VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

2018 FEB -8 P 3:58

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re: ANDREA SANDOR) CIVIL DIVISION
) Docket No. 89-2-18 Wnca

FILED

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Andrea Sandor ("Respondent"), hereby enter into this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is "presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based." 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices ("EMPs") specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified

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Montpelier, VT 05609

or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of $10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to $10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of at least three rental properties, located at 27-31 Church Street, Brandon; 33 South Street, Bellows Falls; and 215 Summer Street, Springfield, all located in Vermont (collectively, "the Properties").
11. The Properties were all constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent units in the Properties.

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13. On March 17, 2017, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 27-31 Church Street.

14. The EMP Statement represented that Respondent performed EMPs at 27-31 Church Street on March 5, 2017.

15. The EMP Statement specifically certifies that Respondent:

    a. visually inspected exterior surfaces and outbuildings;

    b. stabilized exterior paint; and

    c. did not identify deteriorated paint exceeding 1 square foot on exterior surfaces of the buildings.

16. The EMP Statement was signed by Andrea Sandor and certified that "all information provided on this form is true and accurate" and acknowledged that "providing false, incomplete or inaccurate information on this form is unlawful and is punishable by civil and criminal penalties pursuant to Vermont law."

17. On May 4, 2017, Vermont Department of Health staff inspected the exterior of 27-31 Church Street and documented (via photographs) deteriorated paint exceeding more than 1 square foot on the property's exterior surface.

18. Further, on January 12, 2017 the Vermont Department of Health sent a "Notice of Non-Compliance" indicating that Respondent had not filed an "EMP Rental Property Compliance Statement" for 33 South Street and 215 Summer Street. The Department allowed for 30 days for Respondent to file the necessary statements.

19. Respondent did not respond to the 30-day Notice, and did not file the EMP compliance statements within 30 days.

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20. As of December 2017, Respondent has not filed current EMP compliance statements for those two rental properties.

21. Respondent plans to show that the Property is lead-free and plans to apply for an exemption from the EMP requirements.

22. Respondent admits the truth of the facts described in ¶¶ 10-21.

The State's Allegations

23. The Vermont Attorney General's Office alleges the following violations of the Consumer Protection Act and Lead Law:

    a. Submitting a false EMP compliance statement and inaccurately representing that the property was in compliance with the lead law; and

    b. Failing to file EMP compliance statements for rental properties.

24. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

25. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the Properties and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.

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26. By December 31, 2017, Respondent shall provide to the Attorney General's Office a detailed plan for completing all EMP inspections and work of the Properties (as specified in 18 V.S.A. § 1759), including the names of EMP-certified contractors that she has contacted or will contact and estimated timeframes to complete the EMP work. By May 31, 2018, all exterior EMP work of the Properties shall be completed in a lead-safe manner in accordance with 18 V.S.A. §.1760. Until the exterior work is complete, Respondent shall restrict access to exterior surfaces and components of the Property with lead hazards and areas directly below the deteriorated surfaces, pursuant to 18 V.S.A. § 1759(a)(3). If Respondent requires additional time to complete the work, Respondent will contact the Department of Health to request an extension of time agreement before the expiration of the above deadlines and provide a detailed justification for any extension. Any extension will be granted only for the exterior of the Properties; all interior work must be completed by December 31, 2017.

27. Within one week of completion of the EMP work at the Properties described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, a completed EMP compliance statement for all Properties, and will give a copy of the compliance statement to an adult in each rented unit of all Properties. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

28. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant, Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondent that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.

29. Respondent shall pay the sum of $5,000 in civil penalties and costs for the filing of a false EMP compliance statement and failure to file EMP statements, but reduced to $500 based on Respondent's demonstrated inability to pay the full penalty. Payment of the $500 shall be made to the "State of Vermont" and sent to the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609. Respondent may pay the $500 in monthly installments, so long ag as the full $500 is paid by May 31, 2018.

Other Terms

30. This AOD is binding on Respondent, however, sale of any pre-1978 rental property may not occur unless Respondent has complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.

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31. Transfer of ownership of any of Respondent's pre-1978 rental properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.
32. This AOD shall not affect marketability of title.
33. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.
34. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondent to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least $5,000 and not more than $10,000.

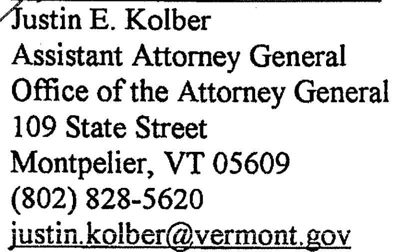
SIGNATURES APPEAR ON NEXT PAGE

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

DATED at Montpelier, Vermont this 8th day of ~~January~~ February, 2018.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By: 

Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at New Canaan, CT this 31 day of January, 2018.

ANDREA SANDOR

By:

Andrea Sandor

VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

2018 FEB -8 P 3:58

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re: ANDREA SANDOR) CIVIL DIVISION
) Docket No. 89-2-18 Wnc

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The State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Andrea Sandor ("Respondent"), hereby enter into this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is "presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based." 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices ("EMPs") specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified

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05609

or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of $10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to $10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of at least three rental properties, located at 27-31 Church Street, Brandon; 33 South Street, Bellows Falls; and 215 Summer Street, Springfield, all located in Vermont (collectively, "the Properties").
11. The Properties were all constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent units in the Properties.

Office of the ATTORNEY GENERAL
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05609

13. On March 17, 2017, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 27-31 Church Street.
14. The EMP Statement represented that Respondent performed EMPs at 27-31 Church Street on March 5, 2017.
15. The EMP Statement specifically certifies that Respondent:
    a. visually inspected exterior surfaces and outbuildings;
    b. stabilized exterior paint; and
    c. did not identify deteriorated paint exceeding 1 square foot on exterior surfaces of the buildings.
16. The EMP Statement was signed by Andrea Sandor and certified that "all information provided on this form is true and accurate" and acknowledged that "providing false, incomplete or inaccurate information on this form is unlawful and is punishable by civil and criminal penalties pursuant to Vermont law."
17. On May 4, 2017, Vermont Department of Health staff inspected the exterior of 27-31 Church Street and documented (via photographs) deteriorated paint exceeding more than 1 square foot on the property's exterior surface.
18. Further, on January 12, 2017 the Vermont Department of Health sent a "Notice of Non-Compliance" indicating that Respondent had not filed an "EMP Rental Property Compliance Statement" for 33 South Street and 215 Summer Street. The Department allowed for 30 days for Respondent to file the necessary statements.
19. Respondent did not respond to the 30-day Notice, and did not file the EMP compliance statements within 30 days.

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20. As of December 2017, Respondent has not filed current EMP compliance statements for those two rental properties.

21. Respondent plans to show that the Property is lead-free and plans to apply for an exemption from the EMP requirements.

22. Respondent admits the truth of the facts described in ¶¶ 10-21.

The State's Allegations

23. The Vermont Attorney General's Office alleges the following violations of the Consumer Protection Act and Lead Law:

    a. Submitting a false EMP compliance statement and inaccurately representing that the property was in compliance with the lead law; and

    b. Failing to file EMP compliance statements for rental properties.

24. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

25. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the Properties and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.

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26. By December 31, 2017, Respondent shall provide to the Attorney General's Office a detailed plan for completing all EMP inspections and work of the Properties (as specified in 18 V.S.A. § 1759), including the names of EMP-certified contractors that she has contacted or will contact and estimated timeframes to complete the EMP work. By May 31, 2018, all exterior EMP work of the Properties shall be completed in a lead-safe manner in accordance with 18 V.S.A. §.1760. Until the exterior work is complete, Respondent shall restrict access to exterior surfaces and components of the Property with lead hazards and areas directly below the deteriorated surfaces, pursuant to 18 V.S.A. § 1759(a)(3). If Respondent requires additional time to complete the work, Respondent will contact the Department of Health to request an extension of time agreement before the expiration of the above deadlines and provide a detailed justification for any extension. Any extension will be granted only for the exterior of the Properties; all interior work must be completed by December 31, 2017.

27. Within one week of completion of the EMP work at the Properties described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, a completed EMP compliance statement for all Properties, and will give a copy of the compliance statement to an adult in each rented unit of all Properties. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

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28. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant, Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondent that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.

29. Respondent shall pay the sum of $5,000 in civil penalties and costs for the filing of a false EMP compliance statement and failure to file EMP statements, but reduced to $500 based on Respondent's demonstrated inability to pay the full penalty. Payment of the $500 shall be made to the "State of Vermont" and sent to the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609. Respondent may pay the $500 in monthly installments, so long ag as the full $500 is paid by May 31, 2018.

Other Terms

30. This AOD is binding on Respondent, however, sale of any pre-1978 rental property may not occur unless Respondent has complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.

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31. Transfer of ownership of any of Respondent's pre-1978 rental properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.

32. This AOD shall not affect marketability of title.

33. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.

34. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondent to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least $5,000 and not more than $10,000.

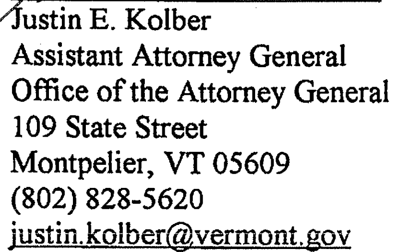
SIGNATURES APPEAR ON NEXT PAGE

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

DATED at Montpelier, Vermont this 8th day of ~~January~~ February, 2018.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By: 

Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at New Canaan, CT this 31 day of January, 2018.

ANDREA SANDOR

By:

Andrea Sandor

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

VT SUPERIOR COURT
WASHINGTON UNIT

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2018 MAY 14 P 3:58

In Re: ANDREW KOVAL) CIVIL DIVISION
) Docket No. ______________

FILED

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Andrew Koval ("Respondent"), hereby enter into this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is "presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based." 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices ("EMPs") specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified

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05609

or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of $10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to $10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of a rental property at 167 N. Main Street, St. Albans, VT (2 units).
11. The property was constructed prior to 1978, and therefore, is pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and is subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent units in the property.

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13. On January 11, 2018, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 167 N. Main Street.

14. The EMP Statement represented that Respondent performed EMPs at 167 N. Main Street on November 20, 2017.

15. The EMP Statement specifically certifies that Respondent:

    a. visually inspected exterior surfaces and outbuildings; and

    b. stabilized deteriorated exterior paint within 30 days of the inspection.

16. The EMP Statement was signed by Andrew Koval and certified that "all information provided on this form is true and accurate" and acknowledged that "providing false, incomplete or inaccurate information on this form is unlawful and is punishable by civil and criminal penalties pursuant to Vermont law."

17. On March 21, 2018, Vermont Department of Health staff inspected the exterior of 167 N. Main Street and documented (via photographs) deteriorated paint exceeding more than 1 square foot on the property's exterior surface.

18. Respondent admits the truth of the facts described in ¶¶ 10-17.

The State's Allegations

19. The Vermont Attorney General's Office alleges the following violations of the Consumer Protection Act and Lead Law:

    a. Submitting an EMP compliance statement and inaccurately representing that the property was in compliance with the lead law.

20. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

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Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

21. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the property and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.
22. By May 31, 2018, all exterior EMP work of the property shall be completed in a lead-safe manner in accordance with 18 V.S.A. § 1760. If Respondent requires additional time to complete the work, Respondent will contact the Department of Health to request an extension of time agreement before the expiration of the above deadlines and provide a detailed justification for any extension.
23. Within one week of completion of the EMP work at the property described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, an updated and completed EMP compliance statement for the property, and will give a copy of the compliance statement to an adult in each rented unit of the property. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

24. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant, Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondent that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.
25. Respondent shall expend $500 on paint and lead hazard reduction improvements at the Property.

Other Terms

26. This AOD is binding on Respondent, however, sale of any pre-1978 rental property may not occur unless Respondent has complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.
27. Transfer of ownership of any of Respondent's pre-1978 rental property shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.
28. This AOD shall not affect marketability of title.

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

29. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.

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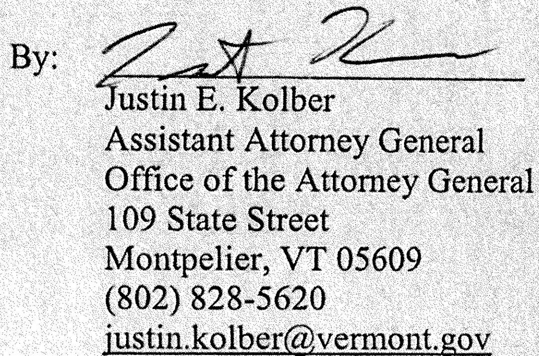
SIGNATURES APPEAR ON NEXT PAGE

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

DATED at Montpelier, Vermont this [14th] day of May, 2018.

STATE OF VERMONT

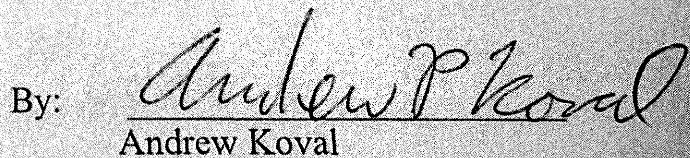
THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL



By: ______________________
Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at [St. Albans], [VT] this [10] day of May, 2018.

ANDREW KOVAL



By: ______________________
Andrew Koval

VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2018 FEB -9 P 3: 58

In Re: BERNADETTE HICKEY) CIVIL DIVISION
) Docket No. 90-2-18 Wncv

FILED

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109 State Street
Montpelier, VT 05609

or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of $10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to $10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of a rental property at 50 Atkinson Street in Bellows Falls, VT (5 rental units).
11. The property was constructed prior to 1978, and therefore, is pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and is subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent units in the property.

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

13. On October 9, 2017, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 50 Atkinson Street.

14. The EMP Statement represented that Respondent performed EMPs at 50 Atkinson Street on September 30, 2017.

15. The EMP Statement specifically certifies that Respondent:

    a. visually inspected exterior surfaces and outbuildings; and

    b. stabilized all deteriorated exterior paint in excees of 1 square foot.

16. The EMP Statement was signed by Bernadette Hickey and certified that "all information provided on this form is true and accurate" and acknowledged that "providing false, incomplete or inaccurate information on this form is unlawful and is punishable by civil and criminal penalties pursuant to Vermont law."

17. On October 17, 2017, Vermont Department of Health staff inspected the exterior of 50 Atkinson Street and documented (via photographs) deteriorated paint exceeding more than 1 square foot on the property's exterior surface.

18. Respondent admits the truth of the facts described in ¶¶ 10-17.

The State's Allegations

19. The Vermont Attorney General's Office alleges the following violations of the Lead Law:

    a. Submitting a false EMP compliance statement and inaccurately representing that the property was in compliance with the lead law.

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Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

20. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the property and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.

21. By May 31, 2018, all exterior EMP work of the property shall be completed in a lead-safe manner in accordance with 18 V.S.A. § 1760. Until the exterior work is complete, Respondent shall restrict access to exterior surfaces and components of the Property with lead hazards and areas directly below the deteriorated surfaces, pursuant to 18 V.S.A. § 1759(a)(3). If Respondent requires additional time to complete the work, Respondent will contact the Department of Health to request an extension of time agreement before the expiration of the above deadlines and provide a detailed justification for any extension.

22. Within one week of completion of the EMP work at the property described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, an updated and completed EMP compliance statement for the property, and will give a copy of the compliance statement to an adult in each rented unit of the property. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

23. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant, Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondent that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.

24. Respondent shall pay the sum of $7,500 in civil penalties and costs as follows: (1) $2,500 paid to the "State of Vermont" (in monthly installments of $500 if Respondent wishes), and sent to the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609; and (2) $5,000 to be expended on lead hazard reduction improvements at the Property.

Other Terms

25. This AOD is binding on Respondent, however, sale of any pre-1978 rental property may not occur unless Respondent has complied with all obligations under this AOD,

or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.

26. Transfer of ownership of any of Respondent's pre-1978 rental property shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.
27. This AOD shall not affect marketability of title.
28. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.
29. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondent to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least $5,000 and not more than $10,000.

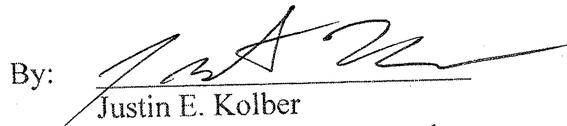
SIGNATURES APPEAR ON NEXT PAGE

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

DATED at Montpelier, Vermont this 8th day of ~~January~~ February, 2018.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By: 
Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at New York, New York this 19 day of January, 2018.

BERNADETTE HICKEY

By:
Bernadette Hickey

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

VT SUPERIOR COURT
WASHINGTON UNIT

STATE OF VERMONT

SUPERIOR COURT
WASHINGTON UNIT

2019 AUG -6 P 5:02

CIVIL DIVISION
Docket No. 425-8-19 Wncv

STATE OF VERMONT,	)
	)
Plaintiff,	)
	)
v.	)
	)
ROBERT BOSCH GmbH and ROBERT BOSCH LLC,	)
	)
Defendants.	)

CONSENT ORDER AND FINAL JUDGMENT ORDER

WHEREAS, Plaintiff the State of Vermont ("State" or "Vermont"), acting by and through the Attorney General and on behalf of Vermont consumers and the Vermont Agency of Natural Resources ("ANR"), filed this action in the Superior Court of the State of Vermont, Civil Division, Washington Unit, alleging that Robert Bosch GmbH and Robert Bosch LLC (together, "Bosch") knowingly developed, programmed, or refined emissions control software that its motor vehicle manufacturer clients, Volkswagen (including Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., Audi of America, LLC, Volkswagen Group of America Chattanooga Operations LLC, Dr. Ing. h.c.F. Porsche AG and Porsche Cars North America, Inc.), and Fiat Chrysler (including FCA US LLC, Fiat Chrysler Automobiles N.V., V.M. Motori S.p.A., and V.M. North America, Inc.), implemented with undisclosed auxiliary emission control devices ("AECDs") and/or unlawful

"defeat devices" in certain light-duty diesel passenger vehicles they marketed and sold in the U.S. market;

WHEREAS, Plaintiff alleged that the foregoing conduct violated Vermont's Air Pollution Control statute, 10 V.S.A. § 567(b); Vermont Air Pollution Control Regulations §§ 5-407, 5-701, 5-702 and Subchapter XI; and Vermont's Consumer Protection Act, 9 V.S.A. § 2453;

WHEREAS, Vermont, along with the Attorneys General and (where relevant) the various environmental enforcement agencies of 49 other States, Commonwealths, and territories formed the Multistate Working Group to investigate Bosch in connection with the emissions of diesel passenger vehicles sold and offered for sale in the U.S. by various motor vehicle manufacturers;

WHEREAS, Bosch has cooperated in the Multistate Working Group's emissions investigation and, since the initiation of the investigation, has implemented substantially enhanced compliance policies and procedures applicable to its Powertrain Solutions Division, that (i) prohibit the development or calibration, or assistance to an OEM, as that term is defined in Section II herein, in the development or calibration, of defeat device software in violation of applicable U.S. state and federal laws; (ii) specify when and how Bosch will evaluate software to determine whether it may operate as a defeat device in violation of applicable state and U.S. laws; and (iii) require Bosch to maintain a record of such evaluations;

WHEREAS, Bosch previously reached a class action settlement agreement between Bosch and private class action plaintiffs in the multidistrict litigation

styled as *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, No. 3:15-md-02672-CRB (N.D. Cal.) (MDL 2672), pursuant to which Bosch made available Two Hundred Seventy-Five Million Five Hundred Thousand dollars ($275,500,000) to compensate class members;

WHEREAS, Bosch and Vermont have agreed to resolve the Environmental and UDAP Claims raised by the Covered Conduct, as defined in Section II below, by entering into this Consent Order and Final Judgment Order ("Judgment");

WHEREAS, concurrently with this Judgment, Bosch is entering into consent judgments with identical injunctive provisions with each member of the Multistate Working Group in their respective U.S. state courts, and as part of the relief provided in these settlements, Bosch will pay Ninety-Eight Million, Seven Hundred and Thirteen Thousand, Three Hundred and Seventy Eight dollars ($98,713,378) to the Multistate Working Group in aggregate, an amount which, according to Bosch, represents disgorgement of multiples of Bosch's profits and more than all of the revenue Bosch realized on the sale of its electronic control units to Volkswagen and Fiat Chrysler for inclusion in the Diesel Vehicles, as defined in Section II below;

WHEREAS, Bosch has agreed to pay an additional Five Million dollars ($5,000,000.00) to the National Association of Attorneys General in connection with its settlements with the Multistate Working Group;

WHEREAS, Vermont and Bosch (collectively, the "Parties"), have entered into the Stipulation for Entry of Consent Order and Final Judgment Order, dated ________, 2019, in which the Parties consent to the entry of this Judgment

consistent with the terms and definitions agreed by the Parties and reiterated herein; and

WHEREAS, the Parties have consented to entry of this Judgment for the purpose of avoiding prolonged and costly litigation, and in furtherance of the public interest.

