

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Master File No. 1:18-cv-10320-JPC

IN RE EVOQUA WATER TECHNOLOGIES
CORP. SECURITIES LITIGATION

**NOTICE OF PLAINTIFFS' UNOPPOSED MOTION FOR
APPROVAL OF DISTRIBUTION PLAN**

TO: All Counsel of Record

PLEASE TAKE NOTICE that in accordance with Federal Rule of Civil Procedure 23(e) and this Court's Order Approving Plan of Allocation of Net Settlement Fund (ECF No. 151) and Judgment Approving Class Action Settlement (ECF No. 153), Lead Plaintiffs, Louisiana Sheriffs' Pension & Relief Fund and City of Omaha Police & Fire Retirement System, and additional class representative City of Hallandale Beach Police Officers' & Firefighters' Personnel Retirement Trust (collectively, "Plaintiffs"), on behalf of themselves and the Settlement Class, will and do hereby move this Court for entry of the accompanying [Proposed] Order Approving Distribution Plan ("Class Distribution Order"). In further support of this motion, Plaintiffs submit (i) the Declaration of Eric J. Miller in Support of Plaintiffs' Unopposed Motion for Approval of Distribution Plan ("Miller Declaration"), submitted on behalf of the Court-approved Claims Administrator, A.B. Data, Ltd.'s Class Action Administration Company ("A.B. Data"); (ii) the Memorandum of Law in Support of Plaintiffs' Unopposed Motion for Approval of Distribution Plan; and (iii) all other papers and proceedings herein.

Among other things, the Class Distribution Order would: (i) approve the administrative determinations of A.B. Data accepting and rejecting Claims submitted in connection with the

Settlement reached in the above-captioned Action; (ii) direct the distribution of the Net Settlement Fund to Claimants whose Claims are accepted by A.B. Data as valid and approved by the Court (“Authorized Claimants”), while maintaining a Reserve for any tax liability or claims administration-related contingencies that may arise; (iii) direct that distribution checks state that the check must be cashed within 90 days after the issue date; (iv) direct that Authorized Claimants will forfeit all recovery from the Settlement if they fail to cash their distribution checks in a timely manner; (v) approve the recommended plan for any funds remaining after the distribution; (vi) approve A.B. Data’s fees and expenses incurred and estimated to be incurred in the administration of the Settlement; (vii) release claims related to the administration process; and (viii) authorize the destruction of Claim Forms and supporting documents at an appropriate time.

There are no disputed Claims by any Settlement Class Member requiring Court review. Pursuant to the terms of the Stipulation, Defendants have no interest in the relief sought by the motion. Further, Defendants’ Counsel have reviewed the motion and informed us that Defendants take no position on the motion. Accordingly, Lead Counsel respectfully submit that the motion is ripe for consideration by the Court and may be decided on the papers.

Dated: November 23, 2022

Respectfully submitted,

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE EVOQUA WATER TECHNOLOGIES
CORP. SECURITIES LITIGATION

Master File No. 1:18-cv-10320-JPC

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR APPROVAL OF DISTRIBUTION PLAN**

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TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
I. BACKGROUND	2
II. CLAIMS ADMINISTRATION.....	2
A. No Disputed Claims.....	3
B. Late Claims and Final Cut-Off Date.....	4
III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR	5
IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND	5
A. Initial Distribution of the Net Settlement Fund	5
B. Additional Distribution(s) of the Net Settlement Fund.....	7
V. RELEASE OF CLAIMS.....	9
VI. CONCLUSION.....	10

TABLE OF AUTHORITIES

CASES	PAGE(S)
<i>In re Cnova N.V. Sec. Litig.</i> , 2021 WL 100548, at *2 (S.D.N.Y. Jan 12, 2021).....	10
<i>In re Eletrobras Sec. Litig.</i> , 467 F.Supp.3d 149 (S.D.N.Y. 2020).....	9
<i>In re Henry Schein, Inc. Sec. Litig.</i> , 1:18-cv-01428, Order Approving Distribution Plan (ECF No. 96) (E.D.N.Y. July 2, 2021).....	8
<i>In re Signet Jewelers Ltd. Sec. Litig.</i> , 2021 WL 5357468, at *2 (S.D.N.Y. Nov. 17, 2021).....	8
<i>In re Vale S.A. Sec. Litig.</i> , 1:15-cv-9539, Order Approving Distribution Plan (ECF No. 216) (S.D.N.Y. July 30, 2021).....	8
<i>Perkins v. Am. Nat’l Ins. Co.</i> , No. 05-cv-100, 2012 WL 2839788 (M.D. Ga. July 10, 2012).....	8

The Court-appointed Lead Plaintiffs and Settlement Class Representatives, Louisiana Sheriffs' Pension & Relief Fund and City of Omaha Police & Fire Retirement System, and additional Class Representative City of Hallandale Beach Police Officers' & Firefighters' Personnel Retirement Trust (collectively, "Plaintiffs") respectfully move for entry of the proposed Order Approving Distribution Plan ("Class Distribution Order") for distributing the proceeds of the Settlement in this securities class action ("Action"). The Distribution Plan is described in the accompanying Declaration of Eric J. Miller ("Miller Declaration" or "Miller Decl.")¹ of the Court-approved Claims Administrator, A.B. Data, Ltd. ("A.B. Data").

If entered by the Court, the Class Distribution Order would direct A.B. Data to make the Initial Distribution of the Net Settlement Fund proceeds to eligible Claimants. Among other things, the Distribution Order would: (i) approve A.B. Data's administrative determinations accepting and rejecting Claims submitted in connection with the Settlement; (ii) direct the Initial Distribution of the Net Settlement Fund to Claimants whose Claims are accepted by A.B. Data as valid and approved by the Court ("Authorized Claimants"), while maintaining a Reserve for any tax liability and claims administration-related contingencies that may arise; and (iii) approve A.B. Data's fees and expenses incurred and estimated to be incurred in the administration of the Settlement and the Initial Distribution.

Significantly, there are no disputed Claims by any Settlement Class Member requiring Court review. Moreover, although Defendants have no role in the Claims administration process (*see* Stipulation ¶¶ 18, 22, 24), they have informed Plaintiffs' Counsel that Defendants take no

¹ Unless otherwise indicated in this memorandum, all terms with initial capitalization shall have the meanings ascribed to them in the Miller Declaration or the Stipulation and Agreement of Settlement dated May 28, 2021 (ECF No. 133-1) ("Stipulation"). The Settlement is contained in the Stipulation.

position on this motion. The motion is therefore ripe for determination, and Plaintiffs respectfully submit that it can be decided on the papers, subject to the Court's views.

