.D. Ill. 2017). Specifically, “biometrics” are “a set of measurements of a specified physical component (eye, finger, voice, hand, face).” *Id.* at 1296.

10. BIPA was enacted in 2008 in order to safeguard individuals’ biometrics as the result of the “very serious need [for] protections for the citizens of Illinois when it [comes to their] biometric information.” Illinois House Transcript, 2008 Reg. Sess. No. 276. BIPA is codified as Act 14 in Chapter 740 of the Illinois Compiled Statutes.

11. As set forth in BIPA, biologically unique identifiers, such as a person’s unique hand vein-prints or faceprint, cannot be changed. 740 ILCS 14/5(c). The inalterable nature of biologically unique identifiers presents a heightened risk when an individual’s biometrics are not protected in a secure and transparent fashion. 740 ILCS 14/5(d)–(g).

12. As a result of the need for enhanced protection of biometrics, BIPA imposes various requirements on private entities that collect or maintain individuals’ biometrics, including hand and face scans.

13. Among other things, BIPA seeks to regulate “the collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and information.” 740 ILCS 14/5(g). BIPA thus applies to entities that interact with two forms of Biometric Data: biometric “identifiers” and biometric “information.” 740 ILCS 14/15(a)–(e).

14. BIPA defines a “biometric identifier” as any personal feature that is unique to an individual, including fingerprints, voiceprints, palm scans and facial geometry. “Biometric identifiers” are physiological, as opposed to behavioral, characteristics. BIPA’s text provides a

non-exclusive list of protected “biometric identifiers,” including “a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry.” 740 ILCS 14/10.

15. “Biometric information” is defined by BIPA as “any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual.” *Id.* This definition helps ensure that information based on a biometric identifier that can be used to identify a person is covered by BIPA. Collectively, biometric identifiers and biometric information are known as “biometrics.”

16. In BIPA, the Illinois General Assembly identified four distinct activities that may subject private entities to liability:

- a. possessing biometrics without a proper policy publicly available, 740 ILCS 14/15(a);
- b. collecting biometrics, 740 ILCS 14/15(b);
- c. profiting from biometrics, 740 ILCS 14/15(c); and
- d. disclosing biometrics, 740 ILCS 14/15(d).

16. As the Illinois Supreme Court has held, BIPA “codified that individuals possess a right to privacy in and control over their biometric identifiers and biometric information.” *Rosenbach v. Six Flags Entm’t Corp.*, 2019 IL 123186, ¶ 33, 129 N.E.3d 1197, 1206 (Ill. 2019). The Illinois Supreme Court further held that when a private entity fails to comply with BIPA “that violation constitutes an invasion, impairment, or denial of the statutory rights of any person or customer whose biometric identifier or biometric information is subject to the breach.” *Id.*

FACTUAL BACKGROUND

17. Defendant is a major provider of in-person and remote testing services across the country, including throughout Illinois.

18. Defendant's test centers allow individuals to take proctored exams for a variety of certifications and degrees ranging from medical licensing exams to IT certifications at its in-person test locations.

19. As part of its efforts to verify the identity of individuals who appear at the testing center on the day of the examination and prevent any misconduct by test-takers during examination, Defendant has implemented a biometric scanning device that scans the unique vein patterns within an individual's hand. Such devices collect their users' biometric identifiers, i.e. hand vein-prints, and convert them to an electronic format *derived from* those identifiers, i.e. biometric information. Such conversion is necessary for storing biometrics on the device itself.

20. However, even though Defendant obtains the hand vein-print biometrics of individuals who visited its testing centers in Illinois, during the relevant time period Defendant did not obtain valid written consent as required by BIPA to collect their hand vein-print biometrics.

21. In addition to providing in-person test proctoring at its testing locations, Defendant also provides remote test proctoring services for individuals who wish to take certain tests at home.

22. Similar to its in-person test proctoring utilizing hand scan biometrics to verify test takers, Defendant's online remote test proctoring utilized facial biometrics using the test-takers' computer camera to confirm that the test-taker is the same individual who registered for the exam.