NOW, THEREFORE, IT IS ADJUDGED, ORDERED AND DECREED:

I. JURISDICTION AND VENUE

1. Bosch consents to this Court's continuing subject matter and personal jurisdiction solely for the purposes of entry, enforcement and modification of this Judgment and without waiving its right to contest this Court's jurisdiction in other matters. This Court retains jurisdiction of this action for the purposes of enforcing or modifying the terms of this Judgment or granting such further relief as the Court deems just and proper.

2. Bosch consents to venue in this Court solely for the purposes of entry, enforcement and modification of this Judgment and does not waive its right to contest this Court's venue in other matters.

3. Bosch hereby accepts and expressly waives any defect in connection with service of process in this action and further consents to service upon the below-named counsel via email of all process in this action.

II. DEFINITIONS

4. Capitalized terms used herein shall have the following meanings (in alphabetical order):

a. "**Attorney General**" means the Vermont Attorney General's Office.

b. "**Auxiliary emission control device**" or "**AECD**" means "any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system." 40 C.F.R. § 86.1803-01.

c. "**Bosch**" means Robert Bosch GmbH and Robert Bosch LLC, collectively.

d. "**Covered Conduct**" means any and all acts or omissions, including all communications, occurring up to and including the Effective Date of this Judgment, relating to Bosch's involvement in providing, modifying, developing, calibrating, and/or engineering the emission control systems for the Diesel Vehicles and for its involvement in certifying, promoting, marketing, and/or advertising the Diesel Vehicles.

e. "**Defeat Device**" means an AECD that reduces the effectiveness of a vehicle's emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use, unless:

"(1) Such conditions are substantially included in the Federal emission test procedure; (2) The need for the AECD is justified in terms of protecting the vehicle against damage or accident; (3) The AECD does not go beyond the requirements of engine starting; or (4) The AECD applies only for emergency vehicles," 40 C.F.R. § 86.1803-01, or "any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with the Emission Standards for Moving Sources section of the Clean Air Act, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use," 42 U.S.C. § 7522(a)(3)(B).

f. "**Diesel Products**" means all Bosch emissions-related software or functions, whether operating individually or in combination with other software or functions, offered, sold or incorporated into diesel-powered motor vehicles that are offered, marketed, sold or leased in the United States or its territories.

g. "**Diesel Vehicles**" means those Volkswagen and Fiat Chrysler diesel vehicles listed in Exhibit A that were equipped with a Bosch-supplied electronic diesel control unit and that were sold or offered for sale in, leased or offered for lease in, or introduced or delivered for introduction into commerce in Vermont.

h. "**Effective Date**" means the date on which this Judgment has been signed by the Parties and entered as an order by the Court.

i. "**Environmental Claims**" means claims Vermont asserted or could assert under the Environmental Laws.

j. "**Environmental Laws**" means any potentially applicable laws and regulations regarding air pollution control from motor vehicles including, without limitation, laws, rules, and/or regulations regarding mobile source emissions, certification, reporting of information, inspection and maintenance of vehicles and/or anti-tampering provisions, together with related common law and equitable claims.

k. "**Knows**" or "**knowingly**" for purposes of Section IV herein, means possessing actual knowledge of relevant information or acting with deliberate ignorance of relevant information.

l. “**Multistate Aggregate Payment Amount**” refers to the aggregate Ninety-Eight Million, Seven Hundred and Thirteen Thousand, Three Hundred and Seventy Eight dollar ($98,713,378) amount that Bosch has agreed to pay to members of the Multistate Working Group pursuant to the various consent judgments to be filed in the Multistate Working Group’s respective U.S. state courts.

m. “**Multistate Working Group**” means the Attorneys General together with (where relevant) the agencies responsible for enforcing Environmental Laws and UDAP Laws for Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

n. "**OEM**" means an automotive original equipment manufacturer, including, without limitation, Volkswagen and Fiat Chrysler.

o. "**Powertrain Solutions Division**" means the division at Bosch named the "Powertrain Solutions" division, which includes the former Gasoline Systems and Diesel Systems divisions, including their former electromobility activities, including any successor unit that in the future takes on the responsibilities of this division for electronic engine control units.

p. "**Software**" means all emissions-related software prepared by the Powertrain Solutions Division for incorporation into motor vehicles that are offered, marketed, sold or leased in Vermont.

q. "**UDAP Claims**" means claims or potential claims Vermont asserted or could assert under UDAP Laws.

r. "**UDAP Laws**" means all potentially applicable state consumer protection and unfair trade and deceptive acts and practices laws, including, without limitation, Vermont's Consumer Protection Act, 9 V.S.A § 2453, as well as related common law and equitable claims.

III. MONETARY RELIEF

5. Without admitting any of the factual or legal allegations in the Complaint, Bosch has agreed to the following relief.

6. Within fifteen (15) business days of entry of this Judgment, Bosch shall pay by wire transfer payable to the State of Vermont, $544,500 in accordance with written wiring instructions to be separately provided by the Attorney General to Bosch's counsel within five (5) business days after entry of this Judgment.

7. As a part of Bosch's settlement with the Multistate Working Group, within fifteen (15) business days of the date upon which Bosch has made payment to the members of the Multistate Working Group totaling at least half of the Multistate Aggregate Payment Amount ($49,356,689), Bosch shall pay Five Million dollars ($5,000,000.00) by wire transfer payable to the National Association of Attorneys General ("NAAG Payment"). The NAAG Payment shall be allocated first, to reimburse the costs and expenses incurred in the Multistate Working Group's investigation; and second, to the National Attorneys General Training & Research Institute, known as NAGTRI, which serves as NAAG's research and training arm, in the amount of $2,000,000. Any remaining balance shall be directed to NAAG to advance its mission of facilitating interaction among attorneys general, providing a forum for exchange on subjects of importance to the attorneys general, supporting investigation and enforcement by attorneys general, and fostering local, U.S. state, and federal engagement, cooperation, and communication on legal and

law enforcement issues. Bosch shall provide prompt written notice to New York upon making the NAAG Payment.

IV. INJUNCTIVE RELIEF

Except as otherwise stated herein, Bosch, its officers, agents, employees, and attorneys, and all persons in active concert or participation with them, are hereby permanently enjoined, as follows:

8. In its advertising, marketing or promotion to consumers of its Diesel Products, Bosch shall not make any false, misleading or deceptive statements regarding its Diesel Products.

9. Bosch shall not offer, sell or promote Diesel Products or the vehicles in which they are installed when Bosch knows that those Diesel Products contain Defeat Devices in violation of applicable U.S. state and federal laws.

10. Bosch shall not develop, calibrate, or assist an OEM in developing or calibrating any Software feature or function for a Diesel Product when Bosch knows that (a) the Software feature or function, operating alone or in combination with others, operates as a Defeat Device in violation of applicable U.S. state and federal laws; or (b) the OEM intends to use the Software feature or function as a Defeat Device in violation of applicable U.S. state and federal laws.

11. Bosch shall not represent or assist an OEM in representing to any U.S. regulator that a motor vehicle containing a Diesel Product complies with U.S. emissions laws, when Bosch knows that the Diesel Product contains a Defeat Device in violation of applicable U.S. state and federal laws.

12. Bosch shall not knowingly make a materially false statement or conceal a material fact in any document it provides to an OEM, where Bosch knows that the OEM will include such information in a submission to the U.S. Environmental Protection Agency or the California Air Resources Board for purposes of disclosing an AECD.

13. If, following discussions with an OEM pursuant to the policies and procedures in paragraph 14 of this Judgment (the "Policies and Procedures"), Bosch concludes that such OEM has used a Diesel Product in a motor vehicle as a Defeat Device in violation of applicable U.S. state and federal laws or that an OEM has intentionally failed to disclose an AECD contained in a Diesel Product in violation of applicable U.S. state and federal laws, Bosch shall notify the U.S. Environmental Protection Agency and the California Air Resources Board.

14. To help ensure compliance with its obligations in paragraphs 8 through 13, Bosch shall maintain written Policies and Procedures that:

a. prohibit the development, calibration, or provision of assistance to an OEM in the development or calibration of any Software feature or function in a Diesel Product in circumstances when Bosch knows that the Software feature or function, operating alone or in combination with any other Software feature or function in a Diesel Product, operates as a Defeat Device in violation of applicable U.S. state and federal laws;

b. require Bosch to evaluate customer requests made after the Effective Date for new or revised programming of emission-relevant Software features or functions to determine if the OEM intends to use such features or functions, operating alone or in combination with others, as Defeat Devices in violation of applicable U.S. state and federal laws, including, but not limited to, features or functions that may (1) cause a vehicle's emissions control systems to function differently under normal operating conditions than they perform while the vehicle is undergoing regulatory emissions compliance testing, or (2) optimize emission controls solely under conditions that are present during regulatory emissions compliance testing, and to maintain, for a period of five (5) years, a record of any such determinations;

c. require Bosch to inform an OEM if Bosch has a concern that the OEM has requested that Bosch perform work to program, calibrate, or otherwise implement a Defeat Device in any Software feature or function in violation of applicable U.S. state and federal laws for use in a motor vehicle to be sold, leased, marketed or offered for sale in the United States, and to discuss the concern with appropriate

parties from the OEM prior to completing work on any such feature or function;

d. require approval by at least two employees with sufficient experience and seniority, in consultation with a compliance representative and/or legal representative and, if necessary, a technical expert, prior to completing work on any feature or function for which Bosch informs an OEM pursuant to paragraph 14(c); and

e. require Bosch to protect from retaliation any employee who reports on any issue relating to compliance with the enjoined conduct set forth in Section IV herein and the Policies and Procedures set forth in paragraphs 14(a) through (c) herein and otherwise prohibiting retaliation or toleration of retaliation in any form against any employee for making such a report.

15. Bosch shall maintain a stand-alone compliance department that reports to the company's management board, and a compliance organization that, among other things, is responsible for developing and overseeing training of all relevant Bosch personnel on compliance with corporate Policies and Procedures.

16. Bosch shall require all personnel within its Powertrain Solutions Division who are responsible for Software development to attend training on compliance with the Policies and Procedures.

17. Bosch shall ensure that a compliance office and attorneys are responsible for, among other things, providing its Powertrain Solutions Division with guidance on compliance with the Policies and Procedures and that they are readily available to personnel within the Powertrain Solutions Division.

V. REPORTING AND NOTICES

18. Unless otherwise specified in this Judgment, notices and submissions required by this Judgment shall be sent by United States mail, certified mail return receipt requested or other nationally recognized courier service that provides for tracking services and identification of the person signing for the document. The documents shall be sent to the following addresses:

For the State:

Nicholas F. Persampieri
Merideth Chaudoir
Assistant Attorneys General
Office of the Attorney General
109 State Street
Montpelier, VT 05602
nicholas.persampieri@vermont.gov
merideth.chaudoir@vermont.gov

For Bosch:

Sebastian Biedenkopf
General Counsel, Robert Bosch GmbH
Robert-Bosch-Platz 1
70839 Gerlingen-Schillerhöhe
Germany
Sebastian.Biedenkopf@de.bosch.com

VI. RELEASE

19. Subject to paragraph 20 below, and in consideration of the monetary and non-monetary relief described in Sections III and IV, and upon

Bosch's payment of the amount contemplated in paragraphs 6 and 7, Vermont releases Bosch, its affiliates and any of Bosch's or its affiliates' former, present or future owners, shareholders, directors, officers, employees, attorneys, parent companies, subsidiaries, predecessors, successors, dealers, agents, assigns and representatives (collectively, the "Released Parties") from all Environmental Claims and UDAP Claims arising from or related to the Covered Conduct, including, without limitation, penalties, fines or other monetary payments.

20. Vermont reserves, and this Judgment is without prejudice to, all claims, rights, and remedies against the Released Parties, and Bosch reserves, and this Judgment is without prejudice to, all defenses with respect to all matters not expressly released in paragraph 19 above, including, without limitation:

a. any claims arising under Vermont tax laws;

b. any claims arising under Vermont antitrust laws;

c. any claims arising under Vermont insurance laws;

d. any claims arising under Vermont securities laws;

e. any criminal liability;

f. any claims related to any OEM other than Volkswagen or Fiat Chrysler;

g. any claims unrelated to the Covered Conduct; and

h. any action to enforce this Judgment and subsequent, related orders or judgments.

VII. MISCELLANEOUS

21. The provisions of this Judgment shall be construed in accordance with the laws of Vermont.

22. This Judgment is made without trial or adjudication of any issue of fact or law.

23. Nothing in this Judgment shall limit or expand the Attorney General or ANR's right to obtain information, documents or testimony from Bosch pursuant to any state or federal law, regulation or rule concerning the claims not released by this Judgment, concerning potential claims against any person or entity other than Bosch, or to evaluate Bosch's compliance with the obligations set forth in this Judgment.

24. Nothing in this Judgment constitutes an agreement by the Attorney General or ANR concerning the characterization of the amounts paid hereunder for purposes of any proceeding under the Internal Revenue Code or any U.S. state tax laws. The Judgment takes no position as to the tax consequences of the Judgment with regard to U.S. federal, state, local and foreign taxes.

25. Nothing in this Judgment constitutes or shall be construed as an agreement or concession that knowledge or any other state of mind is a required element of any claim brought by the Attorney General or ANR against Bosch or any other person or entity.

26. Nothing in this Judgment releases any private rights of action asserted by entities or persons not releasing claims under this Judgment, nor does this Judgment limit any defense available to Bosch in any such action.

27. Any failure by any party to this Judgment to insist upon the strict performance by any other party of any of the provisions of this Judgment shall not be deemed a waiver of any of the provisions of this Judgment.

28. This Judgment, which constitutes a continuing obligation, is binding upon the Attorney General, ANR, Bosch and any of Bosch's respective successors, assigns or other entities or persons otherwise bound by law.

29. The Parties agree not to challenge the entry of the Judgment and waive all rights of appeal.

30. Consent to this Judgment does not constitute an approval by the Attorney General of Bosch's business acts and practices, and Bosch shall not represent this Judgment as such an approval.

31. Bosch shall not take any action or make any statement denying, directly or indirectly, the propriety of the Judgment by expressing the view that the Judgment or its substance is without factual basis. Nonetheless, Bosch's agreement to entry of this Judgment is not an admission of liability or of any facts alleged in the Judgment or in the Complaint. Bosch is entering into this Judgment solely for the purpose of settlement, and nothing contained herein may be taken as or construed to be an admission, concession, finding, or conclusion of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Bosch expressly denies. Further, nothing in this Judgment affects Bosch's right to take or adopt any legal or factual position or defense in any

other litigation or proceeding, or to cite or enforce the terms of the Release in Section VI.

32. Nothing in this Judgment shall create or give rise to a private right of action of any kind or create any right in a non-party to enforce any aspect of this Judgment or claim any legal or equitable injury for a violation of this Judgment. The exclusive right to enforce any violation or breach of this Judgment shall be with the Parties to this Judgment and the Court.

33. Nothing in this Judgment shall relieve Bosch of its obligation to comply with all U.S. federal, state, and local laws and regulations.

34. Nothing in this Judgment shall be construed to waive any claims of sovereign immunity any party may have in any action or proceeding.

35. If any portion of this Judgment is held illegal, invalid, or unenforceable, the remaining terms of this Judgment shall not be affected and shall remain in full force and effect.

36. Bosch shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part in the State of Vermont that are prohibited by this Judgment or for any other purpose that would otherwise circumvent any term of this Judgment.

37. If Vermont determines that Bosch made any material misrepresentation or omission relevant to the resolution of this investigation, Vermont retains the right to seek to either modify or set aside this Judgment.

38. Any filing fees or other court costs incurred in connection with this action are to be paid by Bosch.

39. Each of the persons who signs his/her name below affirms that he/she has the authority to execute this Judgment on behalf of the Party whose name appears next to her/his signature and that this Judgment is a binding obligation enforceable against said Party under Vermont law. The signatory from the Vermont Attorney General's Office represents that he/she has the authority to execute this Judgment on behalf of Vermont and ANR and that this Judgment is a binding obligation enforceable against Vermont and ANR under Vermont law.

IT IS SO ORDERED. JUDGMENT is hereby entered in accordance with the foregoing.

By the Court:

Mary Miles Teachout

SUPERIOR COURT JUDGE

August 6, 2019

Dated: [DATE]

THOMAS J. DONOVAN, JR.
Attorney General of Vermont

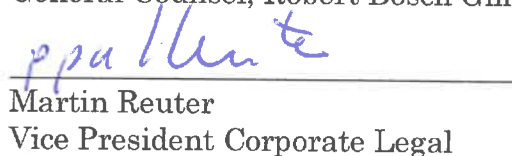
Nicholas F. Persampieri
Merideth C. Chaudoir
Assistant Attorneys General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
Telephone: (802) 828-3186
Email: nick.persampieri@vermont.gov
merideth.chaudoir@vermont.gov
Attorneys for Plaintiff State of Vermont

ROBERT BOSCH GmbH

Date: 25.07.2019

By:

Sebastian Biedenkopf
General Counsel, Robert Bosch GmbH



Martin Reuter
Vice President Corporate Legal

ROBERT BOSCH LLC

Date: 7.25.19

By:

Erik Dyhrkopp
General Counsel Americas

Maximiliane Straub
Chief Financial Officer & Executive Vice President—Finance, Controlling & Administration

Counsel for Robert Bosch GmbH & Robert Bosch LLC
DAVID E. BRODSKY
JENNIFER KENNEDY PARK
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One Liberty Plaza
New York, New York, 10006
Telephone: (212) 225-2000

MATTHEW D. SLATER
Cleary Gottlieb Steen & Hamilton, LLP
2112 Pennsylvania Avenue, NW
Washington, DC 20037
Telephone: (202) 974-1930

ROBERT BOSCH LLC

Date:______________________________

By:

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Erik Dyhrkopp
General Counsel Americas

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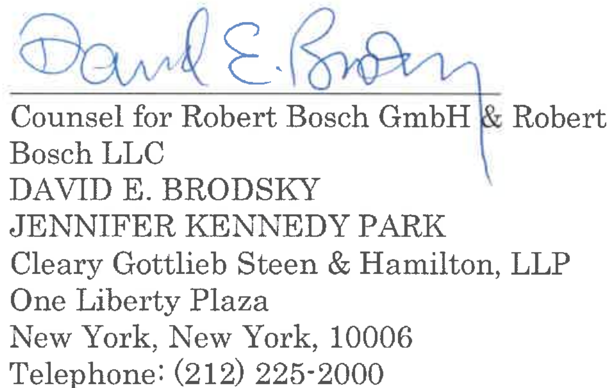
Maximiliane Straub
Chief Financial Officer & Executive
Vice President—Finance, Controlling &
Administration



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VT SUPERIOR COURT
WASHINGTON UNIT

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FILED

IN THE MATTER OF:

Career Education Corporation, American InterContinental University, Inc., and Colorado Technical University, Inc.