I. BACKGROUND

On November 1, 2021, the Court entered its Judgment Approving Class Action Settlement (ECF No. 153) approving the \$16.65 all-cash Settlement of this Action and entered an Order Approving Plan of Allocation of Net Settlement Fund (ECF No. 151). The Settlement's "Effective Date" under paragraph 33 of the Stipulation has now occurred, and accordingly the Net Settlement Fund may now be distributed to Authorized Claimants. In accordance with paragraph 27 of the Stipulation, Plaintiffs respectfully request that the Court enter the Class Distribution Order and approve the Distribution Plan.

II. CLAIMS ADMINISTRATION

In accord with the Court's Preliminary Approval Order (ECF No. 137), A.B. Data mailed the Notice (setting forth, *inter alia*, the terms of the proposed Settlement) ("Notice") and a Claim Form (collectively with the Notice, the "Notice Packet") to potential Settlement Class Members, brokers, and other nominees. Miller Decl. ¶ 2. The Notice informed Settlement Class Members that if they wished to participate in any distribution of the Net Settlement Fund, they must submit a properly executed Claim Form postmarked no later than December 3, 2021. *Id.* ¶ 7. A.B. Data disseminated a total of 27,172 Notice Packets to potential Settlement Class Members, brokers, and other nominees. *Id.* ¶ 4.

Through November 22, 2022, A.B. Data received and fully processed, in accordance with the Stipulation and the Plan of Allocation, a total of 9,955 Claims. *Id.* ¶ 7. As part of its work, A.B. Data has also worked with numerous Claimants to help them perfect their Claims. *See id.* ¶¶ 19-28. For example, many Claims were initially deficient or ineligible for one or more reasons

(including being incomplete, not signed, not properly documented, or otherwise deficient), which required A.B. Data to perform substantial follow-up to cure the deficiencies, if possible. *Id.* ¶¶ 19, 25.

If A.B. Data determined that a Claim was defective or ineligible, it provided the Claimant or the filer of the Claim with a written “Deficiency Notice” describing both (a) the Claim’s defect(s) or condition(s) rendering the Claim ineligible, and (b) the steps necessary to remedy any curable defect(s) in the Claim. *Id.* ¶¶ 20, 22. The Deficiency Notices advised the Claimant or filer that they had to send the information or documentary evidence needed to complete the Claim to A.B. Data within 20 days, or A.B. Data would recommend that the Claim be rejected to the extent the deficiency or condition of ineligibility was not cured. *Id.* ¶¶ 20, 23. Sample Deficiency Notices sent by A.B. Data are attached as Exhibits A, B, and C to the Miller Declaration.

Of the 9,955 Claims received, A.B. Data has determined that 3,750 Claims are acceptable (in whole or in part), and 6,205 Claims should be rejected as materially deficient or otherwise ineligible for payment. Miller Decl. ¶¶ 33-36. Plaintiffs respectfully request that the Court approve A.B. Data’s administrative determinations accepting and rejecting Claims.

A. No Disputed Claims

A.B. Data carefully reviewed the responses it received to any Deficiency Notices and worked with Claimants and filers to resolve deficiencies where possible. *Id.* ¶¶ 21, 26. Consistent with paragraph 25(e) of the Stipulation, the Deficiency Notices advised all Claimants and filers of their rights, within 20 days, to contest the rejection of their Claim and request Court review of A.B. Data’s administrative determination of their Claim. *Id.* ¶¶ 20, 23; Exs. A, B.

A.B. Data received one (1) request for Court review of its administrative determinations. To try to resolve this dispute without Court intervention, A.B. Data contacted the disputing

Claimant to explain its administrative determination and to review again whether any missing information or documentation could be provided. *Id.* ¶ 28. As a result of these efforts, the Claimant resolved the deficiencies, and the Claim is now recommended for approval. *Id.* Accordingly, there are *no* outstanding requests for Court review by any Claimants. *Id.*

B. Late Claims and Final Cut-Off Date

The 9,955 Claims received through November 22, 2022, include 489 Claims that were postmarked or received after December 3, 2021, the Court-approved Claim submission deadline. *Id.* ¶¶ 29, 35. Those late Claims have been fully processed, and 146 of them are, but for their late submission, otherwise eligible to participate in the Settlement. *Id.* Although these 146 Claims were late, they were received while the processing of timely Claims was ongoing – and the processing of these late Claims has not delayed the completion of the Claims administration process or the proposed Initial Distribution. *Id.* ¶ 29. The Court has discretion to accept Claims received after the Claim submission deadline. *See* Preliminary Approval Order ¶ 11. Plaintiffs respectfully submit that, as a matter of equity, an otherwise eligible Claimant should not be barred from participating in the distribution of the Net Settlement Fund solely because their Claim was received late, provided (as here) its lateness has not impaired the processing of timely claims.

To facilitate the efficient distribution of the Net Settlement Fund, however, there must be a final cut-off date after which no other Claims may be accepted. Accordingly, Plaintiffs respectfully request that the Court order that any *new* late Claims (and any requested adjustments to previously filed Claims that would result in an increased Recognized Claim Amount) received after November 22, 2022, shall be barred (*see also* Miller Decl. ¶ 39(f)) – subject to the proviso that, if Lead Counsel later determine that an additional distribution is not cost-effective (*see* Miller Decl. ¶ 39(e)), then any post-November 22, 2022 Claimants may, at the discretion of Lead Counsel

(and to the extent possible after paying remaining administrative fees and expenses owed), be paid on their new (or adjusted) Claims on a *pro rata* basis so as to bring them into parity with other Authorized Claimants who have cashed their distribution checks.

III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR

Under A.B. Data's agreement with Lead Counsel to act as Claims Administrator, A.B. Data was responsible for, among other things, disseminating notice of the Settlement to the Settlement Class; creating and maintaining a website and toll-free helpline; processing Claims; and allocating and distributing the Net Settlement Fund to Authorized Claimants. Miller Decl. ¶ 2. A.B. Data's fees and expenses for work performed through September 30, 2022, are \$141,268.33, and its estimated fees and expenses for work yet to be performed in connection with the Initial Distribution are \$11,969.02 – which together total \$153,237.35. *Id.* ¶ 38.² To date, A.B. Data has received payment in the amount of \$140,383.10 for its fees and expenses. *Id.* Having reviewed its invoices, Lead Counsel, on behalf of Plaintiffs, respectfully request that the Court approve A.B. Data's request for payment of the outstanding balance in the amount of \$12,854.25.

IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND

A. Initial Distribution of the Net Settlement Fund

Under the proposed Distribution Plan, A.B. Data will distribute 95% of the Net Settlement Fund after deducting (i) all payments previously allowed, (ii) all payments approved by the Court on this motion, and (iii) any estimated taxes, costs of preparing appropriate tax returns, and escrow fees. *See* Miller Decl. ¶ 39(a). As part of the Initial Distribution, A.B. Data will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Fund were to be distributed now. *Id.* ¶ 39(a)(1). A.B. Data will first determine each Authorized Claimant's *pro rata* share of

² Should A.B. Data's estimate of fees and expenses to conduct the Initial Distribution exceed its actual costs, it will return the excess to the Net Settlement Fund so it will be available for any subsequent distributions to Claimants. *Id.*

the total Net Settlement Fund based on the Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants. *Id.* A.B. Data will eliminate from the Initial Distribution any Authorized Claimant whose *pro rata* share calculates to less than the minimum payment threshold of \$10.00, as these Claimants are not eligible to receive, and will not receive, any payment from the Net Settlement Fund under the plan of Allocation (and will be so notified by A.B. Data). *Id.* ¶ 39(a)(2).

A.B. Data will then recalculate the *pro rata* share of the Net Settlement Fund for Authorized Claimants, after eliminating all Claims amounting to less than \$10.00. *Id.* ¶ 39(a)(3). This *pro rata* share is the Authorized Claimant's Distribution Amount. *Id.* Authorized Claimants whose Distribution Amount calculates to less than \$200.00 will be paid their full Distribution Amount in the Initial Distribution ("Claims Paid in Full"). *Id.* ¶ 39(a)(4). These Authorized Claimants will receive no additional funds in subsequent distributions. *Id.* After deducting the payments to the Claims Paid in Full, 95% of the remaining balance of the Net Settlement Fund will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$200.00 or more. *Id.* ¶ 39(a)(5). The remaining 5% of the Net Settlement Fund will be held in reserve (the "Reserve") to address any tax liability and claims administration-related contingencies that may arise. *Id.* To the extent the Reserve is not depleted, the remainder will be distributed in the Second Distribution. *Id.*

To encourage Authorized Claimants to cash their checks promptly, Plaintiffs propose that all distribution checks bear the notation, "CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE]." *Id.* ¶ 39(b). Authorized Claimants who do not cash their checks within the time allotted or on the conditions stated in paragraph 39(b) of the Miller Declaration will irrevocably forfeit all recovery

from the Settlement, and the funds allocated to these stale-dated checks will be available to be redistributed to other Authorized Claimants in a subsequent distribution, as described below. *Id.* ¶ 39(c).

B. Additional Distribution(s) of the Net Settlement Fund

After A.B. Data has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, but not earlier than seven (7) months after the Initial Distribution, A.B. Data will, after consulting with Lead Counsel and if cost-effective to do so, conduct a Second Distribution of the Net Settlement Fund. *Id.* ¶ 39(d). In such a Second Distribution, any amount remaining in the Net Settlement Fund, after deducting any unpaid fees and expenses incurred, will be distributed to Authorized Claimants (other than those having had Claims Paid in Full) who cashed their Initial Distribution checks and who would receive at least \$10.00 from a Second Distribution based on their *pro rata* share of any remaining funds. *Id.* If any funds remain in the Net Settlement Fund after the Second Distribution, and if cost-effective, subsequent distributions will take place thereafter at six-month intervals. *Id.* When Lead Counsel (in consultation with A.B. Data) determine that a further distribution is not cost-effective, then, if sufficient funds remain to warrant the processing of Claims received after November 22, 2022, A.B. Data will process those Claims. *Id.* ¶ 39(e). Any such Claims that are otherwise valid, as well as any earlier received Claims for which an upward adjustment was requested after November 22, 2022, may be paid in accordance with ¶ 39(f) of the Miller Declaration. *Id.*

If any funds remain in the Net Settlement Fund after payment of these Claims and any unpaid fees or expenses, Lead Counsel propose that such remaining funds (if there are any) be contributed to the National Consumer Law Center (“NCLC”). Lead Counsel propose that the NCLC be designated as the “non-sectarian, not-for-profit 501(c)(3) organization to be

recommended by Lead Counsel” referenced in the Court-approved Plan of Allocation. *See* Notice App. A ¶ 27. NCLC is a private, non-sectarian, non-profit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. *Financials*, National Consumer Law Center, nclc.org/about-us/financials/ (last visited Nov. 11, 2022). For over 50 years, NCLC has worked to build and strengthen a legal network to provide legal services addressed to two main goals: improving access to the legal system for all people and enabling advocates to seek remedies for low-income people where needed. *See History*, National Consumer Law Center, nclc.org/about-us/history/ (last visited Nov. 11, 2022). NCLC’s lawyers provide policy analysis, advocacy, litigation, expert-witness services, and training for consumer advocates throughout the United States. *See Mission*, National Consumer Law Center, nclc.org/about-us/mission/ (last visited Nov. 11, 2022). “NCLC uses its unmatched expertise in consumer law to protect consumers from exploitation and expand access to fair credit by advocating for laws, rules, and regulations that benefit real people: those with low incomes, older people, students, people of color, and others who have been abused, deceived, discriminated against, or left behind in our economy.” *About Us*, National Consumer Law Center, nclc.org/about-us/ (last visited Nov. 11, 2022). NCLC has received “the highest ratings from charity watchdogs” and “welcomes *cy pres* designations of unclaimed settlement funds from class action lawsuits, which are used to support our consumer rights work advancing the core interests of underlying class members.” *History*, National Consumer Law Center, nclc.org/about-us/history/ (last visited Nov. 11, 2022), and *Cy Pres*, National Consumer Law Center, nclc.org/get-involved/ways-to-give/cy-pres/ (last visited Nov. 11, 2022).³

³ Federal courts have approved NCLC as a *cy pres* recipient of residual balances of net settlement funds in other settlements. *See, e.g., In re Signet Jewelers Ltd. Sec. Litig.*, 2021 WL 5357468, at *2 (S.D.N.Y. Nov. 16, 2021); Order Approving Distribution Plan, *In re Vale S.A. Sec. Litig.*, 1:15-cv-9539 (S.D.N.Y. July 30, 2021), ECF No. 216; Order Approving Distribution Plan, *In re Henry Schein, Inc. Sec. Litig.*, 1:18-cv-01428 (E.D.N.Y. July 2, 2021), ECF No.