23. During the relevant time period Defendant also failed to obtain valid written consent as required by BIPA to collect the facial biometrics of test takers located in Illinois who utilized its remote test proctoring service.

24. Moreover, during the relevant time period Defendant also did not make publicly available a valid policy as to its retention and deletion practices regarding the biometrics in its possession.

25. For example, Plaintiff Velazquez signed up to take the Massage & Bodywork Licensing Examination (“MBLEx”) at one of Defendant’s testing locations in Schaumburg, Illinois in the fall of 2020 and winter of 2021.

26. When Plaintiff Velazquez showed up at the testing facility to take her MBLEx exam as part of her intake process before she could take the exam she had to provide her hand to be scanned and was told it was for security purposes.

27. However, prior to taking her MBLEx exam, Plaintiff Velazquez did not provide valid written informed consent as required under BIPA.

28. Specifically, the disclosures purportedly provided to Plaintiff Velazquez before her hand vein-print was collected did not inform her that her biometrics were being collected by Defendant and did not provide the necessary disclosures as required under Section 15(b) of BIPA regarding the length of term for which her biometrics would be stored.

29. Furthermore, during the relevant time period Defendant’s privacy policy only generally stated that it retains test takers’ biometrics for “as long as needed to provide our services and for such period of time as instructed by the test sponsor.” (<https://web.archive.org/web/20220302174221/https://home.pearsonvue.com/Legal/Privacy-and-cookies-policy.aspx>). Defendant did not provide any further information as to what period of time any particular “test sponsor” may have required it to retain the biometrics or when it determined that its services are no longer being “provided.” As such, Defendant’s privacy policy failed to comply with BIPA’s requirements that entities in possession of biometrics must maintain a retention schedule and guidelines for permanently destroying biometrics. 740 ILCS 14/15(a).

30. Plaintiff Ramirez similarly had her hand vein-print biometrics collected by Defendant when she took the registered cardiac sonographer exam at one of Defendant's test locations in Rosemont, Illinois on April 27, 2021.

31. Like Plaintiff Velazquez, Plaintiff Ramirez did not provide her informed written consent to have her hand vein-print biometrics collected as Plaintiff Ramirez was not provided any valid disclosures at the time of her exam informing her about the length of time for which her hand print biometrics would be retained by Defendant, nor was Plaintiff Ramirez informed that it was Defendant that would be obtaining and storing her hand print biometrics.

32. Furthermore, as was the case for Plaintiff Velazquez, Defendant also did not have a valid publicly available privacy policy that provided for a retention schedule and guidelines for permanently destroying biometrics. 740 ILCS 14/15(a)

CLASS ALLEGATIONS

33. Plaintiffs bring this action individually and on behalf of themselves and all similarly situated individuals pursuant to 735 ILCS § 5/2-801. Plaintiffs seek to represent a Class defined as follows:

Class: All persons who (1) had their palm vein scanned in connection with an examination administered at a Pearson test center in the State of Illinois from January 13, 2017 through October 25, 2023 and did not consent to the Pearson VUE Biometric Data Policy, effective February 1, 2023, or (2) took a remotely proctored examination through Pearson's On VUE online testing system from a location within the State of Illinois from August 15, 2019 through February 1, 2023 that may have used facial comparison.

34. Excluded from the Class are (1) any Judge, Magistrate or Mediator presiding over this action and members of their families; (2) Defendant, Defendant's subsidiaries, parent companies, affiliates, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, or

employees; (3) persons who properly execute and file a timely request for exclusion from the Class; and (4) the legal representatives, successors or assigns of any such excluded persons.

35. Upon information and belief, there are thousands of members of the Class, making the members of the Class so numerous that joinder of all members is impracticable. Although the exact number of members of the Class is currently unknown to Plaintiffs, the members can be easily identified through Defendant's test records.