ASSURANCE OF DISCONTINUANCE

This Assurance of Discontinuance ("AOD") is entered into by the Attorneys General of Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, District of Columbia, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming (referred to collectively as the "Attorneys General") and Career Education Corporation ("CEC"), American InterContinental University, Inc. ("AIU") and Colorado Technical University, Inc. ("CTU"), including, except as otherwise provided herein, all of their respective subsidiaries, affiliates, successors, and assigns (collectively, "CEC" and, together with the Attorneys General, the "Parties").

This AOD resolves certain claims of the Attorneys General relating to CEC's compliance with applicable state consumer protection laws, particularly with respect to recruitment and enrollment practices relating to CEC's institutions' post-secondary educational programs.

CEC enters into this AOD solely for the purpose of resolving the allegations and related claims of the Attorneys General. Nothing contained herein shall constitute or may be construed as an admission by CEC of any liability or wrongdoing.

PARTIES

1. The parties to this AOD are as follows:

   (a) The State of Vermont, through Attorney General Thomas J. Donovan, Jr., is authorized to enforce its consumer protections laws, including the Vermont Consumer Protection Act, 9 V.S.A. chapter 63.

   (b) Career Education Corporation is a Delaware corporation with corporate headquarters at Schaumburg, Illinois. American InterContinental University, Inc. is a Georgia Corporation with its corporate headquarters in Schaumburg, Illinois. Colorado Technical University, Inc. is a Colorado corporation with its corporate headquarters in Colorado Springs, Colorado.

THE ALLEGATIONS OF THE ATTORNEYS GENERAL

2. At times during the course of offering enrollment in educational programs, CEC placed significant pressure on its employees to enroll students and engaged in unfair and deceptive practices by making misleading statements to prospective students, failing to disclose material facts to prospective students, and otherwise engaging in Unreasonable Recruitment Methods in violation of state consumer protections laws as follows:

   (a) CEC misled students about the total costs of enrollment at CEC institutions;

   (b) CEC misled students about the transferability of credits into CEC from other institutions and out of CEC to other institutions;

(c) CEC misrepresented their program offerings and the potential to obtain employment in the field desired by prospective students, including failing to adequately disclose the fact that certain programs lacked the necessary programmatic accreditation, which negatively affect a student's ability to obtain a license or employment; and

(d) CEC engaged in unfair and deceptive practices in calculating job placement rates, thereby giving prospective students an inaccurate impression of CEC graduates' employment outcomes. CEC's misrepresentations related to job placement rates include but are not limited to:

(i) misrepresenting CEC graduates who worked only temporarily as having been "placed," based, for example, on less than two weeks of work or having continued in an internship for a week after graduation; and

(ii) misrepresenting CEC graduates as having been "placed" in fields in which the students trained or in related fields, when in fact, CEC graduates employment was neither in the field in which the graduate was trained nor in a field related to their field of study.

As a result of the unfair and deceptive practices described above, some students enrolled in CEC who would not have otherwise enrolled, could not obtain professional licensure, and/or incurred debts that they could not repay nor discharge.

CEC'S RESPONSE TO ALLEGATIONS

3. CEC denies the allegations of the Attorneys General, including those set forth in

paragraph 2, denies any wrongdoing or liability of any kind, and enters into this AOD solely for the purpose of resolving certain disputed claims of the Attorneys General relating to the allegations including those set forth above in paragraph 2.

DEFINITIONS

Whenever the terms listed below are used in this AOD, the following definitions shall apply:

4. "**Administrator**" shall have the meaning set forth in paragraphs 34 through 37 below.

5. "**Admissions Advisor**" means any natural person employed by CEC who has substantial responsibility for encouraging Prospective Students to apply or enroll in a Program of Study or recruiting Prospective Students, including but not limited to assisting Prospective Students with the application process and informing Prospective Students about Programs of Study at CEC's institutions, but shall exclude Financial Aid Advisors.

6. "**Anticipated Total Direct Cost**" means the estimated cost of tuition, fees, books, supplies, and equipment to complete a Program of Study.

7. "**Attorneys General**" means the Attorneys General of Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, District of Columbia, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and

Wyoming.

8. "**CIP Code**" means the six-digit U.S. Department of Education Classification of Instructional Program ("CIP") code identified for a particular Program of Study.

9. "**CIP to SOC Crosswalk**" means the crosswalk developed by the National Center for Educational Statistics and the Bureau of Labor Statistics relating CIP Codes to Standard Occupational Classification ("SOC") codes and available at http://nces.ed.gov/ipeds/cipcode/resources.aspx or its successor site.

10. "**Clearly and Conspicuously**" or "**Clear and Conspicuous**," when referring to a statement or disclosure, means that such statement or disclosure is made in such size, color, contrast, location, and duration that it is readily noticeable, readable, and understandable. A statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains, or clarifies other information with which it is presented, it must be presented in proximity to the information it modifies, in a manner that is likely to be noticed, readable, and understandable, and it must not be obscured in any manner.

11. **"Core Skills"** means skills that are necessary to receive a diploma or degree in a Student's field of study, such that failure to master these skills will result in no diploma or degree being awarded. "Core Skills" are specific to the Program of Study and are not taught in general education courses or generally taught across all fields of study, and are not the same as basic skills, which are skills that are necessary for success in a Student's field of study, but which the Student should possess upon entry into a Program of Study. Core Skills do not include generic skills such as "collaboration," "team work," and

"communication," and for bachelor's degree programs, Core Skills do not include skills taught in 100-level courses unless the skill is refined and specifically identified in upper-level courses.

12. "**Cost of Attendance**" means cost of attendance as defined in the Federal Higher Education Act of 1965, § 472, 20 U.S.C. § 1087ll, or as that statute may be amended.

13. "**Completer**," only for purposes of calculating a Job Placement Rate in accordance with this AOD, means a Student who is no longer enrolled in a Program of Study and who has either completed the time allowed or attempted the maximum allowable number of credits for the Program of Study but who did not accomplish the requirements for graduation, such as:

    (a) achieving the necessary grade point average;

    (b) attaining required competencies or speed skills; or,

    (c) satisfying non-academic requirements, including but not limited to paying outstanding financial obligations.

14. "**Do Not Call Registry**" means the national registry established by the Federal Communications Commission and the Federal Trade Commission that prohibits the initiation of outbound telephone calls, with certain statutory exemptions, to registered consumers.

15. "**Effective Date**" means January 2, 2019.

16. "**Electronic Financial Impact Platform**" means an interactive, internet-based program

that produces a personalized disclosure for a Prospective Student of the potential financial impact of pursuing a particular Program of Study and incurring a specific amount of debt. The platform shall permit Prospective Students to input and/or adjust fields to customize the resulting disclosure, including but not limited to the fields that pertain to sources of funding (*i.e.*, scholarships, grants, student contributions, federal loans, and private loans) and post-graduation expenses, and shall generate a customized disclosure for the Prospective Student that shows current estimates of (a) the Prospective Student's Anticipated Total Direct Costs in pursuing the Program of Study, (b) the Prospective Student's Cost of Attendance, including each component thereof (c) the Prospective Student's estimated total debt incurred by pursuing the Program of Study at the time of repayment and the corresponding monthly loan payments over a term of years based on the loan interest rate information, (d) the Prospective Student's estimated income if he/she successfully graduates from the Program of Study, if available from the U.S. Department of the Education, and (e) the Prospective Student's estimated post-graduation expenses, including personal financial obligations such as rent or mortgage payments, other debt, car payments, child care expenses, utilities, and the like. The Electronic Financial Impact Platform shall also provide information about the Program of Study, including the following information: Program Completion Rates, Median Debt for Completers, and Program Cohort Default Rate. For the avoidance of doubt, the Parties agree that the Program Cohort Default Rate and the Median Earnings for Completers are to be calculated by the U.S. Department of Education and that this AOD does not require CEC itself to calculate these figures for use in the Electronic Financial Impact Platform if unavailable from the U.S. Department of Education.

17. "**Enrollment Agreement**" shall mean the document executed by a Prospective Student that sets forth certain terms and conditions of the Prospective Student's enrollment in a Program of Study.

18. "**Executive Committee**" shall refer to the Attorneys General of the States of Connecticut, Illinois, Iowa, Kentucky, Maryland, Oregon, and Pennsylvania.

19. "**Financial Aid Advisor**" means any natural person employed by CEC who has substantial responsibility for assisting or advising Students and Prospective Students with respect to financial aid matters.

20. "**Former Employee**" means any person who was employed by CEC on or after the Effective Date and who is no longer employed by CEC.

21. "**Good Cause**" means: (a) a material and substantial breach of the terms of this AOD by the Administrator, including the failure to comply with the terms and limitations of this AOD, (b) any act of dishonesty, misappropriation, embezzlement, intentional fraud, or similar conduct by the Administrator, (c) any intentional act of bias or prejudice in favor or against either party or Students by the Administrator, or (d) conduct by the Administrator that demonstrates unfitness to serve in any administrative capacity. Good Cause shall not include disagreements with the decisions of the Administrator pursuant to this AOD, unless there is a clear pattern in the Administrator's decisions that demonstrates or shows that the Administrator has not been acting as an independent third party in rendering decisions.

22. "**Graduate**," only for purposes of calculating a Job Placement Rate in accordance with

this AOD, means a Student who has accomplished all of the requirements of graduation from a Program of Study, such as, for example, achieving the necessary grade point average, successfully passing all required courses and meeting all clinical, internship, and externship requirements, and satisfying all non-academic requirements.

23. "**Job Placement Rate**" means the job placement rate calculated in accordance with this AOD and is a numeric rate calculated by dividing the total number of placed Graduate/Completers by the total number of Graduate/Completers who do not qualify for exclusion from the calculation as set out below. CEC shall count a Graduate/Completer as placed or excluded for purposes of calculating a Job Placement Rate in accordance with this AOD only where CEC is able to successfully contact a Graduate/Completer or employer to verify employment or exclusion and possesses at the time it is calculating the Job Placement Rate the documentation required below.

(a) In calculating Job Placement Rates in accordance with this AOD, CEC shall assess whether the Student has been placed within six (6) months of the later of (i) the end of the month in which the Student becomes a Graduate/Completer or (ii) if a license or certification is required for the relevant occupation, the date on which the results of the first licensing or certification exam for which the Graduate/Completer was eligible to sit become available; *provided*, *however*, that such six (6) month period shall be extended for up to sixty (60) days to permit Students who accepted employment prior to the expiration of such six (6) month period to satisfy the minimum employment threshold set forth in paragraph 68(a)(v) and (a)(vi), in which case the Graduate/Completer shall be excluded from the current reporting cohort and included in the next reporting cohort.

(b) In calculating a Job Placement Rate in accordance with this AOD, a Graduate/Completer may be excluded from the total number of Graduates/Completers (*i.e.*, the denominator) if CEC obtains written documentation that the Graduate/Completer:

(i) has a medical condition or disability that results in the Graduate/Completer's inability to work or the Graduate/Completer is not available for employment because the Graduate/Completer has a parent, child, or spouse who has a medical condition that requires the care of the Graduate/Completer;

(ii) is engaged in full time active military duty;

(iii) is enrolled at least half-time in an additional program of post-secondary education;

(iv) is deceased;

(v) is not eligible for placement in the United States because of visa restrictions;

(vi) is a spouse or dependent of military personnel who have moved due to military transfer orders;

(vii) is incarcerated; or

(viii) qualifies for any other job placement rate calculation exclusion that the U.S. Department of Education adopts subsequent to the Effective Date,

unless the Attorneys General determine in their reasonable judgment within thirty (30) days of being notified by CEC of the adoption of such waiver that recognizing the waiver for purposes of calculating the Job Placement Rate would be contrary to the interests of Prospective Students; *provided, however*, that CEC shall have the right to apply to the District Court for the State of Iowa, Fifth Judicial District, for a ruling as to whether any such determination by the Attorneys General was reasonable under the circumstances.

(c) Where CEC excludes a Graduate/Completer from the total number of Graduate/Completers for the purposes of calculating the Job Placement Rate, CEC shall not count that Graduate/Completer as "placed."

24. "**Median Earnings for Completers**" means the earnings calculated according to the definitions and method provided by the U.S. Department of Education in 34 CFR 668.413(b)(8) and as that regulation may be amended or recodified.

25. "**Median Debt for Completers**" includes Title IV loans, institutional loans, private loans, credit, or unpaid balances extended by or on behalf of the CEC institution to Students, as provided in 34 CFR 668.404(d)(1). Median Debt for Completers is the median debt for Students who completed the program during the most recent award year and is determined according to the definitions and method provided in 34 CFR 668.413(b)(4) and as that regulation may be amended or recodified.

26. "**Program Cohort Default Rate**" means the program cohort default rate determined according to 34 CFR 668.413(b)(13) and as that regulation may be amended or

recodified.

27. "**Program Completion Rate**" means the program completion rate for full-time Students calculated according to the definitions and method provided by the U.S. Department of Education in 34 CFR 668.413 and as that regulation may be amended or recodified.

28. "**Program of Study**" shall mean a series of courses, seminar, or other educational program offered at a CEC institution in the United States, for which CEC charges tuition and/or fees, which is designed to lead toward a degree, certificate or diploma, and which (a) is eligible for Title IV funding, (b) involves more than 25 contact hours in a credit bearing course, or (c) is designed to make a Student eligible to sit for any state or national certification or licensing examination. Notwithstanding anything in the foregoing sentence to the contrary, non-credit courses, courses paid for entirely by employers, or programs offered for personal enrichment, *i.e.*, hobby or training courses, that are not Title-IV eligible, courses that are not taken for the purpose of ultimately obtaining a degree, certificate, diploma, or review courses that are designed to assist with a Student's preparation for a state or national certification or licensing exam for which the Student is already eligible to sit, shall not be Programs of Study.

29. "**Prospective Student**" means any natural person who is being recruited for a Program of Study and/or pursuing enrollment at a CEC institution in a Program of Study and is a resident of a state which is a party to this AOD at the time of such recruitment or pursuit.

30. "**Student**" means any natural person who is or was enrolled at a CEC institution in a Program of Study and is or was a resident of a state which is a party to this AOD at the time of enrollment.

31. “**Third-Party Lead Vendor**” means any third-party vendor (whether a person, corporation, partnership, or other type of entity) that is directly retained and authorized by CEC to provide Prospective Student inquiries to CEC, but excludes companies that host CEC’s advertising or marketing content including but not limited to Facebook, Google, Twitter, and LinkedIn.

32. “**Transferability of Credits Disclosure**” means a disclosure with respect to the transferability of credits earned at CEC institutions. For regionally accredited institutions, each such disclosure shall state: “Course credits are not guaranteed to transfer to other schools.” For all other institutions each such disclosure shall state: “Course credits will likely not transfer to other schools. Degrees will likely not be honored by other schools.” CEC shall be permitted to make such reasonable changes to the Transferability of Credits Disclosure that are approved by the Administrator in consultation with the Attorneys General.

33. “**Unreasonable Recruitment Methods**” means the intentional exploitation of a Prospective Student’s fears, anxieties, or insecurities, or any method intentionally calculated to place unreasonable pressure on a Student to enroll in a CEC institution.

TERMS OF AGREEMENT

ADMINISTRATOR PROVISIONS

Appointment of an Administrator

34. Robert M. McKenna, Esq. of Orrick, Herrington & Sutcliffe LLP is appointed as the Administrator to oversee CEC’s compliance with the provisions of this AOD, effective as

of the Effective Date. The Administrator may act directly or through staff, agents, employees, contractors, and representatives in overseeing CEC's compliance with the terms of this AOD.

35. Contemporaneously with the execution of this AOD, the Parties shall execute a separate Work Plan that sets forth the Administrator's scope of work consistent with the Powers and Duties of the Administrator, set forth in paragraph 39. In the event of any dispute arising over the Administrator's performance or the reasonableness of the Administrator's costs and fees, either CEC or the Attorneys General may request that the issue be submitted to the Iowa Attorney General, and, if necessary, the issue may be resolved by the District Court for the State of Iowa, Fifth Judicial District.

36. The Administrator may be dismissed for any reason by agreement of the Parties. In the event the Parties do not agree to the dismissal of the Administrator, either the Attorneys General or CEC may submit the question of the Administrator's dismissal to the District Court for the State of Iowa, Fifth Judicial District, and the Administrator shall only be dismissed if that court finds that there is Good Cause for dismissal.

37. The Administrator shall be appointed for a term of three (3) years, to run from the Effective Date. If the Administrator is dismissed or leaves the position for any reason before the end of the term, another Administrator shall be appointed by agreement of CEC and the Attorneys General to serve the remainder of the term.

Costs of the Administrator

38. CEC shall provide for the reasonable and necessary fees, expenses, and costs of the

Administrator as set forth in the Administrator's fee agreement, but in no event shall the Administrator's fees, expenses, and costs exceed $1,000,000 in the first year, $600,000 in the second year, and $400,000 in the third year.

Powers and Duties of the Administrator

39. The Administrator shall independently review CEC's compliance with the terms of this AOD in accordance with the Work Plan referenced in paragraph 35. In furtherance of this purpose, and without limiting the power of the Administrator to review any relevant matter within the scope of this AOD, the Administrator shall be permitted to:

(a) observe Admissions Advisor and Financial Aid Advisor training sessions;

(b) review telephone calls and meetings between Admissions Advisors or Financial Aid Advisors, on the one hand, and Students or Prospective Students, on the other; the Administrator shall not be permitted to participate in such calls or attend such meetings, but it is expressly understood that the Administrator may review CEC's existing mystery shopping program and be permitted to request additional mystery shops and/or utilize independent mystery shops if the Administrator believes that such additional shops are reasonably necessary to review compliance with this AOD;

(c) review transcripts, recordings, and/or reports, to the extent they exist, related to any telephone call or meeting with Prospective Students;

(d) review materials used to train Admissions Advisors and Financial Aid Advisors;

(e) review complaints made to CEC, its accreditors, the Attorneys General, the Better Business Bureau, or any state or federal governmental body, after the Effective Date of this AOD, which potentially concern or relate to any of CEC's recruitment, admissions, Student financial aid, or career services practices;

(f) review CEC's advertisements, marketing materials, websites, catalogs, enrollment agreements, disclosures, and other public-facing media to verify compliance with this AOD;

(g) review documents, data, and information related to CEC's calculation of any job placement rate;

(h) review CEC's compliance practices with respect to the conduct of Third-Party Lead Vendors;

(i) review documents in the possession of CEC or reasonably accessible to CEC related to the conduct of Third-Party Lead Vendors;

(j) review communications with Students and Prospective Students in the possession of CEC or reasonably accessible to CEC related to Student recruitment, admissions, financial aid, or career services;

(k) review CEC's compliance with its refund policy;

(l) review CEC's compliance with data reporting requirements imposed by this AOD;

(m) review CEC's complaint resolution practices;

(n) review reports provided by CEC's third-party vendor related to CEC's monitoring of Third-Party Lead Vendors;

(o) review CEC's institutional and programmatic accreditation status to verify compliance with this AOD;

(p) review CEC's records to verify CEC's compliance with its obligation to forgo efforts to collect outstanding debt from certain Students pursuant to paragraphs 116 and 117 of this AOD;

(q) have reasonable access to books, records, other documents, and staff sufficient to insure implementation of and compliance with this AOD; and

(r) have reasonable access to employees and Former Employees of CEC as the Administrator deems necessary to insure implementation of and compliance with this AOD; reasonable access for purposes of this subparagraph includes disclosing the identity of any current employee or Former Employee if the identity is requested by the Administrator and can be determined by CEC; reasonable access to current employees shall include providing appropriate times and locations for staff interviews; and reasonable access to Former Employees shall include providing the most recent contact information available;

provided, however, that this AOD shall not effectuate a waiver of the attorney-client privilege or the attorney-work-product doctrine, and the Administrator shall not have the right to demand access to documents or information protected by the attorney-client privilege or the attorney-work-product doctrine.