V. RELEASE OF CLAIMS

To allow the full and final distribution of the Net Settlement Fund, it is necessary to (i) bar any further claims against the Net Settlement Fund beyond the amounts allocated to Authorized Claimants (as discussed above), and (ii) provide that all persons involved in any aspect of Claims processing, or who are involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, be released and discharged from all claims arising out of that involvement. *See* Stipulation ¶ 29; Notice App. A ¶ 28. Accordingly, Plaintiffs respectfully request that the Court release and discharge all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in connection with the Settlement, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund from all claims arising out of that involvement, and bar all Settlement Class Members and other Claimants, whether or not they receive payment from the Net Settlement Fund, from making any further claims against the Net Settlement Fund, Plaintiffs, Lead Counsel, the Claims Administrator, the Escrow Agent or any other agent retained by Plaintiffs or Lead Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund, or any other person released under the Settlement beyond the amounts allocated to Authorized Claimants.

Courts have repeatedly approved similar releases in connection with the distribution of settlement proceeds. *See, e.g., In re Eletrobras Sec. Litig.*, 467 F.Supp.3d 149, 151 (S.D.N.Y. 2020) (“All persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Proofs of Claim submitted herein, or otherwise involved in the

96; *Perkins v. Am. Nat’l Ins. Co.*, 2012 WL 2839788, at *5 (M.D. Ga. July 10, 2012) (“The Court is also satisfied that The National Consumer Law Center’s mission, reputation and established track record will ensure that it will be a good steward of the grant award made to it.”).

administration or taxation of the Settlement Fund or the Net Settlement Fund, are hereby released and discharged from any and all claims arising out of such involvement, and all members of the Settlement Class, whether or not they receive payment from the Net Settlement Fund, are hereby barred from making any further claims against the Net Settlement Fund, Lead Plaintiffs, Lead Counsel, the Claims Administrator, the Escrow Agent, or any other agent retained by Lead Plaintiffs or Lead Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund beyond the amount allocated to them as Authorized Claimants”); *In re Cnova N.V. Sec. Litig.*, 2021 WL 100548, at *2 (S.D.N.Y. Jan. 12, 2021) (approving substantially similar language in order authorizing distribution of settlement proceeds).

VI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant their Unopposed Motion for Approval of Distribution Plan and enter the [Proposed] Order Approving Distribution Plan.

Dated: November 23, 2022

Respectfully submitted,

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE EVOQUA WATER TECHNOLOGIES
CORP. SECURITIES LITIGATION

Master File No. 1:18-cv-10320-JPC

**DECLARATION OF ERIC J. MILLER IN SUPPORT OF PLAINTIFFS’
UNOPPOSED MOTION FOR APPROVAL OF DISTRIBUTION PLAN**

I, Eric J. Miller, hereby declare under penalty of perjury as follows:

1. I am Senior Vice President of A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”), which has its corporate office in Milwaukee, Wisconsin. I am over 21 years of age and am not a party to the above-captioned action (“Action”).¹ I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and would testify competently thereto.

2. Pursuant to the Court’s July 8, 2021 Order Preliminarily Approving Settlement and Providing for Notice (ECF No. 137) (“Preliminary Approval Order”), A.B. Data was retained by Lead Counsel to serve as the Claims Administrator in connection with the Settlement of the Action. As Claims Administrator, A.B. Data has, among other things: (i) mailed the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys’ Fees and Litigation Expenses (“Notice”) and the Proof of Claim and Release Form (“Claim Form” and together with the Notice the “Notice Packet”) to potential Settlement Class Members, brokers,

¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated May 28, 2021 (ECF No. 133-1) (“Stipulation”). The Settlement is contained in the Stipulation.

and other nominees; (ii) created and continues to maintain a toll-free helpline for inquiries during the course of the administration; (iii) created and continues to maintain a website for the Settlement (“Settlement Website”) and posted case-specific documents on it; (iv) caused the Summary Notice to be published; (v) provided, upon request, additional copies of the Notice Packet to potential Settlement Class Members, brokers, and other nominees; and (vi) received and processed each Claim Form received by the Claims Administrator (a “Claim”).

3. On November 1, 2021, the Court granted final approval of the Settlement in its Judgment Approving Class Action Settlement (ECF No. 153) and entered an Order Approving Plan of Allocation of Net Settlement Fund (ECF No. 151). A.B. Data has completed processing all Claims received through November 22, 2022, in accordance with the terms of the Stipulation and the Court-approved Plan of Allocation set forth in the Notice, and hereby submits its administrative determinations accepting and rejecting the Claims in preparation for a distribution of the Net Settlement Fund to Authorized Claimants. A.B. Data also presents this declaration in support of Plaintiffs’ Unopposed Motion for Approval of Distribution Plan.

DISSEMINATION OF NOTICE

4. As more fully described in the Declaration of Eric J. Miller Regarding: (A) Mailing of the Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion Received to Date (ECF No. 145-5) (“Mailing Decl.”) and the Supplemental Declaration of Eric J. Miller Regarding: (A) Mailing of the Notice and Claim Form; and (B) Report on Requests for Exclusion Received (ECF No. 147) (“Supp. Mailing Decl.”), as of October 18, 2021, A.B. Data had mailed 24,650 Notice Packets to potential Settlement Class Members, brokers, and other nominees. Supp. Mailing Decl. ¶ 2. Since that date, 2,522 additional Notice Packets have been disseminated. In total, A.B. Data has disseminated 27,172 Notice Packets to potential Settlement Class Members, brokers, and other nominees.

5. A.B. Data established and continues to maintain the Settlement Website (www.EvoquaSecuritiesLitigation.com) and a toll-free helpline (855-569-5890) to assist potential Settlement Class Members. The Settlement Website, which provides access to important documents relevant to the Settlement, and the telephone helpline enable Settlement Class Members to obtain information about the Settlement. In connection with establishing and maintaining the Settlement Website and toll-free telephone helpline, A.B. Data, among other things, formulated a system to ensure that proper responses were provided to all telephone and electronic inquiries. That work included training telephone agents to respond to inquiries specific to the Settlement; developing a series of common questions and the answers thereto known as Frequently Asked Questions or “FAQs”; loading key documents onto the Settlement Website; and programming the Settlement Website to permit the viewing and downloading of those documents.

6. In accordance with paragraph 7(d) of the Preliminary Approval Order, on August 16, 2021, A.B. Data caused the Summary Notice to be published in *Investor’s Business Daily* and released via *PR Newswire*. Mailing Decl. ¶ 9.

PROCEDURES FOLLOWED IN PROCESSING CLAIMS

7. Under the terms of the Preliminary Approval Order and as set forth in the Notice, each Settlement Class Member who wished to be eligible to receive a distribution from the Net Settlement Fund was required to complete and submit to A.B. Data a properly executed Claim Form postmarked (if mailed) or online no later than December 3, 2021, together with adequate supporting documentation for the transactions and holdings reported in the Claim Form. Through November 22, 2022, A.B. Data has received and fully processed 9,955 Claims (“Presented Claims”).