36. Plaintiffs' claims are typical of the claims of the members of the Class Plaintiffs seek to represent, because the factual and legal bases of Defendant's liability to Plaintiffs and the other members are the same, and because Defendant's conduct has resulted in similar injuries to Plaintiffs and to the Class. As alleged herein, Plaintiffs and the Class have all suffered damages as a result of Defendant's BIPA violations and common law transgressions.

37. There are many questions of law and fact common to the claims of Plaintiffs and the Class, and those questions predominate over any questions that may affect individual members. Common questions for the Class include, but are not limited to, the following:

- a. Whether Defendant's conduct is subject to BIPA;
- b. Whether Defendant made available to the public a valid written policy that establishes a retention schedule and guidelines for destroying biometrics;
- c. Whether Defendant obtained a valid written release from the Class before capturing, collecting, or otherwise obtaining their biometrics;
- d. Whether Defendant provided a valid written disclosure that explains the specific purposes, and the length of time, for which biometrics were being collected, stored and used before taking such biometrics;
- e. Whether Defendant's conduct violates BIPA;

- f. Whether Defendant's violations of BIPA are willful or reckless; and
- g. Whether Plaintiffs and the Class are entitled to damages.

38. Absent a class action, most members of the Class would find the cost of litigating their claims to be prohibitively expensive and would thus have no effective remedy. The class treatment of common questions of law and fact is superior to multiple individual actions in that it conserves the resources of the courts and the litigants and promotes consistency of adjudication.

39. Plaintiffs will adequately represent and protect the interests of the members of the Class. Plaintiffs have retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiffs and Plaintiffs' counsel are committed to vigorously prosecuting this action on behalf of the other members of the Class and have the financial resources to do so. Neither Plaintiffs nor Plaintiffs' counsel have any interest adverse to those of the other members of the Class.

40. Defendant has acted and failed to act on grounds generally applicable to Plaintiffs and the other members of the Class, requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class.

COUNT I

Violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/15(a), *et seq.* (On behalf of Plaintiffs and the Class)

- 41. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.
- 42. Defendant is a private entity under BIPA.
- 43. As discussed above, Plaintiffs and the other Class members have had their "biometric identifiers," namely their hand vein-print and facial biometrics, collected and stored, and thus possessed, by Defendant as part of its test taking process at Defendant's Illinois test facilities and through its remote test proctoring service.

44. Section 15(a) of BIPA requires any entity in possession of biometric identifiers or biometric information to “develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of the individual’s last interaction with the private entity, whichever occurs first.” 740 ILCS 14/15(a).

45. Though Defendant has come into possession of Plaintiffs’ and other Class members’ hand vein-print and facial biometric identifiers, it did not make publicly available during the relevant time period a valid policy that established a retention schedule and guidelines for permanently destroying biometrics.

46. As a result, Defendant has violated Section 15(a) of BIPA.

47. Defendant knew, or was reckless in not knowing, that its practice of collecting test takers’ hand vein-print and facial biometrics, would be subject to Section 15(a) of BIPA, a statutory provision passed in 2008, yet failed to comply with the statute.

48. BIPA provides for statutory damages of \$5,000 for each willful and/or reckless violation of BIPA and, alternatively, damages of \$1,000 for each negligent violation of BIPA. 740 ILCS 14/20(1)-(2).

49. Defendant’s violations of Section 15(a) of BIPA, which has been in effect since 2008, were knowing and willful, or were at least in reckless disregard of the statutory requirements. Alternatively, Defendant negligently failed to comply with Section 15(a) of BIPA.

50. Accordingly, with respect to Count I, Plaintiffs, individually and on behalf of the proposed Class, pray for the relief set forth below.