40. The Administrator shall make a good faith effort to leverage CEC's existing compliance mechanisms when reviewing CEC's compliance with this AOD.

41. The Administrator shall make a good faith effort to perform his or her duties in a manner designed to cause minimal disruption to CEC's activities. In this regard, CEC shall designate senior officials within the Office of the General Counsel (or any office subsequently organized to succeed to the duties of the foregoing office) to serve as the primary points of contact for the Administrator in order to facilitate the Administrator's access to documents, materials, or staff necessary to review CEC's compliance with this AOD. The Administrator shall communicate any request for documents, materials, or access to staff to the designated contacts, unless otherwise instructed. For the avoidance of doubt, nothing in this paragraph shall be interpreted to prohibit the Administrator from speaking with a current or Former Employee of CEC.

42. If at any time the Administrator believes that there is undue delay, resistance, interference, limitation, or denial of access to any records or to any employee or Former Employee deemed necessary by the Administrator to implement or review compliance with this AOD, the Administrator shall meet and confer with the designated CEC officials referenced in paragraph 41. If the Administrator cannot resolve such limitation or denial, it shall be immediately reported to the Attorneys General.

43. Nothing in this AOD shall limit the ability of the Administrator to communicate at any time with the Attorneys General regarding CEC's conduct or to provide documents or information to the Attorneys General as it relates to the Administrator's role of ensuring compliance with this AOD.

Oversight and Compliance

44. The Administrator and the designated CEC officials referenced in paragraph 41 shall meet on a quarterly basis, or more frequently if the Administrator or CEC deem reasonably necessary, in order to discuss any facts, matters, issues, or concerns that may arise in the administration of this AOD or that may come to the attention of the Administrator or CEC. The purpose of these meetings is to permit CEC to confer with the Administrator and address issues and concerns as they arise. In addition, the Administrator may in his discretion and on reasonable advance notice invite the CEC officials referenced in paragraph 41 and the Attorneys General to meet and confer to the extent he deems it reasonably necessary for the administration of this AOD.

45. The Administrator shall issue a report (hereinafter "Annual Report") to the Attorneys General and to CEC within nine (9) months after the Effective Date and every twelve (12) months thereafter for the duration of the Administrator's term. The Administrator may make more frequent reports to the Attorneys General and to CEC as deemed reasonably necessary to ensure compliance with this AOD or upon request of the Attorneys General. The Annual Report and all written reports requested by the Attorneys General shall be provided to CEC prior to their presentation to the Attorneys General. The Administrator and CEC shall meet and confer to discuss all written reports and Annual Reports prior to their presentation to the Attorneys General. As part of this conferral process, the Administrator shall in good faith consider all reasonable modifications to the report proposed by CEC.

46. The Annual Report shall include:

(a) a description of the methodology and review procedures used;

(b) an evaluation of whether CEC is in compliance with the provisions of this AOD, together with a description of the underlying basis for that evaluation; and

(c) a description of any practice which the Administrator believes may constitute a deceptive or unfair practice (as those terms are commonly understood in the context of consumer protection laws).

47. Notwithstanding any other provision in this AOD, the Administrator's reports (including the Annual Reports) shall identify only practices or patterns of CEC's noncompliance with this AOD, if any, and are not intended to identify isolated incidents, unless the Administrator determines that such incidents are indicative of CEC's substantial non-compliance with the AOD.

48. If, at the conclusion of the Administrator's three-year term, the Attorneys General determine in good faith and in consultation with the Administrator that justifiable cause exists, the Administrator's engagement shall be extended for an additional term of up to two (2) years, subject to the right of CEC to commence legal proceedings for the purpose of challenging the decision of the Attorneys General and to seek preliminary and permanent injunctive relief with respect thereto. For purposes of this paragraph, "justifiable cause" means a failure by CEC to achieve and maintain substantial compliance with the substantive provisions of the AOD.

<u>Use of the Administrator's Reports</u>

49. The Administrator's reports (including the Annual Reports) and testimony may be used

by the Attorneys General or CEC in any action or proceeding brought by the Attorneys General or CEC relating (a) to this AOD or (b) to any CEC conduct described in the reports by the Administrator to the Attorneys General, and the reports shall be admissible into evidence in any such action or proceeding to the extent allowed by the rules of evidence of the respective tribunal in which such reports are sought to be introduced. For the avoidance of doubt, the Parties do not intend for the Administrator's reports (including the Annual Reports) or testimony to be admissible in any action or proceeding other than an action or proceeding described in the preceding sentence. No action or lack of action by the Attorneys General regarding information received from the Administrator regarding CEC's conduct shall be considered affirmation, acceptance, or ratification of that conduct by the Attorneys General, and the Attorneys General reserve the right to act at any time regarding information provided to them by the Administrator.

Confidentiality

50. The Administrator shall keep confidential from any and all individuals, entities, regulators, government officials, or any other third party that is not a party to this AOD all communications with employees and information and documents obtained by or produced to the Administrator in the course of his duties. The Administrator also agrees to ensure that any third-party whom the Administrator engages shall agree to the same restriction. Nothing in the preceding sentences shall limit the Administrator's ability to make any disclosure compelled by law. In the event the Administrator receives a request for disclosure of any such communications, information, or documents, the Administrator shall notify CEC the sooner of no more than ten (10) business days following receipt of the request or five (5) business days prior to disclosure to afford CEC time to object to

such disclosure. Nothing herein shall relieve the Administrator of his obligation to comply with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

51. It is understood that any document, information, or report shared with the Attorneys General pursuant to this AOD (including reports created by the Administrator pursuant to paragraphs 45 and 112) may be subject to applicable state open records laws. Nevertheless, the Attorneys General recognize that some or all of such documents, information, or reports may be confidential pursuant to those laws or other applicable state statutes or federal laws. In the event that the Attorneys General (or any of them) receive a request or otherwise intends to disclose a document, information, or report, and the Attorneys General (or any of them) determine that the requested document, information, or report is not confidential pursuant to applicable law and is subject to disclosure, or if the Attorneys General (or any of them) are compelled to produce the material pursuant to a court or administrative order, the relevant Attorney(s) General shall provide notice to CEC ten (10) business days prior to disclosing the document, information, or report to any third party, or any lesser period required under state law. Notwithstanding the above requirements, the Attorneys General may share any document, information, or report subject to this paragraph with any other local, state, or federal agency empowered to investigate or prosecute any laws, regulations, or rules. Subject to the foregoing, unless required under applicable state law, the Attorneys General shall not release to the public any confidential document or information provided by CEC pursuant to this AOD.

Miscellaneous Administrator Provisions

52. Non Retaliation Clause: CEC shall not intimidate, harass, threaten, or penalize any employee or Former Employee for his or her cooperation with or assistance to the Administrator relating to the Administrator's Powers and Duties to ensure implementation of and compliance with this AOD.

53. Compliance Hotline: It is understood that CEC is operating a compliance hotline, which permits employees to lodge concerns with CEC anonymously. CEC shall continue to maintain this hotline or a reasonable equivalent. CEC shall provide the Administrator access to any complaints or reports made through this hotline (whether made anonymously or not).

REQUIRED DISCLOSURES

General Disclosures

54. CEC shall comply with 34 CFR 668.412(e) and any substantially similar successor regulation requiring the direct disclosure of the U.S. Department of Education gainful employment template information to Prospective Students. The requirements of paragraphs 55-58 herein shall take effect only if the U.S. Department of Education repeals, amends, or delays 34 CFR 668.412(e) in a manner that substantially changes this direct disclosure requirement. In addition, should paragraphs 55-58 take effect, CEC may cease compliance with providing a Single-Page Disclosure Sheet as required by paragraphs 55-58 in the event the U.S. Department of Education or Congress promulgates a substantially similar direct disclosure requirement.

55. CEC shall Clearly and Conspicuously disclose to Prospective Students a "Single-Page Disclosure Sheet" that conforms as to form to the sample disclosure sheet attached as Exhibit B hereto and contains the following information:

(a) the Anticipated Total Direct Cost for the Program of Study at the prospective campus; *provided*, *however*, that this provision shall not be interpreted to restrict CEC's ability to change tuition, fees, or expenses;

(b) the Median Debt for Completers for the Program of Study for the most recent reporting period, if available;

(c) the Program Cohort Default Rate for the most recent reporting period if available;

(d) the Program Completion Rate for the most recent reporting period, if available;

(e) the Transferability of Credits Disclosure;

(f) the Median Earnings for Completers for the Program of Study for the most recent reporting period, if available; and

(g) the Job Placement Rate Disclosure for the Program of Study at the prospective campus for the most recent reporting period, if available.

For the avoidance of doubt, the Parties agree that the Program Cohort Default Rate and the Median Earnings for Completers are to be calculated by the U.S. Department of Education and that this AOD does not require CEC itself to disclose figures that are unavailable from the Department.

56. Specifically, CEC shall Clearly and Conspicuously disclose the Single-Page Disclosure

Sheet for the Program of Study in which the Prospective Student is seeking to enroll in the following ways: (1) by Clearly and Conspicuously disclosing the Single-Page Disclosure Sheet during the enrollment process, prior to the Prospective Student's execution of the Enrollment Agreement; and (2) CEC shall also email the Single-Page Disclosure Sheet as one of two attachments in an email to the Prospective Student prior to starting the first day of class. The other attachment in this email would be a Clear and Conspicuous disclosure of the refund policy as outlined in Paragraph 101.

57. Before an already-enrolled Student begins a new Program of Study, CEC shall Clearly and Conspicuously disclose to the Student the Single-Page Disclosure Sheet for that Program of Study. Additionally, CEC shall also email the Single-Page Disclosure Sheet to the Student prior to starting the first day of class in the new Program of Study.

58. CEC shall be permitted to make such reasonable changes to the Single-Page Disclosure Sheet and to the form and timing of the disclosure of the Single-Page Disclosure Sheet as are approved by the Administrator in consultation with the Attorneys General.

59. CEC may calculate and disclose to Students and Prospective Students, in materials other than the gainful employment template or the Single-Page Disclosure Sheet, information with respect to the income earned by CEC's graduates in reporting period as to which the Median Earnings for Completers is not available, provided that such information is not false, misleading, or deceptive.

60. If a CEC institution elects to disclose that it has articulation agreements for the transferal of credits to other schools, then, in addition to the foregoing, the CEC institution shall also Clearly and Conspicuously: (a) list any school(s) with articulation agreements with

that CEC institution, (b) list the classes for which the receiving school allows credits to transfer, (c) disclose any conditions upon the acceptance of transferred credits, and (d) disclose that credits are accepted by the receiving school for elective credit only, if that is the case.

Job Placement Rate Disclosures

61. For any Program of Study at a CEC institution that is required to calculate or provide a job placement rate by a national accreditor or any federal, state, or local law, rule, or judgment, CEC shall calculate a Job Placement Rate for such Program of Study in accordance with this AOD, and such rate shall be disclosed on the Single-Page Disclosure Sheet described in paragraph 55. The parties agree that a regionally accredited institution shall not be subject to paragraphs 61 to 69 relating to placement rates unless it shall choose to voluntarily report a placement rate. If a CEC institution voluntarily calculates a job placement rate for any Program of Study offered at a CEC campus, it must calculate the Job Placement Rate in accordance with this AOD for that Program of Study and also calculate a Job Placement Rate in accordance with this AOD for all Programs of Study that are offered at that same CEC campus, and such rates shall be disclosed on the Single-Page Disclosure Sheet described in paragraph 55. For purposes of this paragraph, all online offerings of each one of CEC's institutions shall be considered a "campus." Notwithstanding the foregoing, CEC shall not be required to calculate Job Placement Rates for any Program of Study that CEC is teaching out (*i.e.*, that is not accepting new Students).

62. If CEC does not calculate a job placement rate for a Program of Study, and it is not

required to calculate a Job Placement Rate by this AOD, then CEC shall disclose to Prospective Students on the Single Page Disclosure Sheet that: "[CEC institution] does not calculate a job placement rate for students who completed this program."

63. CEC shall not make any claims or representations to Prospective Students about the likelihood of such Prospective Students obtaining employment after completing a Program of Study if it does not calculate and disclose a Job Placement Rate in accordance with this AOD.

64. The Job Placement Rate calculated in accordance with this AOD shall be disclosed on the U.S. Department of Education's Gainful Employment Program Disclosure Template, which is the disclosure form issued by the Secretary of the U.S. Department of Education for Gainful Employment Programs, as well as at the time(s) and in the manner(s) provided herein. Moreover, with respect to job placement rates that CEC calculates after the Effective Date, CEC shall not report and/or disclose any job placement rate other than the Job Placement Rate calculated in accordance with this AOD, except as may be required by a government entity or accreditor. CEC must comply with any state regulations in addition to the requirements of this AOD.

65. Notwithstanding anything to the contrary in this AOD, CEC shall not be required to disclose a Program Completion Rate, a Program Cohort Default Rate, a Median Debt for Completers, or a Job Placement Rate for any Program of Study at a location with fewer than ten (10) Students or Graduates/Completers, as applicable, in that program.

66. Notwithstanding anything to the contrary in this AOD, CEC shall not be required to calculate a Job Placement Rate for new Programs of Study that have not had any

Completers or Graduates. A Program of Study is not "new" for purposes of this paragraph if the same campus at which the Program of Study is offered previously offered a program of substantially similar subject matter, content, length, and ending credential. For the avoidance of doubt, a Program of Study will be "new" for purposes of Job Placement Rate calculations if any governmental entity or any relevant accreditor considers the Program of Study substantially different from a prior Program of Study in terms of subject matter, content, length, or ending credential.

67. If CEC relies on a third party for verifying and/or calculating Job Placement Rates, CEC shall enter into a contract with such third party pursuant to which the third party shall agree to adhere to the requirements of this AOD concerning calculation and/or verification of Job Placement Rates (to the extent applicable) and require the third party to provide any requested information regarding the calculation and/or verification of Job Placement Rates to the Administrator. CEC shall monitor such third party's compliance with these requirements.

68. CEC shall deem an individual as "placed" only if the Graduate or Completer meets the below conditions of "employed" or "self-employed."

(a) Employed. The individual shall be deemed "employed" if each of the following six (6) requirements are met:

(i) The position is in the field of study or a related field of study. The position shall be considered to be in the field of study or a related field of study if it meets one of the following criteria:

(1) the position is included on the list of job titles for the Graduate's/Completer's Program of Study published by the institution and is included in the most recent CIP to SOC Crosswalk for the applicable CIP Code; *provided*, *however*, that it is understood that in an instance where a Graduate/Completer's actual job title is not listed on the CIP to SOC Crosswalk, CEC may include the job as a placement under this provision if the job title the Graduate/Completer obtained is listed as a "Lay Title" on the O*Net Code Connector for an SOC job title that is linked to the Graduate/Completer's Program CIP per the CIP to SOC Crosswalk, regardless of any job level within the Graduate/Completer's title (*e.g.*, Registered Nurse 1, Registered Nurse 2, etc.), and the job description by the employer for the job title the Graduate/Completer obtained predominantly matches the job description, tasks, and work activities for the SOC job title that is linked to the CIP for the Graduate/Completer's program; or

(2) the position requires the Graduate/Completer to use, during a majority of the time while at work, the Core Skills listed in the institution's published program and course descriptions expected to have been taught in the Student's program; and (a) the written job description requires education beyond a high school diploma or provides that a postsecondary credential is preferred, (b) the position is one as a supervisor or manager, or (c) the

Graduate/Completer or the employer certifies in writing that the education received by the Graduate/Completer provided a benefit or advantage to the Graduate/Completer in obtaining the position.

(ii) The position is a permanent position (*i.e.*, there is no planned end date) or a temporary position that the Graduate/Completer expects to maintain for a minimum of one hundred and eighty (180) days;

(iii) The position is a paid position;

(iv) The position requires at least twenty (20) work hours per week;

(v) The Graduate/Completer has worked in the position for a minimum of thirty (30) days; and

(vi) CEC has verified the employment after the Graduate/Completer has worked in the position for a minimum of thirty (30) days by: (1) speaking to either the employer or an agent of the employer to confirm employment, (2) contacting the Graduate/Completer directly, (3) receiving an email from the Graduate/Completer, or (4) the Graduate/Completer's employer provides employment information about the Graduate/Completer by email or other written confirmation, or on-line.

(b) Self-Employed. The individual shall be deemed placed as "self-employed" if each of the following four (4) requirements is met:

(i) The position is in the field of study or a related field of study. The

position shall be considered to be in the field of study or a related field of study if it meets one of the following criteria:

(1) the position is included on the list of job titles for the Graduate's/Completer's Program of Study published by the institution and is included in the most recent CIP to SOC Crosswalk for the applicable CIP Code; *provided*, *however*, that it is understood that in an instance where a Graduate/Completer's actual job title is not listed on the CIP to SOC Crosswalk, CEC may include the job as a placement under this provision if the job title the Graduate/Completer obtained is listed as a "Lay Title" on the O*Net Code Connector for an SOC job title that is linked to the Graduate/Completer's Program CIP per the CIP to SOC Crosswalk and the job description by the employer for the job title the Graduate/Completer obtained matches the job description, tasks, and work activities for the SOC job title that is linked to the CIP for the Graduate/Completer's program; or

(2) the position requires the Graduate/Completer to use, during a majority of the time while at work, the Core Skills listed in the institution's published program and course descriptions expected to have been taught in the Student's program; and the Graduate/Completer certifies in writing that the education received by the Graduate/Completer provided a benefit or advantage to the Graduate/Completer in performing the tasks entailed in such self-

employment;

(ii) The Graduate/Completer has received some compensation in return for services provided in connection with the self-employment;

(iii) In the case of grant-funded or similar employment, the position is anticipated to employ the Graduate/Completer for a period of no less than three (3) months; and

(iv) CEC has verified the self-employment and the Graduate/Completer has either (a) completed at least 135 hours of work (including, for example, time devoted to marketing or other unpaid preparatory or developmental work) in connection with the Graduate/Completer's self-employment or (b) received no less than $4,500.00 in compensation, over a period of no more than ninety (90) days, in return for services provided in connection with the self-employment, provided that CEC has obtained written verification directly from the Graduate/Completer that includes: (1) an attestation that s/he is self-employed with a description of the nature of the self-employment and (2) the number of hours worked and/or amount of compensation earned.