8. In preparation for receiving and processing Claims, A.B. Data: (i) conferred with Lead Counsel to define the guidelines for processing Claims; (ii) created a unique database to store

Claim details, images of Claims, and supporting documentation (“Settlement Database”); (iii) trained staff in the specifics of the Settlement so that Claims would be properly processed; (iv) formulated a system so that telephone and email inquiries would be properly responded to; (v) developed various computer programs and screens for entry of Settlement Class Members’ identifying information and their transactional information; and (vi) developed a proprietary “calculation module” that would calculate Recognized Claims pursuant to the Court-approved Plan of Allocation for the Net Settlement Fund set forth in the Notice.

9. Settlement Class Members seeking to share in the Net Settlement Fund were directed in the Notice to submit their Claims to a post office box address specifically designated for the Settlement or to submit their claims online through the Settlement Website. Notice Packets returned by the United States Postal Service as undeliverable were reviewed for updated addresses and, where available, updated addresses were entered into the database and Notice Packets were mailed to the updated addresses. Any correspondence received at the post office box was reviewed and, when necessary, appropriate responses were provided to the senders.

PROCESSING CLAIMS

A. Paper Claims and Claim Forms Submitted Via the Settlement Website

10. Of the 9,955 Presented Claims, 495 are Claims that were submitted on paper (247) or via the online filing component of the Settlement Website provided for individual and retail investors (248). Once received, paper Claims were opened and prepared for scanning. This process included unfolding documents, removing staples, copying nonconforming-sized documents, and sorting documents. This manual task of preparing the paper Claims was very laborious and time intensive. Once prepared, paper Claims were scanned into the Settlement Database together with all submitted documentation. Subsequently, each Claim was assigned a unique Claim number. Once scanned, the information from each Claim Form, including the Claimant’s name, address,

and account number/information from the supporting documentation, and the Claimant's purchase/acquisition transactions, sale transactions, and holdings listed on the Claim Form, was entered into the Settlement Database. Once entered into the Settlement Database, each Claim was reviewed to verify that all required information had been provided. The documentation provided by the Claimant in support of the Claim was reviewed for authenticity and compared to the information provided in the Claim to verify the Claimant's identity and the purchase/acquisition transactions, sale transactions, and holdings listed on the Claim Form.

11. To process the transactions detailed in the Claims, A.B. Data utilized internal codes ("flags") to identify and classify deficiency or ineligibility conditions existing within those Claims. Appropriate flags were assigned to the Claims as they were processed. For example, where a Claim was submitted by a Claimant who did not have any eligible transactions in Evoqua common stock during the Class Period (e.g., the Claimant purchased Evoqua common stock only before or after the Class Period), that Claim would receive a flag that denoted ineligibility. Similar defect flags were used to denote other ineligible conditions, such as duplicate Claims. These flags would indicate to A.B. Data that the Claimant was not eligible to receive any payment from the Net Settlement Fund with respect to that Claim unless the deficiency was cured in its entirety. Examples of conditions of ineligibility are as follows:

MIDOC	Inadequate or Missing Documentation for Entire Claim
DUPCL	Duplicate Claim
NOPUR	No Eligible Purchase during the Class Period
MISIG	No Signature
NOLOS	No Recognized Claim

12. Because a Claim may be deficient only in part, but otherwise acceptable, A.B. Data utilized flags that were applied only to specific transactions within a Claim. For example, if a Claimant submitted a Claim with supporting documentation for all but one purchase transaction, that one transaction would receive a defect flag. The flag indicated that although the transaction was deficient, the Claim was otherwise eligible for payment if other transactions in the Claim calculated to a Recognized Claim pursuant to the Court-approved Plan of Allocation. Thus, even if the deficiency were never cured, the Claim could still be partially accepted. Examples of transaction-specific flags are as follows:

TD0C	Missing or Inadequate Documentation for Specific Transaction
INEL	Ineligible Transaction
TRN	Transfer In/Free Receipt

B. Electronic Claims

13. Of the 9,955 Presented Claims, 9,460 were submitted electronically (“Electronic Claims”). Electronic Claims are typically submitted by institutional investors who may have hundreds or thousands of transactions during the Class Period or by filers submitting Claims on behalf of multiple beneficial owners (“Electronic Claim Filers” or “E-Claim Filers”). Rather than provide reams of paper requiring data entry, the E-Claim Filers either mail a computer disc or electronically submit a file to A.B. Data so that A.B. Data can upload all transactions to the Settlement Database.

14. A.B. Data maintains an Electronic Claim Filing Team (“ECF Team”) to coordinate and supervise the receipt and handling of all Electronic Claims. In this case, the ECF Team reviewed and analyzed each electronic file to ensure that it was formatted in accordance with A.B. Data’s required format and to identify any potential data issues or inconsistencies within the file.

If any issues or inconsistencies arose, A.B. Data notified the filer. If the electronic file was deemed to be in an acceptable format, it was then loaded into the Settlement Database.

15. Once each electronic file was loaded, the Electronic Claims were flagged to denote any deficient or ineligible conditions that existed within them. These flags are similar to those applied to paper Claims. In lieu of manually applying flags, the ECF Team performed programmatic reviews on Electronic Claims to identify deficient and ineligible conditions (such as, but not limited to, price out-of-range issues, out-of-balance conditions, transactions outside the Class Period, etc.). The output was thoroughly verified and confirmed as accurate.

16. The review process also included flagging any Electronic Claims that were not accompanied by a signed Claim Form, which serves as a “Master Proof of Claim Form” for all Claims referenced on the electronic file submitted. This process was reviewed by A.B. Data’s ECF Team and, when appropriate, A.B. Data contacted the E-Claim Filers whose submissions were missing information. This ensured that only fully completed Claims, submitted by properly authorized representatives of the Claimants, were considered eligible to participate in the Settlement.

17. Finally, at the end of the process, A.B. Data performed various targeted reviews of Electronic Claims. Specifically, A.B. Data used criteria such as the calculated Recognized Claims and other identified criteria to flag and reach out to a selection of E-Claim Filers and request that various sample purchases, sales, and holdings selected by A.B. Data be documented by providing confirmation slips or other transaction-specific supporting documentation. These targeted reviews help to ensure that electronic data supplied by Claimants does not contain inaccurate information.

EXCLUDED PERSONS

18. A.B. Data also reviewed all Claims to ensure that they were not submitted by or on behalf of “Excluded Persons” to the extent that the identities of such persons or entities were

known to A.B. Data through the list of Defendants and other excluded persons and entities set forth in the Stipulation and the Notice and from the Claimants' certifications on the Claim Forms. A.B. Data also reviewed all Claims against the list of persons who were excluded from the Settlement Class pursuant to request.