WHEREFORE, Plaintiffs, individually and on behalf of the proposed Class, respectfully requests that this Court enter an Order:

- a. Certifying the Class as defined above, appointing Plaintiffs as class representatives and the undersigned as class counsel;
- b. Declaring that Defendant's actions, as set forth herein, violate BIPA;
- c. Awarding statutory damages of \$5,000 for each willful and/or reckless violation of BIPA, pursuant to 740 ILCS 14/20(2);
- d. Awarding statutory damages of \$1,000 for each negligent violation of BIPA, pursuant to 740 ILCS 14/20(1);
- e. Awarding reasonable attorneys' fees, costs, and other litigation expenses pursuant to 740 ILCS 14/20(3);
- f. Awarding pre- and post-judgment interest, as allowable by law; and
- g. Awarding such further and other relief as the Court deems just and equitable.

COUNT II

Violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/15(b), *et seq.* (On behalf of Plaintiffs and the Class)

51. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.
52. Defendant is a private entity under BIPA.
53. As discussed above, Plaintiffs and the other Class members have had their "biometric identifiers," namely their hand vein-print and facial biometrics, collected and stored, and thus possessed, by Defendant as part of its test taking process at one of Defendant's Illinois test facilities and through its remote test proctoring service.
54. BIPA requires a private entity, such as Defendant, to obtain informed written consent from individuals before acquiring their biometric identifiers or biometric information.

Specifically, BIPA makes it unlawful to “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or customer’s biometric identifiers or biometric information unless [the entity] first: (1) informs the subject . . . in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the subject . . . in writing of the specific purpose and length of time for which a biometric identifier or biometric information is being captured, collected, stored, and used; and (3) receives a written release executed by the subject of the biometric identifier or biometric information” 740 ILCS 14/15(b).

55. Each instance when Plaintiffs and the other Class members underwent Defendant’s biometric verification procedures, Defendant captured, collected or otherwise obtained Plaintiffs’ and the other Class members’ hand vein-print or facial biometric identifiers without obtaining valid written consent as Defendant failed to inform Plaintiffs and the Class in writing the specific length of term their biometrics were being captured, collected, stored, and used, as required by 740 ILCS 14/15(b)(2).

56. Furthermore, Defendant failed to inform Plaintiffs and the other Class members that it itself was collecting and storing their biometrics such that Defendant failed to obtain valid informed written consent.

57. As a result, Defendant has violated Section 15(b) of BIPA.

58. Defendant knew, or was reckless in not knowing, that its practice of collecting test takers’ hand vein-print biometrics, would be subject to Section 15(b) of BIPA, a statutory provision passed in 2008, yet failed to comply with the statute.

59. BIPA provides for statutory damages of \$5,000 for each willful and/or reckless violation of BIPA and, alternatively, damages of \$1,000 for each negligent violation of BIPA. 740 ILCS 14/20(1)-(2).

60. Defendant's violations of Section 15(b) of BIPA, a statutory provision that has been in effect since 2008, were knowing and willful, or were at least in reckless disregard of the statutory requirements. Alternatively, Defendant negligently failed to comply with Section 15(b) of BIPA.

61. Accordingly, with respect to Count II, Plaintiffs, individually and on behalf of the proposed Class, pray for the relief set forth below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the proposed Class, respectfully request that this Court enter an Order:

- a. Certifying the Class as defined above, appointing Plaintiffs as class representatives and the undersigned as class counsel;
- b. Declaring that Defendant's actions, as set forth herein, violate BIPA;
- c. Awarding statutory damages of \$5,000 for each willful and/or reckless violation of BIPA, pursuant to 740 ILCS 14/20(2);
- d. Awarding statutory damages of \$1,000 for each negligent violation of BIPA, pursuant to 740 ILCS 14/20(1);
- e. Awarding reasonable attorneys' fees, costs, and other litigation expenses pursuant to 740 ILCS 14/20(3);
- f. Awarding pre- and post-judgment interest, as allowable by law; and
- g. Awarding such further and other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiffs request trial by jury of all claims that can be so tried.

Dated: February __, 2025

Respectfully submitted,

TAMMY VELAZQUEZ, ANGELA RAMIREZ,
individually and on behalf of all similarly situated
individuals

By: /s/ Eugene Y. Turin
One of Plaintiffs' Attorneys

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