(c) Federal Work/Study positions at CEC or any affiliated school shall not be counted as "employment" or "self-employment."

(d) Continuing Employment.

(i) Graduates/Completers continuing employment in a position that was held

prior to enrolling in the Program of Study shall not be deemed "placed" unless:

(1) the requirements of subsections (a)(i) through (a)(vi) of this paragraph are met; and

(2) completing the Program of Study enabled the Graduate/Completer to maintain the position, or the Graduate/Completer earned a promotion or an increase in pay as a result of completing the Program of Study.

(ii) If a Graduate/Completer continuing in a pre-enrollment position enrolled in the Program of Study pursuant to an "established employer educational assistance program," and the conditions of subsection (d)(i)(2) of this paragraph are not satisfied, then the Graduate/Completer shall be excluded from the Job Placement Rate calculation. (The term "established employer educational assistance program" shall mean a program evidenced in writing in which an employer pays 50% or more of the cost of tuition for its employee to attend a Program of Study to gain skills related to the employee's current position with the employer.)

(e) CEC's first calculation of the Job Placement Rate in accordance with the provisions of this AOD will be for the cohort of Graduates and Completers from July 1 through June 30 of the year following that time period in which this paragraph becomes effective.

69. CEC shall implement a protocol for performance checks of those employees responsible for verifying, calculating, and/or disclosing job placement rates. Such performance checks shall be designed to provide a reliable assessment of the accuracy of disclosed job placement rates and compliance by CEC's employees, agents, and/or contractors with the verification, calculation, and disclosure of job placement rates. The performance checks shall be carried out regularly by CEC's compliance department or an independent third party, if used. If the institution obtains placement data by contacting employers and Completer/Graduates, the information should be documented in writing, including, to the extent practicable, the name of the employer, name of the Student, address and telephone number of Student and employer, title of employment, duties of employment, length of employment, hours worked, the name and title of the person(s) providing the information to CEC, the name and title of the person(s) at CEC who received and recorded the information, and the date the information was provided. CEC shall maintain a copy of the above information for a period no less than three (3) years.

Electronic Financial Impact Platform Disclosures

70. As soon as reasonably practicable after a Prospective Student has enrolled in a program for the first time and received a financial aid award letter, CEC shall provide the Student with a link such that the Student generates a required personalized disclosure using the Electronic Financial Impact Platform; *provided*, *however*, that Prospective Students who are ineligible for federal student aid or who are not borrowing funds to finance their education shall be exempt from this requirement. For the avoidance of doubt, in the event that a Student chooses to revisit the Electronic Financial Impact Platform after enrolling in a Program of Study, CEC shall not have any additional obligations to that

Student under this paragraph. If a Student's refund period expires without the Student having received a financial aid award letter and link to the Electronic Financial Impact Platform, CEC shall Clearly and Conspicuously disclose to that Student that he or she may withdraw from his or her Program of Study without financial responsibility for any tuition and fees associated with the Student's class attendance that term. For purposes of this paragraph, the term "refund period" is described by paragraph 101 unless that paragraph does not apply, in which case the refund period is any time frame within which the Student is eligible to withdraw without financial liability for tuition and fees associated with attending classes.

71. Within one hundred eighty (180) days of the Effective Date, CEC shall, in consultation with the Administrator and the Attorneys General, implement its Electronic Financial Impact Platform. The link required in paragraph 70 may include a disclaimer that states: "This link is provided to you for informational purposes only and is not intended to provide, suggest, or imply financial advice of any kind."

MISREPRESENTATIONS, PROHIBITIONS, AND REQUIRED CONDUCT

72. In connection with the recruitment of any Prospective Students, CEC is prohibited from:

(a) making any false, deceptive, or misleading statements;

(b) omitting any material fact;

(c) engaging in unfair practices (as that term is commonly understood in the context of consumer protection laws);

(d) using any Unreasonable Recruitment Methods to persuade a Student to enroll or remain enrolled at a CEC institution; and

(e) making any representation inconsistent with required Disclosures of the U.S. Department of Education found in Title 34 of the Code of Federal Regulations Chapter 668 as such regulations may be amended or recodified.

73. In connection with any communication with Students or Prospective Students, CEC shall not:

(a) make a false, misleading, or deceptive statement about any governmental (federal, state, or other) approval related to a Program of Study;

(b) represent that a "recommendation" is required for acceptance into a Program of Study or that an Admissions Advisor must recommend the Student for acceptance prior to admission unless such recommendation is an independent requirement for admission and is expressly stated in the catalog; or

(c) provide inaccurate statistics regarding any statistic required to be disclosed by this AOD or by the U.S. Department of Education in Title 34 of the Code of Federal Regulation Chapter 668.

74. In connection with any communication with Students or Prospective Students, CEC shall not make any false, deceptive, or misleading statements or guarantees concerning Student outcomes by:

(a) misrepresenting that Students will be assured program completion or graduation;

(b) misrepresenting that Students will be assured a job or employment following graduation; or

(c) misrepresenting how many of the Student's credits will transfer in or out of the institution, or representing to the Student that any credits obtained while attending the institution are transferable (unless CEC receives written assurance from another school or transfer of credits is assured through an articulation agreement or is required by state law).

Notwithstanding the prohibitions contained in subparagraphs (a) through (c), CEC and its representatives are permitted to provide good-faith estimates to Students and Prospective Students about how many of the Students' or Prospective Students' credits obtained while attending other schools will transfer to a CEC institution.

75. In connection with any communication with Students or Prospective Students concerning financial aid, CEC shall not:

(a) make any false, deceptive, or misleading statements concerning whether a Student will receive financial aid or any particular amount of financial aid;

(b) purport to guarantee a Student particular military or veteran benefit without proper documentation on file; or

(c) imply that financial aid or military funding will cover the entire costs of tuition, the costs of books or supplies, or the costs of attending a Program of Study, including living expenses, if such is not the case.

Notwithstanding the prohibitions contained in subparagraphs (a) through (c), CEC and its representatives are permitted to provide good-faith estimates to Students and Prospective Students about the amount of financial aid they may be expected to receive.

76. CEC shall not make express or implied false, deceptive, or misleading claims to Prospective Students with regard to the likelihood of obtaining employment as a result of enrolling, including but not limited to misrepresenting:

(a) the percentage, rate, or portion of Students who obtain employment following the completion of a Program of Study;

(b) the annual starting salary for persons employed in a given field;

(c) the annual starting salary of Graduates employed in a given field; and

(d) the annual starting salary of Graduates.

77. CEC shall not make any express or implied false, deceptive, or misleading claims that Program Completion Rates, job placement rates, or annual salaries that are generally applicable to CEC are equivalent to those for a specific Program of Study or that institution-wide rates for a Program of Study are equivalent to those for a specific campus.

78. CEC shall not make express or implied false, deceptive, or misleading claims to Students or Prospective Students with regard to the ability to obtain a license or certification from a third party as a result of enrolling in a Program of Study, including but not limited to misrepresenting:

(a) whether the Program of Study will qualify a Student to sit for a licensure exam, if any;

(b) the types of licensure exams Students are eligible to sit for;

(c) the states where completion of the Program of Study will qualify a Student to take an exam or attain immediate authorization to work in the field of study;

(d) the passage rates of graduates from that Program of Study;

(e) the states where completion of the Program of Study will not qualify a Student to sit for a licensure exam or attain immediate authorization to work in the field of study; and

(f) the states where a Student may be qualified to work within a profession if the Student must meet other requirements to be employed in such states.

79. CEC shall not make express or implied false, deceptive, or misleading claims to Prospective Students with regard to the academic standing of its programs and faculty, including but not limited to misrepresenting:

(a) the transferability, or lack thereof, of any credits, including but not limited to any credits for which the Student wishes to receive credit from a CEC institution and for all credits from a CEC institution for which the Student may wish to receive credit from another school, provided however, that CEC and its representatives are permitted to provide good-faith estimates to Students and Prospective Students about how many of the Students' or Prospective Students' credits

obtained while attending other schools will transfer to a CEC institution;

(b) the accreditation and the name of the accrediting organization(s);

(c) the Student/faculty ratio;

(d) the percentage of faculty holding advance degrees in the program;

(e) the names and academic qualifications of all full-time faculty members;

(f) the course credits and any requirements for satisfactorily completing a Program of Study, such as clinicals, internships, and externships; and

(g) the Program Completion Rates for each of its offered Programs of Study.

80. CEC shall not make express or implied false or misleading claims to Prospective Students regarding actual or potential financial obligations the Student will incur regarding a Program of Study, including but not limited to:

(a) the Cost of Attendance;

(b) the Anticipated Total Direct Cost the Student will incur to complete the Program of Study;

(c) the Program Cohort Default Rate; and

(d) the Median Debt of Completers of each Program of Study.

81. CEC shall provide all Admissions Advisors and Student Financial Aid Advisors with the information reasonably necessary to inform Prospective Students about CEC and its

Programs of Study, including but not limited to the Single-Page Disclosure Sheet, and if a representative of CEC truthfully advises a Student or Prospective Student that he or she does not have the information requested by the Student or Prospective Student at hand, then CEC shall subsequently, to the extent such information is reasonably ascertainable prior to the expiration of the applicable refund period established by paragraph 101 (or, if no such refund period applies, prior to the first day of the Student's semester, quarter, or payment term), provide such information.

82. Except as set forth in paragraph 84, CEC shall not represent in advertising, marketing, or promotional materials or otherwise that graduates of a Program of Study would be qualified for a particular occupation if that Program of Study lacks an accreditation necessary to qualify graduates for such occupation.

83. Except as set forth in paragraph 84, for Programs of Study that prepare Students for employment in fields that require Students to obtain state licensure or authorization for such employment, CEC shall not enroll Students in the Program of Study if graduation from the Program of Study would not qualify such Students for state licensure or authorization or to take the exams required for such licensure or authorization in the state in which:

(a) the CEC campus is located, if the Program of Study is offered at an on-ground campus;

(b) the Prospective Student resides, if the student resides in a different state from the on-ground campus; or

(c) the Prospective Student resides if the Program of Study is offered online.

84. The prohibitions established by paragraphs 82 and 83 shall not apply if:

(a) the Program of Study is a new program that cannot obtain a programmatic accreditation that would be necessary to qualify Students for state licensure or authorization or to take exams required for such licensure or authorization in the relevant state until the program is operational, the institution is making a good faith effort to obtain the necessary programmatic accreditation in a timely manner, the institution Clearly and Conspicuously discloses to Prospective Students on all promotional materials for the Program of Study and in a Clear and Conspicuous written disclosure prior to the Student signing an Enrollment Agreement that such programmatic accreditation would need to be obtained before the Student would qualify for state licensure or authorization or to take exams required for such licensure or authorization, and CEC teaches-out the program if the institution's application for accreditation for a program subject to this paragraph is denied, and it is not subject to further review;

(b) the Prospective Student has notified CEC in writing that the Student intends to seek employment in a state where the program does lead to immediate state licensure or authorization or qualification to take the exams required for such licensure or authorization;

(c) the Prospective Student has already completed some of the coursework necessary to complete the Program of Study and is seeking re-enrollment, and CEC advises the Prospective Student Clearly and Conspicuously in writing prior to re-

enrollment that completion of the Program of Study is not expected to qualify the Student for state licensure or authorization or to take exams required for such licensure or authorization; or

(d) the reason that graduation from the Program of Study would not qualify the Prospective Student for state licensure or authorization or to take the exams required for such licensure or authorization is that the Prospective Student has a criminal record that is disqualifying, and CEC has complied with the disclosure and acknowledgement requirements of paragraph 87.

85. CEC shall take reasonable measures to arrange and facilitate sufficient placements for Students in internships, externships, practicums, or clinicals that are prerequisites for graduation, licensure, or certification; *provided, however*, that nothing herein shall prevent a CEC institution from requiring its Students to seek to obtain an internship, externship, practicum, or clinical through their own efforts in the first instance.

86. CEC shall not knowingly enroll a Student in a Program of Study that does not possess the programmatic accreditation typically required by employers in the Student's state of residence for employment, except where a Student has indicated the intention to seek employment in a different state in which employers do not typically require programmatic accreditation for that Program of Study, or where the Program of Study does possess the programmatic accreditation typically required by employers in that state. "Typically" shall mean 75% or more of job opportunities in a particular occupation are open only to graduates of a school with certain accreditation(s) and/or an academic program with certain programmatic accreditation(s). CEC shall make reasonable efforts

to assess employer requirements in states where they enroll Students.

87. If CEC knows that a criminal record may disqualify a Student from employment in the field or a related field for which the Program of Study is a prerequisite, then CEC shall (a) Clearly and Conspicuously disclose that a criminal record may disqualify the Student for the chosen field or related field of employment and (b) require the Student's acknowledgment of such disclosure in writing at or before the time of enrollment. If CEC knows that a criminal record will disqualify a Student from employment in the field or a related field for which the Program of Study is a prerequisite, then CEC shall (a) Clearly and Conspicuously disclose that a criminal record will be disqualifying and (b) require the Student's acknowledgment of such disclosure in writing at or before the time of enrollment.

88. Arbitrations between CEC and any Student shall not be protected or treated as confidential proceedings, unless confidentiality is required by law or the Student requests confidentiality. CEC shall not ask or require any Student, participant, or witness to agree to keep the arbitration confidential, unless confidentiality is required by law. Nothing in this paragraph shall prevent CEC from asking the arbitrator to designate arbitration materials as a trade secret or proprietary information subject to nondisclosure. Except as may be prohibited by law or a Student request for confidentiality, and subject to appropriate assertions of the following:

(a) the attorney-client privilege and/or the attorney-work-product doctrine; and

(b) compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g;

the Administrator and the Attorneys General shall not be prohibited from reviewing or inspecting the parties, proceedings, and evidence pertaining to any arbitration involving a Student that commences after the Effective Date of this AOD. The Administrator and the Attorneys General shall not, to the extent permitted by law, disclose any of CEC's properly designated trade secrets or proprietary information that appear in arbitration materials.

89. CEC shall not adopt any policy or engage in any practice that delays or prevents Students with complaints or grievances against CEC from contacting any accrediting body, state or federal regulator, or Attorney General regarding the complaint or grievance. Notwithstanding anything to the contrary in this paragraph, CEC shall be permitted to encourage Prospective Students and Students to file any complaint or grievance with CEC in the first instance, so long as CEC does not represent or imply that Students are required to file their complaints or grievances with CEC before contacting any accrediting body, state or federal regulator, or Attorney General regarding the complaint or grievance, unless the accrediting body, state or federal regulator, or Attorney General so requires.

CEC RECRUITING PRACTICES

90. CEC shall not engage in any false, misleading, deceptive, abusive, or unfair acts or practices (as those terms are commonly understood in the context of consumer protection laws) when recruiting Prospective Students, including during the orientation program and refund periods referenced in paragraphs 100 and 101.

91. CEC shall not use Unreasonable Recruitment Methods when communicating with

Prospective Students during the admissions and enrollment process. CEC shall train Admissions Advisors and other employees to avoid use of Unreasonable Recruitment Methods. CEC shall audit its communications with Prospective Students, including those of its Admissions Advisors, to ensure that Unreasonable Recruitment Methods are not being used. CEC shall make the results of such audits reasonably available to the Administrator and the Attorneys General upon request.

92. CEC shall record all telephone calls and online chats between Admissions Advisors or Financial Aid Advisors, on the one hand, Students and Prospective Students, on the other, subject to interruptions in the ordinary course of business; *provided*, *however,* that CEC shall not be required to record telephone calls between Students and Admissions Advisors when the purpose of the telephone call or online chat is not to discuss recruiting, admissions, or financial aid related to admissions, but the Admissions Advisor is instead serving an advisory role related to the Student's performance in the Program of Study. This provision shall not require CEC to record telephone calls or online chats placed or received on personal devices, such as cell phones. Admissions Advisors and Financial Aid Advisors will be trained not to engage in communications with Students on personal devices. During the term of this AOD, CEC shall continue to retain its current third party vendor, or a vendor who employs comparative services, for call recording under this paragraph and for automated voice interaction analytics. Any decision to switch from its current vendor to another vendor shall be done in consultation with and approval by the Administrator. CEC shall make the call recordings required under this paragraph reasonably available to the Administrator and the Attorneys General upon request.

93. Notwithstanding anything to the contrary in this AOD, CEC shall not be required to record a telephone conversation if the Student or Prospective Student, after receiving the disclosure required by paragraph 95, objects to the conversation being recorded, nor shall CEC be prohibited from continuing a telephone conversation with a Student or Prospective Student on an unrecorded line once such an objection has been made; *provided*, *however*, that CEC shall be prohibited from encouraging Students or Prospective Students to object to recording the conversation.

94. Call recordings and online chats shall be maintained for a period not less than ninety (90) days after the date of the call. The Administrator shall have full and complete access to all recordings via the voice analytics platform.

95. CEC shall inform a Prospective Student at the outset of any telephone call after the initial greeting that the call may be being recorded. CEC shall be permitted to make this disclosure in pre-recorded form.

96. CEC shall not initiate unsolicited telephone calls to a Prospective Student's telephone number that appears on any current Do Not Call Registry. CEC shall keep an accurate record of and comply with any request to not receive further telephone calls. CEC shall not initiate any outbound telephone calls to a person who has previously stated to CEC that he or she does not wish to receive telephone calls from CEC, or who has expressed a desire not to be contacted anymore by CEC, or who has requested that they be placed on CEC's internal do-not-call list, unless the person has made a renewed request for contact or has otherwise indicated a desire to again receive calls from CEC.

97. CEC shall not continue a telephone call after a Prospective Student has expressed a desire

to conclude the call or has clearly stated that he/she does not want to apply to or enroll at a CEC institution.

98. CEC shall not prevent a Prospective Student from consulting with or obtaining advice from a parent, adult friend, or relative with respect to any issue relevant to enrollment.

99. CEC shall invite Prospective Students under the age of eighteen (18) to bring an adult with them to any interview/meeting on campus prior to enrollment.

REQUIRED ORIENTATION AND REFUND PROVISIONS

100. CEC shall require all incoming Students (other than graduate Students and Students who have already obtained twenty-four (24) or more credits at the post-secondary education level) to complete an online and/or in-person orientation program prior to the Student's first class at no cost to the Student. This orientation program shall be approved by the Administrator in consultation with the Attorneys General. This orientation program shall address such topics as study skills, organization, literacy, financial skills, and computer competency. A Student may withdraw from enrollment in a Program of Study at any time during the orientation program without any cost, and any grants or financial aid received directly from a grantor or lender on behalf of the Student shall be returned to the grantor or lender. In the alternative, and in lieu of the orientation described above, CEC may satisfy its obligation by requiring all incoming Students (other than graduate Students and Students who have already obtained twenty-four (24) or more credits at the post-secondary education level) to complete a college readiness course components of which will address the topics referenced above and the content of which will be approved by the Administrator in consultation with the Attorneys General. If CEC elects to offer a

college readiness course, CEC shall give Students enrolled in the course a Clear and Conspicuous disclosure of the refund provision contained in paragraph 101 within ten (10) days after the start of the course.