THE DEFICIENCY PROCESS

A. Paper Claims and Online Claims

19. Approximately 48% of the paper and online Claims, i.e., 237 of the 495 Claim Forms submitted either as paper Claims or via the Settlement Website, were incomplete or had one or more defects or conditions of ineligibility, such as the Claim not being signed, not being properly documented, or not indicating any eligible transactions in Evoqua common stock during the Class Period. The "Deficiency Process," which primarily involved mailing letters to Claimants and responding to communications from Claimants by email and/or telephone, was intended to assist Claimants in properly completing their otherwise deficient submissions so that they could be eligible to participate in the Settlement.

20. If paper and online Claims were determined to be defective, a Notice of Rejection of Claim ("Deficiency Letter") was sent to the Claimants describing the defect(s) in the Claims and what steps, if any, were necessary to cure the defect(s) in these Claims. The Deficiency Letter advised Claimants that submission of appropriate information and/or documentary evidence to complete the Claim had to be sent within twenty (20) days from the date of the Deficiency Letter or the Claim would be recommended for rejection to the extent that the deficiency or condition of ineligibility was not cured. The Deficiency Letter also advised Claimants of their right to contest these administrative determinations, and that Claimants were required to submit written statements to A.B. Data requesting Court review of their Claims and setting forth the basis for such requests. A.B. Data sent a total of 237 Deficiency Letters to Claimants who submitted paper or online Claims

that A.B. Data determined to be defective. Attached hereto as Exhibit A is an example of a Deficiency Letter.

21. Claimants' responses to Deficiency Letters were scanned into the Settlement Database and associated with the corresponding Claims. The responses were then carefully reviewed and evaluated by A.B. Data's team of processors. If a Claimant's response corrected the defect(s) in a Claim, A.B. Data manually updated the Settlement Database to reflect the changes in the status of the Claim. Additional information provided by Claimants in response to the Deficiency Letters cured the deficiencies in 71 Claims, all of which are now recommended by A.B. Data as eligible to participate in the Settlement.

B. Electronic Claims

22. For Electronic Claims, A.B. Data used the following process to contact the banks, brokers, nominees, and other E-Claim Filers to confirm receipt of their submissions and to notify the Electronic Claim Filers of any deficiencies or Electronic Claims that were ineligible. Each E-Claim Filer was sent an email to the email address included with the Claim Form(s) ("Status Email") with an attached Electronic Filer Status Spreadsheet, which contained detailed information associated with the Claim(s) and indicated which Claim(s) within the filing were deficient and/or rejected ("Status Spreadsheet").

23. The Status Email sent to the email address of record provided with the Claim Form:

- (a) Notified the filer that any Claims with deficiencies not corrected within twenty (20) days from the date of the Status Email may be rejected;
- (b) Advised the filer of the right to contest the rejection of the Claim(s) and request this Court's review of A.B. Data's administrative determination within twenty (20) days from the date of the Status Email; and
- (c) Provided the filer with instructions for how to submit corrections.

24. The Status Spreadsheet attached to the Status Email contained the following information:

- (a) A listing of all Electronic Claims associated with the filing and their unique identification numbers;
- (b) Identification of individual Electronic Claims that were found to be deficient or ineligible;
- (c) Each Electronic Claim's current status in the Settlement Database; and
- (d) The current Recognized Claim calculation associated with each Electronic Claim.

25. A.B. Data emailed a Status Email and Status Spreadsheet(s) to 175 E-Claim Filers. Examples of a Status Email and Status Spreadsheet are attached hereto as Exhibits B and C, respectively.

26. The E-Claim Filers' responses were reviewed by A.B. Data's ECF Team, scanned and/or loaded into the Settlement Database, and associated with the corresponding Electronic Claims. If a response corrected the defect(s) or affected an Electronic Claim's status, A.B. Data manually and/or programmatically updated the database to reflect such change in status of the Electronic Claim.

NO DISPUTED CLAIMS

27. As noted above, Claimants were advised that they had the right to contest A.B. Data's administrative determination of deficiencies or ineligibility within twenty (20) days from the date of notification and that they could request that the dispute be submitted to the Court for review. More specifically, Claimants were advised in the Deficiency Letter or Status Email that, if they disputed A.B. Data's determination, they had to provide a statement of reasons indicating the grounds for contesting the determination, along with supporting documentation, and if the

dispute concerning the Claim could not otherwise be resolved, Lead Counsel would thereafter present the request for review to the Court for a final determination.

28. A.B. Data received one (1) request for Court review. To resolve this dispute without necessitating the Court's intervention, A.B. Data reached out to the Claimant requesting Court review and attempted to answer all questions and fully explain A.B. Data's administrative determination of the Claim's status and facilitate the submission of missing information or documentation. As a result of these efforts, the Claimant resolved the deficiencies, and the Claim is now recommended for approval. There are, therefore, no disputed Claims requiring Court review.

LATE BUT OTHERWISE ELIGIBLE CLAIMS

29. Of the 9,955 Presented Claims, 489 Claims were received or postmarked after December 3, 2021, the Claim submission deadline established by the Court. A.B. Data processed all late Claims received through November 22, 2022, and 146 late Claims have been found to be otherwise eligible in whole or in part ("Late But Otherwise Eligible Claims"). A.B. Data has not rejected any Claim received through November 22, 2022, solely based on its late submission, and A.B. Data believes no delay has resulted from the provisional acceptance of these Late But Otherwise Eligible Claims. To the extent they are eligible but for the fact that they were late, they are recommended for payment.

30. However, there must be a final cut-off date after which no more Claims will be accepted so that there may be a proportional allocation of the Net Settlement Fund and the distribution may be accomplished. Acceptance of additional Claims or responses received during the finalization of the administration and the preparation of this declaration would necessarily require a delay in the distribution. Accordingly, A.B. Data also respectfully requests that this Court order that no Claim received after November 22, 2022, or Claim cured or adjusted after November

22, 2022, be eligible for payment for any reason whatsoever subject only to the provision of paragraph 39(f) of the proposed distribution plan discussed below. If the Court adopts the proposed distribution plan, then, after Lead Counsel have determined that further distributions are not cost-effective and before any contribution of the residual funds to charity, if sufficient funds remain to warrant the processing of Claims received after November 22, 2022, these Claims will be processed and, if any would have been eligible if timely received, these Claimants may be paid their distribution amounts, to the extent permitted by the amount of remaining funds, on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks. *See* ¶ 39(f) below. With respect to previously submitted Claims that are cured or adjusted after November 22, 2022, such Claims will be reevaluated upon receipt of the adjustment and, to the extent that they are found eligible for a distribution or additional distribution, they will be treated in the same manner as Claims received after November 22, 2022. However, should an adjustment result in a lower Recognized Claim amount, the Recognized Claim amount will be reduced accordingly prior to a distribution to that Claimant.

QUALITY ASSURANCE

31. An integral part of the claims administration process is the Quality Assurance review. Throughout the administration process, A.B. Data's Quality Assurance Department worked to verify that Claims were processed properly by ensuring that information was entered correctly into the database, deficiency and/or rejection flags were assigned accurately, and deficiency and/or rejection notifications were sent appropriately. After all Claims were processed, deficiency and/or rejection notifications were sent, and Claimants' responses to the deficiency and/or rejection notifications were reviewed and processed, the supervisors and managers in A.B. Data's Quality Assurance Department performed additional Quality Assurance reviews. These final Quality Assurance reviews further ensured the correctness and completeness of all Claims

processed prior to preparing this declaration and all A.B. Data's final documents in support of distribution of the Net Settlement Fund. As part of the Quality Assurance reviews, A.B. Data:

- (a) Verified that all Claim Forms had signatures of authorized individuals;
- (b) Verified that true duplicate Claims were identified, verified, and rejected;
- (c) Verified that Tax Identification Numbers were provided, when applicable;
- (d) Verified that persons and entities excluded from the Settlement Class did not file Claims or that their Claims were rejected upon review;
- (e) Performed a final Quality Assurance audit of Claims and all supporting documentation to ensure completeness of Claims;
- (f) Determined that Claimants requiring deficiency and/or rejection notifications were sent such notification;
- (g) Performed an audit of deficient Claims;
- (h) Performed additional review of Claims with high Recognized Claim amounts;
- (i) Audited Claims that were designated invalid;
- (j) Audited Claims with a Recognized Claim amount equal to zero;
- (k) Performed other auditing based on Claims completion requirements and the approved calculation specifications based on the Court-approved Plan of Allocation; and
- (l) Re-tested the accuracy of the Recognized Claim amount calculation program.

32. As part of its due diligence in processing the Claims, A.B. Data conducted a Questionable Claim Filer search of all Claims submitted in connection with the Settlement. A.B.

Data maintains a Questionable Claim Filer Database of known questionable filers, which contains names, addresses, and aliases of individuals or entities that have been investigated by government agencies for questionable claim filing, as well as names and contact information compiled from previous settlements administered by A.B. Data in which fraudulent claims were received. A.B. Data updates this Questionable Claim Filer Database on a regular basis. The Settlement Database was searched for all individuals identified in the Questionable Claim Filer Database. A.B. Data performs searches based on names, aliases, addresses, and city/zip codes. In addition, A.B. Data's claim processors are trained to identify any potentially inauthentic documentation when processing claims, including claims submitted by Claimants not previously captured in the Questionable Claim Filer Database. Processors are instructed to flag any questionable Claims and escalate them to management for review. A.B. Data's procedures did not identify any potentially fraudulent Claim/s necessitating further review and verification.

RECOMMENDATIONS FOR APPROVAL AND REJECTION

33. As noted above, the number of Presented Claims in this motion is 9,955.

A. Timely Submitted and Valid Claims

34. A total of 9,466 Claims was received or postmarked on or before December 3, 2021, the Court-approved Claim submission deadline, of which 3,604 Claims were determined by A.B. Data to be eligible to participate in the Settlement and are recommended for approval ("Timely Eligible Claims"). The total Recognized Claim amount for these Timely Eligible Claims is \$153,527,529.40.

B. Late But Otherwise Eligible Claims

35. A total of 489 Claims was received or postmarked after December 3, 2021, the Court-approved Claim submission deadline, but received on or before November 22, 2022. Of those 489 late Claims, 146 were determined by A.B. Data to be otherwise eligible and are

recommended for approval (“Late But Otherwise Eligible Claims”). The total Recognized Claim amount for these Late But Otherwise Eligible Claims is \$27,264,587.24.

C. Rejected Claims

36. After the responses to Deficiency Letters and Status Emails were processed, a total of 6,205 Claims remains recommended for rejection by the Court (“Rejected Claims”) for the following reasons:

- (a) 1,777 Claims Did Not Result in a Recognized Claim;
- (b) 3,993 Claims Had No Purchase(s) of Evoqua Common Stock During the Class Period;
- (c) 25 Deficient Claims Never Cured;
- (d) 399 Duplicate or Replaced Claims; and
- (e) 11 Claims Withdrawn.

D. Lists of All Presented Claims

37. Attached hereto as Exhibits D through F are listings of all the Presented Claims:

- (a) Exhibit D lists the Timely Eligible Claims and shows each Claimant’s Recognized Claim;
- (b) Exhibit E lists the Late But Otherwise Eligible Claims and shows each Claimant’s Recognized Claim; and
- (c) Exhibit F lists the Rejected Claims and the reasons for rejection.

FEES AND DISBURSEMENTS

38. A.B. Data agreed to be the Claims Administrator in exchange for payment of its fees and out-of-pocket expenses. Lead Counsel received reports on and invoices for the work A.B. Data performed with respect to the provision of notice and administration of the Settlement. Attached hereto as Exhibit G are copies of A.B. Data’s invoices for its work performed on behalf

of the Settlement Class as well as an estimate for the work that will be performed and the costs that will be incurred in connection with the initial distribution of the Net Settlement Fund. Should the estimate of fees and expenses to conduct the initial distribution of the Net Settlement Fund exceed the actual cost, the excess will be returned to the Net Settlement Fund and will be available for subsequent distribution to Authorized Claimants. As set forth in these invoices, A.B. Data's total fees and expenses for this matter through September 30, 2022, are \$141,268.33. A.B. Data anticipates that its fees and expenses for the work performed in conjunction with the initial distribution of the Net Settlement Fund will be \$11,969.02. To date A.B. Data has received payment in the amount of \$140,383.10 for its fees and expenses. Accordingly, there is an outstanding balance of \$12,854.25 payable to A.B. Data from the Settlement Fund, which includes the estimate for completing the initial distribution.

DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND

39. Should the Court concur with A.B. Data's determinations concerning the provisionally accepted and rejected Claims, including the Late But Otherwise Eligible Claims, A.B. Data recommends the following distribution plan ("Distribution Plan"):

- (a) A.B. Data will conduct an initial distribution ("Initial Distribution") of the Net Settlement Fund, after deducting all payments approved by the Court, and after payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, while maintaining a 5% reserve to address any tax liability and claims administration-related contingencies that may arise, as follows:
 - (1) A.B. Data will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Fund were to be distributed now. In accordance with the Court-approved Plan of Allocation,

A.B. Data will calculate each Authorized Claimant's *pro rata* share of the Net Settlement Fund based on the amount of the Authorized Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants. *See* Notice Appendix A ¶ 25.