101. All Students who are newly enrolled in any fully online Program of Study at CEC institution (other than graduate Students and Students who have already obtained twenty-four (24) or more online credits at the post-secondary education level) shall be permitted to withdraw within the first twenty-one (21) days of the first day of the Student's semester, quarter, or (with respect to students enrolled in a non-term program) payment term at the CEC institution in which the Student enrolled. If a Student's credits are from a university that predominantly offers online programs, CEC can count the Student's credits towards the 24 online credit threshold. All Students who are newly enrolled in any on-ground Program of Study at a CEC institution (other than graduate Students) shall be permitted to withdraw within the first seven (7) days of the first day of the Student's first session, at the CEC institution in which the Student enrolled. CEC shall Clearly and Conspicuously disclose the availability of the refund periods described in this paragraph in the Enrollment Agreement or in a separate written disclosure prior to starting class. CEC shall not hold a qualifying Student who withdraws in accordance with this paragraph liable for any tuition and fees associated with attending classes and shall return to grantors or lenders any grants and financial aid received directly from a grantor or lender for or on behalf of the Student. Under no circumstances shall the time of a Student's attendance in the orientation program required pursuant to paragraph 100 be included in the refund periods required pursuant to this paragraph.

102. Except for qualifying Students who withdraw during the new Student orientation

program required pursuant to paragraph 100 or the applicable refund period established by paragraph 101, when a Student withdraws from a Program of Study, CEC may retain or be entitled to payment for a percentage of any tuition and fees and other educational costs earned, based on the percentage of the enrollment period attended by the Student, subject to the CEC institution's internal refund policies and applicable law; *provided, however*, that where a student has not attended sixty (60) percent of the academic term as calculated in accordance with 34 CFR 668.22, CEC shall not retain or be entitled to payment for a percentage of any tuition and fees or other educational costs for a class that was scheduled to be taken during the relevant academic term but was not attended because the student withdrew from school prior to the commencement of the class. Except as mandated by changes to federal or state laws or regulations, no CEC institution shall change its internal policy with respect to calculating the percentage of tuition and fees and other educational costs that a Student remains obligated to pay upon withdrawal in a manner that results in the policy becoming less favorable to Students unless CEC obtains the prior approval of the Administrator or, if the Administrator's term has expired, the Executive Committee. CEC shall comply with all state and federal record-keeping requirements for documenting Student attendance and determining dates of withdrawal.

103. CEC shall comply with applicable state and federal law specifying the amounts owed by or to be refunded to Students to the extent their application would result in a greater refund or lower cost for a Student than is otherwise required herein.

THIRD-PARTY LEAD VENDOR REQUIREMENTS

104. CEC shall require that all contracts with Third-Party Lead Vendors who provide it with lead generation services include each of the following:

(a) a provision requiring that the Third-Party Lead Vendor comply with:

(i) CEC's lead aggregator guidelines in effect at the time of contracting or as may be modified subsequently, subject to approval by the Administrator;

(ii) all applicable state and federal consumer protection laws;

(iii) if and when applicable to CEC, all provisions in the Code of Conduct referenced in paragraph 105; and

(iv) all provisions of the Telephone Consumer Protection Act, 47 U.S.C. § 227;

(b) a prohibition on attracting Students or obtaining leads by misleading advertising suggesting available employment opportunities rather than educational opportunities;

(c) a prohibition on representing that a Student or Prospective Student is guaranteed to receive "free" financing from the federal or a state government; *provided, however*, that CEC may permit its Third-Party Lead Vendors to represent that grants and scholarships may be available and would not need to be repaid;

(d) a prohibition on representing that loans are grants that do not carry with them an obligation to be repaid;

(e) a provision prohibiting Third-Party Lead Vendors from transferring a Prospective

Student inquiry to a CEC institution unless the Prospective Student has expressly informed the Third-Party Lead Vendor that he or she is interested in educational opportunities. Prior to transferring a Prospective Student to a CEC institution, Third-Party Lead Vendors shall be required to ask the Prospective Student if they are interested in educational opportunities. Should the Prospective Student say "no," or otherwise provide a clear negative response as to their interest in pursuing educational opportunities, the Prospective Student cannot be directed to a CEC institution. Should the Prospective Student say "I'm not sure," or otherwise provide an equivocal response as to their interest in pursuing educational opportunities as opposed to job opportunities, the Third-Party Lead Vendor shall be permitted to describe the advantages an education may provide in creating additional job opportunities, but in so doing, the Third-Party Lead Vendor shall be prohibited from referencing any specific salary amounts. The Third-Party Lead Vendor shall then again ask the Prospective Student if they are interested in educational opportunities. Should the Prospective Student respond by providing a clear and affirmative indication that they are interested in educational opportunities, the Third-Party Lead Vendor shall be permitted to continue transferring the Prospective Student to a CEC institution; otherwise, the Prospective Student cannot be transferred to a CEC institution. In all events, prior to transferring any Prospective Student to a representative of any CEC institution, Third-Party Lead Vendors shall be required to confirm the Prospective Student's interest in pursuing educational opportunities; and

(f) a requirement that all Third-Party Lead Vendors begin calls made on behalf of

CEC with the following statement immediately after the Prospective Student answers the phone, "This is [insert company], this call may be recorded for quality assurance and training purposes," or words to that effect. Should the Prospective Student that answers the phone transfer the call to another Prospective Student, the preceding statement must be repeated for this Prospective Student and any other Prospective Student that may be later connected to the call. Additionally, the Third-Party Lead Vendor will clearly state that "this call may be recorded for quality assurance and training purposes" before transferring a call to CEC.

105. In addition, CEC shall negotiate in good faith with the Attorneys General and other post-secondary educational institutions with the goal of codifying a Code of Conduct that may be amended from time to time, for the recruitment of Students through Third-Party Lead Vendors. The Code of Conduct shall include provisions to help ensure that Third-Party Lead Vendors do not make misleading claims or use misleading solicitation strategies when generating leads for post-secondary educational institutions. CEC shall be bound to abide by the provisions of the Code of Conduct that post-secondary educational institutions agree to follow and implement as long as those provisions do not conflict with any other requirement of this AOD. CEC shall not be obligated to abide by the Code of Conduct provisions unless and until the Code of Conduct becomes effective as to industry participants representing (together with CEC) at least 50% of students enrolled in for-profit schools, with such percentage to be calculated using the most recent available data from The Integrated Postsecondary Education Data System regarding student enrollments at four-year and two-year post-secondary educational institutions that

award degrees at the associate's degree level or above. All parties shall use reasonable efforts to encourage the participation of Third-Party Lead Vendors in the Code of Conduct.

(a) During the term of this AOD, CEC shall continue to retain its current third-party vendor, or a vendor who employs comparative services, to monitor the conduct of CEC's Third-Party Lead Vendors and monitor that they are complying with the contractual terms set forth in paragraph 104, including but not limited to whether the Third-Party Lead Vendors are using any unfair, false, misleading, deceptive, or abusive acts or practices (as those terms are commonly understood in the context of consumer protection laws), and the use of any incentive, discount, or inducement of any kind to encourage Student inquiries or otherwise used to recruit Students. Any decision to switch from its current vendor to another vendor shall be done in consultation with and approval by the Administrator.

106. If CEC learns that a Third-Party Lead Vendor or a sub-vendor, which for the purposes of this paragraph shall mean a third-party utilized by a Third-Party Lead Vendor to assist it in providing Prospective Student inquiries to CEC, that provides services to the Third-Party Lead Vendor has failed to materially comply with the contractual terms set forth in paragraphs 104(a)(ii) through 104(f), or has failed to materially comply with any of CEC's Lead Aggregator Guidelines that would give rise to a violation of paragraphs 104(a)(ii) through 104(a)(iv) ("a Violation"), CEC shall retain a record of such Violation (which record shall be available to the Administrator and the Attorneys General upon request) for a period of two (2) years and shall address such Violation by taking corrective action against the segment of the Third-Party Lead Vendor's business in which

the Violation occurred (for example, if the Third-Party Lead Vendor commits a Violation related to a webpage, electronic solicitation, or other online advertisement, CEC shall not be required to take corrective action against that Third-Party Lead Vendor with respect to any call center, that the Third-Party Lead Vendor may be providing to CEC) or by demanding corrective action against the sub-vendor as follows:

(a) First Violation within any rolling 12-month period: CEC shall notify the Third-Party Lead Vendor of the Violation and the steps it must take to correct the Violation. If, within five (5) business days, the Third-Party Lead Vendor does not document that it is actively engaged in making the required changes, the Violation shall be escalated to CEC's Compliance Department, which shall inform the Third-Party Lead Vendor and pause the campaign, or if the Violation was committed by a sub-vendor, demand that the Third-Party Lead Vendor pause the sub-vendor's participation in the campaign, until the Violation is corrected;

(b) Second Repeated Violation within any rolling 12-month period: CEC shall notify the Third-Party Lead Vendor of the Violation and the steps it must take to correct the Violation. If, within five (5) business days, the Third-Party Lead Vendor does not document that it is actively engaged in making the required changes, the Violation shall be escalated to CEC's Compliance Department, which shall inform the Third-Party Lead Vendor and pause the campaign, or if the Violation was committed by a sub-vendor, demand that the Third-Party Lead Vendor pause the sub-vendor's participation in the campaign, for thirty (30) days or until the Violation is corrected, whichever is longer; and

(c) <u>Third Repeated Violation within any rolling 12-month period</u>: CEC shall notify the Third-Party Lead Vendor of the Violation and the steps it must take to correct the Violation. If, within five (5) business days, the Third-Party Lead Vendor does not document that it is actively engaged in making the required changes, the Violation shall be escalated to CEC's Compliance Department, which shall inform the Third-Party Lead Vendor that the segment of the Third-Party Lead Vendor's business in which the Violations occurred shall be removed from CEC's vendor list for a period of at least one (1) year, or if the Violation was committed by a sub-vendor, that the Third-Party Lead Vendor must cease using the sub-vendor for CEC's account for a period of at least one (1) year;

provided, *however*, that nothing in this paragraph shall be deemed to limit or otherwise affect CEC's obligations under paragraph 107 of this AOD.

107. Termination Violations.

(a) For purposes of this paragraph, a "Termination Violation" means any one of the following occurrences:

(i) a Third-Party Lead Vendor's webpage, electronic solicitation, or other online advertisement references both a post-secondary educational opportunity and an employment opportunity, and the webpage, electronic solicitation, or online advertisement (1) uses a substantially smaller font size to present the educational opportunity as compared with the employment opportunity or (2) represents the educational opportunity as a "want ad" or employment application;

(ii) a Third-Party Lead Vendor's webpage, electronic solicitation, or other online advertisement states that the Prospective Student (1) is eligible for a scholarship, grant, or financial aid as the result of having already won a drawing or raffle, (2) has been specially selected to receive a scholarship, grant, or financial aid, or (3) is entitled to receive compensation to fund his or her education in exchange for completing a form; or

(iii) a Third-Party Lead Vendor's webpage, electronic solicitation, or other online advertisement states that a Prospective Student will receive compensation to fund his or her post-secondary education that will not need to be repaid, unless the statement refers to grants that are expressly stated to be subject to eligibility.

(b) Notwithstanding anything in paragraph 106 to the contrary, in the event that a Third-Party Lead Vendor incurs three Termination Violations within a 180-day period, CEC shall, within thirty (30) days of discovering the third such Termination Violation, terminate any outstanding insertion orders to the segment of the Third-Party Lead Vendor's business in which the Termination Violations occurred and not issue any new insertion orders to that business segment for at least ninety (90) days if the Termination Violations were attributable to the Third-Party Lead Vendor, or if the Termination Violations were attributable to a sub-vendor, demand that the Third-Party Lead Vendor must cease using the sub-vendor for CEC's account a period of at least ninety (90) days; *provided, however*, that the requirements of this subparagraph shall not apply if the CEC and/or the Third-Party Lead Vendor document to the reasonable satisfaction of

the Administrator that the three Termination Violations that would otherwise have triggered the requirements of this subparagraph represented, in the aggregate, no more than 1% of the total Prospective Student leads from the Third-Party Lead Vendor during the relevant period.

108. Upon written notice from the Attorneys General or Administrator that a Third-Party Lead Vendor has failed to comply with the contractual terms set forth in paragraph 104 of this AOD, or any provision of an applicable state consumer protection law, CEC shall conduct an investigation of the Third-Party Lead Vendor practice and report the results of that investigation to the Attorneys General and to the Administrator within thirty (30) days, unless the Attorneys General agree otherwise.

109. CEC shall maintain policies and procedures and take appropriate action, including but not limited to exercising any rights available to it under a contract, to require Third-Party Lead Vendors to comply with this AOD. Appropriate action shall be determined by the nature and circumstance of the alleged Violation, including but not limited to the pattern or severity of the alleged conduct.

110. Subject to the prior approval of the U.S. Department of Education, CEC shall work in good faith to develop and implement a system of paying Third-Party Lead Vendors based on the actual quality of leads produced by the particular vendor.

111. Nothing in this AOD limits the right of the Attorneys General to investigate or take any action against Third-Party Lead Vendors for any violation of applicable law, nor shall anything in this AOD be construed to limit the remedies available to the Attorneys General for any violation of applicable law by Third-Party Lead Vendors.

ENFORCEMENT

112. The terms of this paragraph apply only during the term of the Administrator.

(a) If at any time it appears that CEC is engaged in a practice or pattern of non-compliance with this AOD, or commits an egregious act of non-compliance with this AOD, either on the basis of information obtained by the Administrator pursuant to the Work Plan or from information obtained through any other source, then the Administrator shall review the relevant facts, collect whatever additional facts the Administrator deems necessary, and seek CEC's position as to the practice, pattern, or egregious act of alleged non-compliance and related instances of individual violations. If the Administrator's review establishes either a pattern or practice of non-compliance or egregious act of non-compliance with this AOD, then the Administrator shall work in conjunction with CEC to devise a corrective action plan to remedy such practice or pattern of non-compliance, including a reasonable period for corrective action and implementation of such plan. To the extent that the Administrator and CEC are unable to agree to a corrective action plan, the Attorneys General may take whatever action they deem necessary, including but not limited to bringing an action to enforce this AOD, filing a new original action, conducting further investigation, or attempting to negotiate a corrective action plan directly with CEC. Should the Attorneys General choose to file a new original action, nothing referred to in this paragraph shall affect the release in paragraph 131.

(b) At a reasonable time following the period for corrective action, the Administrator

shall provide a report to the Executive Committee, setting forth:

(i) a description of the practice or pattern of non-compliance and related instances of individual violations of this AOD (including the relevant facts);

(ii) a description of the corrective action plan;

(iii) findings by the Administrator as to whether the Administrator deems it reasonably likely that CEC is in substantial compliance with the terms of this AOD, including but not limited to whether CEC has ceased to engage in a practice or pattern of non-compliance; and

(iv) a description of CEC's views as to the foregoing matters.

(c) The Attorneys General agree that they will meet and confer with CEC concerning the subject of the action before filing any action related to this AOD, so long as CEC makes necessary representatives available to meet and confer in a timely manner. However, an Attorney General may take any action where the Attorney General concludes that, because of a specific practice, an imminent threat to the health, safety, or welfare of the citizens of the State exists, or the practice creates a public emergency requiring immediate action.

(d) The Attorneys General agree that no action may be filed to enforce the terms of this AOD unless they have proceeded as set forth in this paragraph. However, an Attorney General may take any action where the Attorney General concludes that, because of a specific practice, an imminent threat to the health, safety, or welfare

of the citizens of the State exists, or the practice creates a public emergency requiring immediate action.

113. The terms of this paragraph shall apply following the term of the Administrator.

(a) For the purposes of resolving disputes with respect to compliance with this AOD, should any of the Attorneys General have a reasonable basis to believe that CEC has engaged in a practice that violates a provision of this AOD and decide to pursue the matter, then such Attorney General shall notify CEC in writing of the specific practice in question, identify with particularity the provision of this AOD that the practice appears to violate, and give CEC thirty (30) days to respond to the notification. Within thirty (30) days of its receipt of such written notice, CEC shall provide a good-faith written response to the Attorney General notification, containing either a statement explaining why CEC believes it is in compliance with this AOD, or a detailed explanation of how the alleged violation occurred and a statement explaining how CEC intends to remedy the alleged breach.

(b) Should any of the Attorneys General have a reasonable basis to believe that CEC has engaged in a practice that violates a provision of this AOD and decide to pursue the matter, and following notice to CEC as provided in subparagraph (a), CEC shall provide the Attorneys General reasonable access to inspect and copy relevant, non-privileged records and documents in the possession, custody, or control of CEC that relate to CEC's compliance with the identified practice that the Attorneys General believe may violate this AOD. If the Attorneys General make or request copies of any documents during the course of that inspection, the

Attorneys General will provide a list of those documents to CEC. This provision does not limit the rights of the Attorneys General to otherwise serve subpoenas or CIDs on CEC or to enforce them.

(c) The Attorneys General may assert any claim that CEC has violated this AOD in a separate civil action to enforce compliance with this AOD, or may seek any other relief afforded by law to enforce compliance with this AOD, but only after providing CEC an opportunity to respond to the notification described in subparagraph (a); *provided, however*, that an Attorney General may take any action if the Attorney General concludes that a specific practice alleged to be in violation of this AOD requires immediate action due to an imminent threat to the health, safety, or welfare of the public, or the practice creates a public emergency requiring immediate action.

114. The Attorneys General agree to make good faith efforts to coordinate any future efforts to enforce violations of this AOD to the extent they are reasonably able to do so. To that end, each Attorney General agrees to provide notice to the Executive Committee at least ten (10) business days prior to the filing of any action to enforce this AOD against any of the parties released from liability pursuant to paragraph 131. However, nothing in this paragraph shall be construed so as to limit the right of a state to enforce any law in any action by that state not related to enforcement of compliance with this AOD. In addition, the notice requirement stated herein shall not apply to the extent that the relevant Attorney General concludes that further delay in acting constitutes a threat to public health, safety, or welfare, or that the action intended to be taken addresses a public emergency requiring immediate action. For the avoidance of doubt, nothing in this

paragraph shall relieve the Attorneys General of the requirements of paragraphs 112 and 113 of this AOD, which must be satisfied before any Attorney General may provide the notices required by this paragraph.

115. Subject to the release set forth in paragraph 131, nothing in this AOD limits the right of the Attorneys General to conduct investigations or examinations or file suit for any violation of applicable law, not related to the enforcement of compliance with this AOD nor shall anything in this AOD be construed to limit the remedies available to the Attorneys General for any violation of applicable law that is not released by this AOD. For the avoidance of doubt, nothing in this paragraph shall be construed to modify the procedures to be followed prior to the filing of an action to enforce the terms of this AOD, as set forth in paragraphs 112 through 114.

INSTITUTIONAL RECEIVABLES

116. For purposes of this paragraph and paragraph 117, a "Qualifying Former Student" means any former student whose last known address at the time of the Effective Date is in a state that is a party to this AOD and either (a) attended a CEC institution which was closed prior to the Effective Date or is currently scheduled to close before December 31, 2018; or (b) whose final day of attendance at AIU or CTU occurred on or before December 31, 2013. As partial consideration for the release set forth in paragraph 131, without any admission of wrongdoing, CEC agrees to forgo any and all efforts to collect any amounts that are owed to CEC by such Qualifying Former Students (hereinafter "Institutional Receivables") on the first day of the month following after the Effective Date which amounts totaled, as of December 1, 2018, approximately $493,687,220. The

parties agree that issuance of 1099s is not required, and that 1099s will not be issued to Qualifying Former Students. For the avoidance of doubt, Institutional Receivables shall not include any amounts that are owed to non-CEC entities, such as, for example, federal student loans owed to the United States government. In the event that any Qualifying Former Student or a co-signer for a Qualifying Former Student attempts to make a payment to CEC after the first day of the month following thirty (30) days after the Effective Date that relates to Institutional Receivables, CEC shall use all reasonable efforts to refuse such payment and return the payment. CEC shall request that any and all trade line information related to amounts covered by this paragraph be deleted from Qualifying Former Students' credit reports, to the extent that such trade line information exists, at CEC's own expense. For the avoidance of doubt, it is not the Parties' intent to allow Qualifying Former Students to recover the amounts CEC is foregoing collection of pursuant to this paragraph in any other forum.