- (2) A.B. Data will, pursuant to the terms of the Plan of Allocation, eliminate from the Initial Distribution any Authorized Claimant whose *pro rata* share calculates to less than \$10.00. *See id.* ¶ 26. These Claimants will not receive any payment from the Net Settlement Fund and will be so notified by A.B. Data.
- (3) After eliminating Claimants who would have received less than \$10.00, A.B. Data will recalculate the *pro rata* share of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more. A "Distribution Amount" will be calculated for each of these Authorized Claimants, which shall be the Authorized Claimant's Recognized Claim divided by the total Recognized Claims of all Authorized Claimants who would have received \$10.00 or more, multiplied by the total amount in the Net Settlement Fund. *See id.* ¶ 25.
- (4) Authorized Claimants whose Distribution Amount calculates to less than \$200.00 will be paid their full Distribution Amount in the Initial Distribution ("Claims Paid in Full"). These Authorized Claimants will receive no additional funds in subsequent distributions.

(5) After deducting the payments to the Claims Paid in Full, 95% of the remaining balance of the Net Settlement Fund will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$200.00 or more. The remaining 5% of the Net Settlement Fund will be held in reserve (the “Reserve”) to address any tax liability and claims administration-related contingencies that may arise following the Initial Distribution. To the extent the Reserve is not depleted, the remainder will be distributed in the “Second Distribution” described in subparagraph (d) below.

(b) To encourage Authorized Claimants to deposit their payments promptly, all distribution checks will bear a notation: “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE].” For Authorized Claimants whose checks are returned as undeliverable, A.B. Data will endeavor to locate new addresses through reasonable methods. Where a new address is located, A.B. Data will update the Settlement Database accordingly and reissue a distribution check to the Authorized Claimant at the new address. In the event a distribution check is lost or damaged or otherwise requires reissuance, A.B. Data will issue replacements. Distribution reissues will be undertaken only upon written instructions from the Authorized Claimant, provided that the Authorized Claimant returns the previous check where appropriate. For all checks, A.B. Data will void the initial payment prior to reissuing a payment. In order not to delay further distributions to Authorized

Claimants who have timely cashed their checks, A.B. Data's outreach program shall end thirty (30) days after the initial void date. Authorized Claimants will be informed that, if they do not cash their Initial Distribution checks within ninety (90) days of the mail date, or they do not cash check reissues within thirty (30) days of the mailing of such reissued check, their check will lapse, their entitlement to recovery will be irrevocably forfeited, and the funds will be reallocated to other Authorized Claimants. Reissue requests for lost or damaged checks will be granted after the void date on the checks as long as the request for the reissue is received no later than forty-five (45) days prior to the next planned distribution. Requests for reissued checks in connection with any subsequent distributions (should such distributions occur) will be handled in the same manner.

- (c) Authorized Claimants who do not cash their Initial Distribution checks within the time allotted or on the conditions set forth above will irrevocably forfeit all recovery from the Settlement. The funds allocated to all such stale-dated checks will be available for distribution to other Authorized Claimants in the Second Distribution. Similarly, Authorized Claimants who do not cash their second or subsequent distribution checks, should such distributions occur, within the time allotted or on the conditions set forth above will irrevocably forfeit any further recovery from the Net Settlement Fund.
- (d) Consistent with the Court-approved Plan of Allocation, after A.B. Data has made reasonable and diligent efforts to have Authorized Claimants cash

their Initial Distribution checks, which efforts shall consist of the follow-up efforts described above, but not earlier than seven (7) months after the Initial Distribution, A.B. Data will, after consulting with Lead Counsel, conduct a second distribution of the Net Settlement Fund (“Second Distribution”). *See id.* ¶ 27. Any amounts remaining in the Net Settlement Fund after the Initial Distribution, including from the Reserve and the funds allocated for all void stale-dated checks, after deducting A.B. Data’s unpaid fees and expenses incurred in connection with administering the Settlement, including A.B. Data’s estimated costs of the Second Distribution, and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, any escrow fees, and appropriate reserves, will be distributed to all Authorized Claimants in the Initial Distribution (other than Claims Paid in Full) who cashed their distribution checks and who would receive at least \$10.00 in the Second Distribution based on their *pro rata* share of the remaining funds. *See id.* Additional distributions, after deduction of costs and expenses as described above and subject to the same conditions, may occur thereafter in six-month intervals until Lead Counsel, in consultation with A.B. Data, determine that further distribution is not cost-effective. *See id.*

- (e) At such time as Lead Counsel, in consultation with A.B. Data, determine that further distribution of the funds remaining in the Net Settlement Fund is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after November 22, 2022, those Claims will be processed,

and any otherwise valid Claims received after November 22, 2022, as well as any earlier-received Claims for which an adjustment was received after November 22, 2022, that resulted in an increased Recognized Claim, will be paid in accordance with subparagraph (f) below. If any funds remain in the Net Settlement Fund after payment of these late or late-adjusted Claims, the remaining balance of the Net Settlement Fund, after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be contributed to the National Consumer Law Center (“NCLC”), a non-sectarian, not-for-profit 501(c)(3) organization. *See id.*

- (f) No new Claims may be accepted after November 22, 2022, and no further adjustments to Claims received on or before November 22, 2022, that would result in an increased Recognized Claim may be made for any reason after November 22, 2022, subject to the following exception. If Claims are received or modified after November 22, 2022, that would have been eligible for payment or additional payment pursuant to the Plan of Allocation if timely received, then at the time that Lead Counsel, in consultation with A.B. Data, determine that an additional distribution is not cost-effective as provided in subparagraph (e) above, and after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees,

such Claimants, at the discretion of Lead Counsel and to the extent possible, may be paid the distribution amounts or additional distribution amounts on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks.

- (g) Unless otherwise ordered by the Court, A.B. Data may destroy the paper copies of the Claims and all supporting documentation one (1) year after the Initial Distribution, and one (1) year after all funds have been distributed may destroy the electronic copies of the same.

CONCLUSION

40. A.B. Data respectfully requests that the Court enter the Class Distribution Order approving its administrative determinations accepting and rejecting the Claims submitted herein and approving the proposed Distribution Plan. A.B. Data further respectfully submits that its unpaid fees and expenses and its expenses expected to be incurred in connection with the Initial Disclosure, as reflected on the invoices attached hereto as Exhibit G, should be approved for payment from the Settlement Fund.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. Executed this 23rd day of November 2022 at Palm Beach Gardens, Florida.



Eric J. Miller