117. On or before sixty (60) days after the Effective Date, CEC shall send a letter by U.S. mail to each Qualifying Former Student at his or her last known mailing address notifying such former students that CEC are forgoing collection on their Institutional Debt, including all interest and fees. The notice shall state that due to a recent settlement with the Attorneys General the student's account balance owing to CEC is $0 and shall encourage the student to advise any and all co-signers that the student's account balance owing to CEC has been reduced to $0. The notice shall also inform the student that CEC will send a copy of the notice to each of the credit reporting agencies (*i.e.*, TransUnion, Equifax, and Experian). The notice shall further inform the student that if the student finds that the amounts owed to CEC by the student are still erroneously appearing on the

student's credit report after one hundred and twenty (120) days and notifies CEC, then CEC, at its own expense, shall promptly and properly notify the appropriate credit reporting agency, whether directly or indirectly, of any change(s) to be made to the credit reporting resulting from the application of the terms of this AOD. The notice shall provide CEC's contact information for making a request to correct a credit report and for any additional inquiries about the student's account.

PAYMENT TO THE STATES

118. CEC shall pay $5 million (the "Payment Amount") to the Attorneys General. CEC and the Attorneys General agree that CEC shall make this payment according to instructions communicated to CEC by the Attorneys General of the State of Connecticut and the State of Iowa, including allocated distributions to the Attorneys General as determined by the Executive Committee and a payment of $500,000 to the National Association of Attorneys General Financial Services and Consumer Protection Fund and $250,000 to the State Center. The Vermont Attorney General shall receive a payment of $50,000. Payment by CEC shall be made no later than thirty (30) days after the Effective Date of this AOD and after CEC's receipt of such payment instructions. The Executive Committee shall, in its sole discretion, determine the amount to be allocated to each Attorney General from the Payment Amount. Each Attorney General may, at his or her sole discretion, use such allocation for any purpose or expenditure permitted by law pursuant to the Constitution of the State of Vermont, Ch.II § 27, and 32 V.S.A. § 462, including but not limited to attorneys' fees and other costs, and/or for any other consumer protection purpose. However, no portion of the Payment Amount or such allocation shall be characterized as the payment by CEC of a fine, civil penalty, or forfeiture.

TIME TO IMPLEMENT AND DURATION

119. Except as otherwise provided in paragraphs 116 and 117 and Exhibit A hereto, CEC shall implement the terms of this AOD by no later than the Effective Date.

120. With respect to each of the paragraphs of this AOD listed in Exhibit A hereto, CEC shall implement the terms of the relevant paragraph of this AOD by no later than the date set forth in Exhibit A.

121. Except as otherwise provided in paragraphs 37 and 48, CEC shall be relieved of its obligations under this AOD on the sixth anniversary of the Effective Date; provided, however, that CEC's obligations under paragraphs 72 through 80, 82, 90, 91 (first sentence only), and 133 through 139 of this AOD shall remain in effect unless and until the AOD is terminated or modified by the Parties.

122. Beginning on the fourth anniversary of the Effective Date, CEC shall have the right to petition the Executive Committee to be relieved of its obligations under specific identified paragraphs of this AOD that CEC believes have become overly burdensome or unnecessary. CEC shall set forth in writing the reasons why it believes it should be relieved from such obligations and any additional factors that it would like the Executive Committee to consider. Moreover, if the U.S. Department of Education adopts regulations that establish a uniform approach for the calculation and disclosure of job placement rates that is applicable to CEC institutions, then CEC may petition the Executive Committee to be relieved of its obligations under paragraph 23 and paragraphs 61 through 69 on the date when such regulations become effective. The Executive Committee shall consider any petitions made by CEC in good faith and, in each case, the

Executive Committee shall be obligated to meet and confer with CEC within sixty (60) days of the request being sent and to make a recommendation about the petition to the Attorneys General within sixty (60) days thereafter.

123. In the event that CEC sells or otherwise transfers control of American InterContinental University or Colorado Technical University, to a third-party acquirer (the "Acquiring Company"), and the Acquiring Company becomes subject to the terms of this AOD as a successor to CEC, the Acquiring Company shall assume CEC's rights to petition under this paragraph with respect to the institutions sold or transferred by CEC.

MISCELLANEOUS PROVISIONS

124. All obligations undertaken by CEC under this AOD shall apply prospectively. Nothing herein, including the powers and duties of the Administrator to review CEC's compliance with this AOD shall apply to any of the schools owned or operated by Career Education Corporation fully taught out by December 31, 2018.

125. Nothing in this AOD shall override or prevent CEC from complying with its obligations under the August 19, 2013 Assurance of Voluntary Discontinuance with the New York Attorney General, including its obligations regarding placement rate disclosures.

126. During the term of this AOD, if the position of the Administrator is vacant, then, to the extent that this AOD or the Work Plan referenced in paragraph 35 requires the Administrator's approval or consent for CEC to take a particular action, then CEC shall be entitled to take that action if it notifies the Attorneys General of its intent to act and the Attorneys General fail to object with particularity within thirty (30) days. If the

Attorneys General object and particularize the bases for the objection within the thirty (30) day period, then the Parties shall promptly meet and confer, following which CEC shall be entitled to seek judicial review with regard to the objection if necessary.

127. Either the Attorneys General or CEC may request to meet and confer with respect to any aspect of this AOD or its implementation by notifying the other party. The notice shall state the subjects proposed to be discussed. The recipient of the notice shall in good faith make itself and/or its representatives available to meet and confer at a mutually convenient time within thirty (30) days of the notice being sent.

128. This AOD is for settlement purposes only. No part of this AOD constitutes or shall be deemed to constitute an admission by CEC that they have ever engaged in any conduct proscribed by this AOD.

129. This AOD is made without trial or adjudication of any issue of fact or law by a court at law or equity, or finding of liability or fact of any kind, and no party to this agreement shall make contrary representations. This AOD is not intended by the parties to constitute evidence against CEC in, or provide any basis for, any action brought by any person or entity for any violation of the common law, any federal or state statute or regulation, or constitute evidence in, or provide any basis for, any defenses, claims or assertions by or on behalf of current or former Students seeking student loan forgiveness or defense to repayment claims initiated at or by the U.S. Department of Education. Further, this AOD is not intended by the parties to constitute evidence in favor of CEC in, or provide any basis for, any defense put forward by CEC against any alleged violation of the common law, or any federal or state statute or regulation, or to constitute evidence in

or provide any basis for any defenses, claims or assertions by or on behalf of CEC seeking to disallow student loan forgiveness or defense to repayment claims initiated at or by the U.S. Department of Education.

130. Notwithstanding the provisions of paragraphs 128, 129, or any other provision of this AOD, this AOD may be used as evidence in an action brought by the Attorneys General to enforce the terms of this AOD for the sole purpose of establishing those terms of the AOD that any such action seeks to enforce. In addition, notwithstanding the provisions of paragraphs 128, 129, or any other provision of this AOD, this AOD may be used by CEC and may constitute evidence in favor of CEC in any proceeding (a) brought by or on behalf of Students whose institutional debt has been forgiven pursuant to the provisions of paragraphs 116 and 117 of this AOD for the sole purpose of establishing the amount of institutional debt forgiven, or (b) brought by the Attorneys General seeking relief or recovery for claims or other matters released pursuant to paragraph 131 of this AOD for the sole purpose of establishing the matters allegedly released, or (c) in any action brought by the Attorneys General to enforce the terms of this AOD for the sole purpose of establishing conditions precedent to the bringing of such action, pursuant to paragraphs 112 and 113.

131. As of the Effective Date, the Attorney Generals hereby release CEC from any and all civil claims, actions, causes of action, damages, losses, fines, costs, and penalties, pursuant to each Attorney General's State's consumer protection and trade practice statutes, that have been or could have been brought against CEC or any of their respective current or former subsidiaries, affiliates, divisions, agents, representatives, and each of their respective officers, directors, shareholders, members, insurers, attorneys or

employees on or before the Effective Date related to (1) the allegations set forth in paragraph 2 and (2) CEC's institutional lending practices that are the subject of paragraphs 116 and 117. Notwithstanding any other term of this AOD, the following do not comprise released claims: private rights of action; criminal claims; claims of environmental or tax liability; claims for property damage; claims alleging violations of State or federal securities laws; claims alleging violations of State or federal antitrust laws; claims brought by any other agency or subdivision of the State; claims alleging violations of State or federal privacy laws or State data breach laws; and claims alleging a breach of this AOD.

132. The Parties agree that this AOD does not constitute an approval by the Attorneys General of any of CEC's past or future practices, and CEC shall not make any representation to the contrary.

133. The requirements of this AOD are in addition to, and not in lieu of, any other requirements of state or federal law. Nothing in this AOD shall be construed as relieving CEC of the obligation to comply with all local, state, and federal laws, regulations, or rules, nor shall any of the provisions of this AOD be deemed as permission for CEC to engage in any acts or practices prohibited by such laws, regulations, or rules.

134. Nothing contained in this AOD shall be construed to create or waive any individual private right of action.

135. CEC shall not participate directly or indirectly in any activity to form or proceed as a separate entity or corporation for the purpose of engaging in acts prohibited in this AOD or for any other purpose which would otherwise circumvent any part of this AOD.

136. If any clause, provision or section of this AOD shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this AOD and this AOD shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

137. The section headings and subheadings contained in this AOD are included for convenience of reference only and shall be ignored in the construction or interpretation of this AOD.

138. To the extent that any changes in CEC's business, advertisements, and/or advertising practices are made to achieve or facilitate conformance to the terms of this AOD, the fact that such changes were made shall not constitute any form of evidence or admission, explicit or implicit, by CEC of wrongdoing.

139. In the event that any statute, rule, or regulation pertaining to the subject matter of this AOD is enacted, promulgated, modified, or interpreted by any federal or state government or agency, or a court of competent jurisdiction holds that such statute, rule, or regulation is in conflict with any provision of this AOD, and compliance with this AOD and the subject statute, rule, or regulation is impossible, CEC may comply with such statute, rule, or regulation and such action in the affected jurisdiction shall not constitute a violation of this AOD. CEC shall provide written notices to the Attorneys General and the Administrator, if applicable, that it is impossible to comply with this AOD and the subject law and shall explain in detail the basis for claimed impossibility, with specific reference to any applicable statutes, regulations, rules, and court opinions.

Such notice shall be provided immediately upon CEC learning of the potential impossibility and at least thirty (30) days in advance of any act or omission which is not in compliance with this AOD. Nothing in this paragraph shall limit the right of the Attorney General to disagree with CEC as to the impossibility of compliance and to seek to enforce this AOD accordingly.

140. All notices under this AOD shall be provided to the following via email and Overnight Mail:

FOR CEC:

Jeffrey D. Ayers
Senior Vice President, General Counsel and Secretary
Career Education Corporation
231 N. Martingale Rd.
Schaumburg, Illinois 60173
jayers@careered.com

And

Jerry W. Kilgore
Cozen O'Connor
Three James Plaza
Suite 1420
Richmond, VA 23219
jkilgore@cozen.com

For the State:

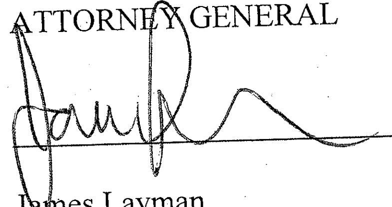
James Layman
Vermont Office of the Attorney General
109 State Street
Montpelier, VT 05609
james.layman@vermont.gov

ACCEPTED on behalf of the Attorney General:

DATED at Montpelier, Vermont this 3rd day of January, 2019.

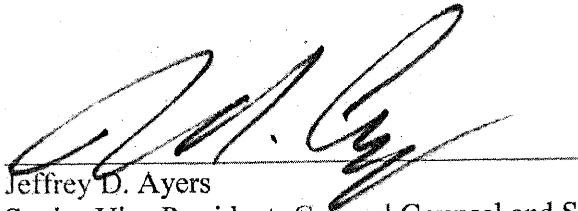
STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By: 

James Layman
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, VT 05609
james.layman@vermont.gov
802-828-2315

For Career Education Corporation, American InterContinental University, Inc., and Colorado Technical University, Inc.



Jeffrey D. Ayers
Senior Vice President, General Counsel and Secretary
Career Education Corporation
231 N. Martingale Rd.
Schaumburg, Illinois 60173
jayers@careered.com

Exhibit A – Implementation Schedule

AOD Paragraph(s)	Subject Matter	Deadline for Compliance
¶¶ 54-59 (and all other references)	Single-Page Disclosure Sheet[1]	180 days from the Effective Date, subject to the qualifications contained in the relevant paragraphs regarding what information must be contained in the Single-Page Disclosure.
¶¶ 70-71	Electronic Financial Impact Platform	CEC shall have one hundred eighty (180) days from the Effective Date to complete development, have approved by the Administrator in consultation with the Attorneys General, and implement its Electronic Financial Impact Platform

[1] All capitalized terms used in this Exhibit A shall have the meaning given to them in the AOD.

AOD Paragraph(s)	Subject Matter	Deadline for Compliance
¶¶ 73-74, 78	Prohibitions relating to graduate eligibility for employment and/or required licensure	180 days from the Effective Date
¶¶ 92-93	Call recording and voice analytics	Phased in with full functionality 18 months from the Effective Date
¶¶ 96-97	Telephone Consumer Protection Act and related matters	90 days from the Effective Date
¶ 100	Mandatory orientation	180 days from the Effective Date
¶ 101	Refunds for newly enrolled students	180 days from the Effective Date
¶ 102	Internal policy regarding obligation to pay tuition and fees when student does not attend 60% of the term	180 days from the Effective Date
¶¶ 104-111	Third-Party Lead Vendor compliance	90 days from the Effective Date

EXHIBIT B

PROGRAM NAME

PROGRAM COST AND LENGTH

TUITION AND FEES*: **$XX,XXX** PROGRAM LENGTH: **XX months**

Tuition:	Total Credits:	Cost Per Credit Hour:	Technology Fee:	Graduation Fee:
$XX,XXX	XXX	$XXX	$XXX/term	$XXX

*The amounts shown above include costs for the entire program, assuming normal time to completion. In addition, a non-refundable $150 Graduation Fee will be charged to the student's account during the final term. Program length and cost may vary due to multiple factors including eligible transferred credits, program pacing and proficiency credit awarded for passing knowledge assessments.

TRANSFER CREDITS

- **Course credits are not guaranteed to transfer to other schools.** Transferability of credits is at the sole discretion of the receiving institution.
- **Not all credits are eligible to transfer.** The Prior Learning Assessment Team can determine what credits students may be eligible to transfer into their current program. You can transfer in up to 75% of credits required for a degree. See the university's catalog regarding transfer credit policies.

STUDENT SUCCESS & OUTCOMES

THE TYPICAL GRADUATE LEAVES WITH A LOAN DEBT OF: **$XX,XXX**

The median debt of borrowers who completed this program. This debt includes federal, private, and institutional loans.

SUCCESS OF STUDENTS WHO ENROLL

XX% of Title IV students complete the program within XX months

XX out of XX complete within XX months

XX out of XX do not complete within XX months

THE TYPICAL GRADUATE EARNS **$XX,XXX** PER YEAR AFTER LEAVING THIS PROGRAM.

The median earnings of program graduates who received Federal aid.

VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT 2019 JUN -6 A 8: 17

IN RE: DG RETAIL, LLC d/b/a "DOLLAR GENERAL STORES"	))))	CIVIL DIVISION Docket No. 301-6-19 Wncv

FILED

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General Thomas J. Donovan, Jr. ("the Attorney General") and DG Retail, LLC d/b/a "Dollar General Stores" ("Respondent" or "Dollar General") hereby agrees to this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

REGULATORY FRAMEWORK

1. Vermont's Weights and Measures law, Chapter 73 of Title 9 of the Vermont Statutes Annotated (the "Weights and Measures law"), requires accurate pricing for any sale of goods in a retail store.

2. The Weights and Measures law authorizes the Vermont Agency of Agriculture, Food, and Markets (the "Agency of Agriculture") to "test the accuracy and use of laser scanning and other computer assisted check-out systems in stores" and "compare the programmed computer price with the item price of any consumer commodity offered by a store." 9 V.S.A. § 2643(b).

3. It is a violation of the Weights and Measures law if "the programmed price of a commodity exceeds the price printed on or the advertised price of the commodity." 9 V.S.A. § 2643(b).

4. It is also a violation of the Weights and Measures law to misrepresent the price of any product sold or advertised for sale by weight, measure, or count. 9 V.S.A. § 2677.

5. A violation of the Weights and Measures law is considered an unfair or deceptive act or practice in commerce in violation of the Vermont Consumer Protection Act, Chapter 63 of Title

9 of the Vermont Statutes Annotated (the "CPA"), and subject to the penalty provisions contained in the CPA. *See* 9 V.S.A. § 2771 (providing that "[i]n addition to other penalties provided by law," a violation the Weights and Measures law "shall constitute an unfair or deceptive act or practice in commerce subject to the penalty provisions established in" the CPA).

6. The CPA prohibits unfair and deceptive acts and practices in commerce. 9 V.S.A. § 2453(a).

BACKGROUND

7. Respondent DG Retail, LLC is organized under the laws of Tennessee, with its principal place of business located at 100 Mission Ridge, Goodlettsville, TN, 37072.

8. Respondent DG Retail, LLC is licensed to do business in the State of Vermont as a foreign limited liability company.

9. Respondent DG Retail, LLC operates 36 "Dollar General" retail stores in Vermont.

10. The Agency of Agriculture employs inspectors to fulfill its statutory duty to test the accuracy of scanners and other computer systems in Vermont's retail stores to ensure that the programmed price of a product does not exceed the price posted on the shelf or product's label (referred to hereinafter as a "price verification inspection" or "inspection"). If the programmed price exceeds the shelf or label price, this is known as an "overcharge error."

11. Pursuant to 6 V.S.A. § 15 and 9 V.S.A. § 2643(b), the Agency of Agriculture may impose administrative penalties of up to $1,000 for each overcharge error if an inspector identifies overcharge errors in more than two percent of the products sampled.

12. Additionally, pursuant to 6 V.S.A. § 15 and 9 V.S.A. § 2677, the Agency of Agriculture may impose administrative penalties of up to $1,000 for each misrepresentation of price of any product sold or advertised for sale by weight, measure, or count.

13. In conducting price verification inspections, inspectors follow the method set forth in Section V of the National Institute of Standards and Technology's Handbook 130, as adopted by the National Conference on Weights and Measures. Section V of Handbook 130 is titled "Examination Procedure for Price Verification."

14. From October 14, 2013, to January 23, 2019, the Agency of Agriculture identified 362 overcharge errors during 56 price verification inspections at 22 different Dollar General stores.

15. The failed inspections occurred at the Dollar General stores located in the following Vermont towns: Alburg, Barre (three different stores), Berlin, Chester, Colchester (two different stores), Enosburg, Fair Haven, Fairlee, Island Pond, Milton (two different stores), North Troy, Northfield, Randolph, Richford, Rutland (two different stores), Williamstown, and Windsor.

16. Of the 362 overcharge errors, the Agency of Agriculture found that the programmed price of a single product in this group exceeded the shelf or label price of that product by an amount ranging from $0.02 to $6.00, with a median overcharge amount of $0.35.

17. Since 2013, Dollar General has paid approximately $241,700 in penalties to the Agency of Agriculture for overcharge errors.

18. Respondent has cooperated with the Attorney General's investigation into its pricing practices.

19. For purposes of this AOD, Respondent admits the truth of all facts set forth in the Background section.

20. The Attorney General alleges that the above conduct constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

INJUNCTIVE RELIEF

21. Respondent shall comply with all provisions of Vermont law, including the Vermont Consumer Protection Act, 9 V.S.A. Chapter 63, and Vermont's Weights and Measures law, 9 V.S.A. Chapter 73.

22. Respondent shall adopt a written set of pricing accuracy policies and procedures, attached hereto as Exhibit A (the "Pricing Accuracy Policy"), designed to ensure compliance with the pricing accuracy requirements contained in Vermont's Weights and Measures law, as well as compliance with this AOD. The Pricing Accuracy Policy shall be in effect for a period of three (3) years after its adoption.

23. Respondent shall submit for approval to the Vermont Attorney General any modifications or amendments to the Pricing Accuracy Policy while in effect.

24. All Dollar General employees working in Vermont stores who have pricing responsibilities shall participate in pricing training within 90 days of the execution of this AOD, and annually thereafter during the month of July, for a period of three (3) years. Additionally, all Store Managers hired after the execution of this AOD shall participate in pricing training within fourteen (14) days of commencing employment.

25. The trainings conducted pursuant to paragraph 24 shall include the following topics:

   a. The pricing accuracy requirements contained in Vermont's Weights and Measures laws.

   b. The Pricing Accuracy Policy and how to ensure that the correct prices are displayed and charged for all products sold at Vermont's Dollar General stores.

26. The Divisional Vice President, the Vermont Regional Director, and the Vermont District Managers working in Vermont stores shall be provided with:

a. A copy of this AOD, and be required to read it, within 30 days of its execution;

b. A copy of the Pricing Accuracy Policy, and be required to read it, within 40 days of the execution of this AOD; and

c. Any modifications or amendments to the Pricing Accuracy Policy, within ten (10) days of adoption.

27. Respondent shall keep records of the training sessions conducted pursuant to paragraph 24 for a period of three (3) years from the date of training. The records shall include, but are not limited to, completion records, presentations, handouts, or other instruction materials.

28. Respondent shall conduct internal audits for a period of three (3) years such that all Vermont Dollar General stores are audited at least once per year. Internal audits shall include the random sampling of 100 items, including sale and non-sale items, at each Vermont Dollar General Store. Each audit shall generate a "Report" that includes the following:

a. The store location and store number;

b. The number of items sampled by the auditor;

c. The total number of overcharge errors found by the auditor;

d. For every overcharge error found,

    i. The name of the item sampled and the corresponding UPC code;

    ii. The lot size;

    iii. The shelf price; and

    iv. The scan or register price.

29. If an internal audit reveals overcharge errors in more than two (2) percent of the products sampled at any one store (a "failed audit"), Respondent shall immediately correct the pricing inaccuracies. Within ten (10) days of a failed audit, Respondent shall submit to the Attorney

General the Report of the failed audit and a corrective action plan describing how Respondent intends to prevent future pricing inaccuracies.

30. Respondent shall retain all Reports and other records of every internal audit for a period of three (3) years from the date of each audit, and produce all such Reports or records to the Attorney General upon request.

RESTITUTION AND PENALTIES

Respondent shall make a monetary payment of $1,750,000.00 to be allocated:

31. Respondent DG Retail, LLC shall pay $1,650,000.00 in civil penalties to the State of Vermont between July 1, 2019 and July 31, 2019. Respondent shall make payment by check to the "State of Vermont" and send payment to: Shannon Salembier, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

32. Respondent DG Retail, LLC shall pay $100,000.00 on a *cy pres* basis to the Vermont Foodbank between July 1, 2019 and July 31, 2019. Respondent shall make payment by check to the "Vermont Foodbank" and send payment to: John Sayles, Vermont Foodbank, 33 Parker Road, Barre, Vermont 05641.

OTHER TERMS

33. Respondent DG Retail, LLC agrees that this AOD shall be binding on it, and its successors and assigns.

34. The Attorney General hereby releases and discharges any and all claims arising under the Vermont Consumer Protection Act, 9 V.S.A. Chapter 63, that it may have against DG Retail, LLC for the conduct described in the Background section of this AOD.

35. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this AOD and the parties hereto for the purpose of enabling the Attorney General to apply

to this Court at any time for orders and directions as may be necessary or appropriate to enforce compliance with or to punish violations of this AOD.

36. Acceptance of this AOD by the Vermont Attorney General's Office shall not be deemed approval by the Attorney General of any practices or procedures of Respondent not required by this AOD, and Respondent shall make no representation to the contrary.

NOTICE

37. Respondent may be located at:

DG Retail, LLC
c/o General Counsel
100 Mission Ridge
Goodlettsville, TN, 37072

38. Respondent shall notify the Attorney General of any change of business name or address within 20 business days.

SIGNATURE

In lieu of instituting an action or proceeding against DG Retail, LLC, the Office of the Attorney General, pursuant to 9 V.S.A. § 2459, accepts this Assurance of Discontinuance. By signing below, Respondent voluntarily agrees with and submits to the terms of this Assurance of Discontinuance.

DATED at Goodlettsville, TN, this 29 day of May, 2019.

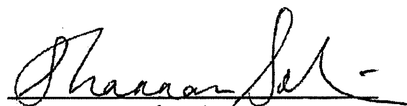
Authorized agent of DG Retail, LLC

ACCEPTED on behalf of the Attorney General:

DATED at Montpelier, Vermont this 24th day of May, 2019.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By: 

Shannon Salembier
Justin Kolber
Assistant Attorneys General
Office of Attorney General
109 State Street
Montpelier, Vermont 05609
shannon.salembier@vermont.gov
justin.kolber@vermont.gov
(802) 828-5479

EXHIBIT A

PRICING ACCURACY POLICY

Store Responsibilities:

- Store Manager ("SM") shall begin executing Super Tuesday pricing activities at 7:00 AM (eastern);
- SM shall scan all labels for Super Tuesday price changes prior to implementation;
- SM shall scan pricing on clearance and markdown stickers as part of Super Tuesdays activities;
- SM shall contact his/her District Managers ("DM") upon completion of Super Tuesday price activities;
- SM shall monitor pricing of pre-priced products prior to placement on sales floor (*e.g.*, pre-priced PDQs, stack-outs and individual products);
- SM shall discard or black-out pricing on PDQs at the conclusion of the pricing event;
- SM should walk the store with the Weights and Measure Inspector to better understand any pricing issue identified during the audit;
- SM shall send any Weights and Measures inspection reports to the appropriate personnel through Scan & Send;
- Upon fourteen (14) days of receiving his/her store, the SM shall complete Pricing Training via a computer based learning ("CBL") and, upon thirty (30) days of receiving his/her store, the SM shall complete in-person Pricing Training. Such training shall include:
    - Pricing accuracy requirements contained in Vermont's Weights and Measures laws;
    - Process for implementing price changes;
    - Correcting or remediating pricing issues;
    - Participating in the price verification inspection by the Agency of Agriculture;
    - Processing the Agency of Agriculture's inspection reports;
    - Checking pre-priced product before placement on sales floor;
    - Removing pre-priced PDQs upon conclusion of a pricing event; and
    - This Pricing Accuracy Policy.

Field Leadership Responsibilities:

- DMs shall hold a conference call with all store managers each Tuesday at 11:00 (ET) to verify Super Tuesday execution and discuss any pricing issues;
- DMs shall ensure SMs receive (i) CBL Pricing Training upon 14 days of receiving his/her store and (ii) in-person Pricing Training upon 30 days of receiving his/her store;
- DMs shall (i) review exception based reporting re: stores that failed to print price change labels and (ii) follow-up with SM where necessary;

- DMs shall review the store's pricing binder when performing his/her store visit to ensure the store is timely and consistently executing price changes; and
- DMs, RD and DVP to hold weekly conference call to ensure stores are executing price changes.

<u>Field Pricing Specialist:</u>

- Dollar General shall employ at least four Field Pricing Specialist ("FPS") to perform weekly audits of all Vermont stores;
- The FPS shall verify Vermont stores are timely and consistently complying with Dollar General's pricing procedures;
- The FPS shall identify and investigate potential pricing issues in Vermont stores and assist the store in promptly resolving such issues (when applicable);
- The FPS shall providing coaching and recommendations on pricing execution to Vermont Stores; and
- The FPS shall report any pricing issues found at stores to the appropriate DM.

VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

DW - ORDER
2019 AUG 13 P 5:03

STATE OF VERMONT

SUPERIOR COURT
WASHINGTON UNIT

CIVIL DIVISION
Docket No. 386-7-19 Wncv

STATE OF VERMONT,

Plaintiff,

v.

EQUIFAX INC., a corporation,

Defendant.

FINAL JUDGMENT AND PERMANENT INJUNCTION

Plaintiff, the People of the State of Vermont by Thomas J. Donovan, Jr., Attorney General of the State of Vermont , and Defendant Equifax Inc., a corporation ("Defendant"), appearing through its attorney, Erin M. Moore of Gravel & Shea PC, having stipulated to the entry of this Final Judgment and Permanent Injunction ("Judgment") by the Court without the taking of proof and without trial or adjudication of any fact or law, without this Judgment constituting evidence of or an admission by Equifax Inc. regarding any issue of law or fact alleged in the Complaint on file, and without Equifax Inc. admitting any liability, and with all parties having waived their right to appeal, and the Court having considered the matter and good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

I. PARTIES AND JURISDICTION

1. Plaintiff is the State of Vermont, by Thomas J. Donovan, Jr., Attorney General of the State of Vermont ("Plaintiff"). The Vermont Attorney General is authorized under the Vermont Consumer Protection Act, 9 V.S.A. § 2458(a) to enforce the Act's prohibitions on unfair and deceptive acts and practices in commerce.

2. Defendant Equifax Inc. is the parent of Equifax Information Services LLC ("EIS"), a CONSUMER REPORTING AGENCY, with its principal office located at 1550 Peachtree St. NW, Atlanta, Georgia 30309.

3. The Court has jurisdiction over the subject matter of this action and jurisdiction over the parties to this action, and venue is proper in this Court. 9 V.S.A. § 2458(a).

4. Defendant, at all relevant times, has transacted business in the State of Vermont, including, but not limited to, Washington County.

5. This Judgment is entered pursuant to and subject to the Vermont Consumer Protection Act 9 V.S.A. §§ 2451-2481.

II. DEFINITIONS

6. For the purposes of this Judgment, the following definitions shall apply:

a. "2017 DATA BREACH" shall mean the data breach, first publicly announced by EQUIFAX on September 7, 2017, in which a person or persons gained unauthorized access to portions of the EQUIFAX NETWORK.

b. "2017 BREACH RESPONSE SERVICES AND PRODUCTS" shall mean the following complimentary support services and/or products provided by EQUIFAX, its affiliates, or third parties retained by EQUIFAX or its affiliates, in response to the 2017 DATA BREACH: TrustedID Premier; Equifax Credit Watch Gold with 3 in 1 Monitoring (offered to consumers as a print alternative to TrustedID Premier); the IDNotify product offered for free through Experian; Lock & Alert; and the credit protection services required by Paragraph 42.

c. "AFFECTED CONSUMERS" shall mean all consumers residing in Vermont who had their PERSONAL INFORMATION accessed by unauthorized individuals in connection with the 2017 DATA BREACH.

d. "ATTORNEYS GENERAL" shall mean the Attorneys General of the states and commonwealths of: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii,[1] Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah,[2] Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, and the District of Columbia.

e. "CLEARLY AND CONSPICUOUSLY" shall mean that such statement, disclosure, or other information, by whatever medium communicated, including all electronic devices, is (a) in readily understandable language and syntax, and (b) in a type size, font, color, appearance, and location sufficiently noticeable for a consumer to read and comprehend it, in a print that contrasts with the background against which it appears.

i. If such statement, disclosure, or other information is necessary as a modification, explanation, or clarification to other information with which it is presented, it must be presented in proximity to the information it modifies in a manner that is readily noticeable and understandable; and

ii. In any communication using an interactive electronic medium, such as the internet or software, the disclosure must be obvious.

f. "COMPENSATING CONTROLS" shall mean alternative mechanisms that are put in place to satisfy the requirement for a security measure that is determined by the Chief Information Security Officer or his or her designee to be impractical to implement at the present time due to legitimate technical or business constraints. Such alternative mechanisms

[1] Hawaii is represented by its Office of Consumer Protection. For simplicity purposes, the entire group will be referred to as the "Attorneys General," or individually as "Attorney General." Such designations, however, as they pertain to Hawaii, shall refer to the Executive Director of the State of Hawaii Office of Consumer Protection.

[2] Claims pursuant to the Utah Protection of Personal Information Act are brought under the direct enforcement authority of the Attorney General. Utah Code § 13-44-301(1). Claims pursuant to the Utah Consumer Sales Practices Act are brought by the Attorney General as counsel for the Utah Division of Consumer Protection, pursuant to the Division's enforcement authority. Utah Code §§ 13-2-1 and 6.

must: (1) meet the intent and rigor of the original stated requirement; (2) provide a similar level of security as the original stated requirement; (3) be up-to-date with current industry accepted security protocols; and (4) be commensurate with the additional risk imposed by not adhering to the original stated requirement. The determination to implement such alternative mechanisms must be accompanied by written documentation demonstrating that a risk analysis was performed indicating the gap between the original security measure and the proposed alternative measure, that the risk was determined to be acceptable, and that the Chief Information Security Officer or his or her designee agrees with both the risk analysis and the determination that the risk is acceptable.

g. "CONSUMER REPORTING AGENCY" shall mean any person as defined by 15 U.S.C. § 1681a(p), and any amendments thereto.

h. "CREDIT FILE" shall mean a file as defined in 15 U.S.C. § 1681a(g), and any amendments thereto.

i. "CREDIT REPORT" shall mean a consumer report as defined in 15 U.S.C. § 1681a(d), and any amendments thereto.

j. "EFFECTIVE DATE" shall be August 22, 2019 except as otherwise noted in the Judgment.

k. "ENCRYPT," "ENCRYPTED," or "ENCRYPTION" shall mean rendering data—at rest or in transit—unusable, unreadable, or indecipherable through a security technology or methodology generally accepted in the field of information security commensurate with the sensitivity of the data at issue.

l. "EQUIFAX" shall mean Equifax Inc., its affiliates, directors, officers, subsidiaries and divisions, successors and assigns doing business in the United States.

m. "EQUIFAX NETWORK" shall mean all networking equipment, databases or data stores, applications, servers, and endpoints that: (1) are capable of using and sharing software, data, and hardware resources; (2) are owned, operated, and/or controlled by EQUIFAX; and (3) collect, process, store, or have access to PERSONAL INFORMATION of consumers who reside in the United States. For purposes of this Judgment, EQUIFAX

NETWORK shall not include networking equipment, databases or data stores, applications, servers, or endpoints outside of the United States, which are not used to collect, process, or store PERSONAL INFORMATION, and where access to PERSONAL INFORMATION is restricted using a risk-based control. For purposes of this definition, a risk-based control shall, at a minimum, include: (i) web-application-, network-, or host-based firewalls, or ENCRYPTION of the PERSONAL INFORMATION; and (ii) preadmission identification and/or access management controls, including, for example, multi-factor authentication.

n. "FCRA" shall mean the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., and any amendments thereto.

o. "FEE-BASED PRODUCTS OR SERVICES" shall mean any product or service that EQUIFAX sells or charges any amount of money for United States consumers to use or obtain.

p. "FURNISHER" or "FURNISHERS" shall mean a person or entity that meets the definition of furnisher set forth in 16 C.F.R. § 660.2(c), and any amendments thereto.

q. "GOVERNANCE PROCESS" shall mean any written policy, standard, procedure, or process (or any combination thereof) designed to achieve a control objective with respect to the EQUIFAX NETWORK.

r. "MULTI-DISTRICT LITIGATION" shall mean those actions filed against Equifax Inc. and/or its subsidiaries asserting claims related to the 2017 DATA BREACH by or on behalf of one or more consumers that have been or will be transferred to the federal proceedings styled In re Equifax Inc. Customer Data Security Breach Litigation, MDL 1:17-md-2800 (N.D. Ga.) (Consumer Actions).

s. "MULTISTATE LEADERSHIP COMMITTEE" shall mean California, Connecticut, District of Columbia, Florida, Georgia, Illinois, Maryland, New Jersey, New York, Ohio, and Pennsylvania.

t. "NON-FCRA INFORMATION" shall mean any information that is collected, stored, or maintained by EQUIFAX and either:

i. Does not bear on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, or

ii. Is not used or expected to be used or collected in whole or in part for any purpose authorized under 15 U.S.C. § 1681b, and any amendments thereto.

u. "PERSONAL INFORMATION" shall mean information regarding an individual residing in Vermont that falls within one of the following categories:

i. A consumer's first name or first initial and last name in combination with any one or more of the following data elements that relate to such individual: (a) Social Security number; (b) driver's license number; (c) state- or federally-issued identification card number; or (d) financial account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to the consumer's financial account;

ii. Biometric information, meaning data generated by electronic measurements of an individual's unique physical characteristics, such as a fingerprint, voice print, retina or iris image, or other unique physical characteristics or digital representation thereof;

iii. A user name or e-mail address in combination with a password or security question and answer that would permit access to an online account; or

iv. Any category of Personally Identifiable Information found in the definition as set forth in 9 V.S.A. § 2430(5)(A) as of September 7, 2017.

v. "PROTECTED INDIVIDUAL" shall mean an individual who meets the definition of protected consumer set forth in 15 U.S.C. § 1681c-1(j)(1)(B), and any amendments thereto.

w. "REINVESTIGATION" or "REINVESTIGATE" shall mean the process set forth in 15 U.S.C. § 1681i, and any amendments thereto.

x. "SECURITY EVENT" shall mean any compromise, or threat that gives rise to a reasonable likelihood of compromise, by unauthorized access or inadvertent disclosure impacting the confidentiality, integrity, or availability of PERSONAL INFORMATION of at

least 500 United States consumers held or stored within the EQUIFAX NETWORK, including but not limited to a data breach. For purposes of this definition, "availability" shall not include an intentional limitation on the availability of PERSONAL INFORMATION, such as for purposes of performing maintenance on the EQUIFAX NETWORK.

III. INJUNCTIVE RELIEF

7. The duties, responsibilities, burdens, and obligations undertaken in connection with this Judgment shall apply to EQUIFAX, and its directors, officers, and employees.

8. The injunctive terms contained in this Judgment are being entered pursuant to 9 V.S.A. § 2458(a).

COMPLIANCE WITH LAW

9. EQUIFAX shall comply with the Vermont Consumer Protection Act, 9 V.S.A. §§ 2451-2481 in connection with its collection, maintenance, and safeguarding of PERSONAL INFORMATION of consumers in Vermont.

10. EQUIFAX shall not make a misrepresentation which is capable of misleading consumers or fail to state a material fact if that failure is capable of misleading consumers regarding the extent to which EQUIFAX maintains and/or protects the privacy, security, confidentiality, or integrity of any PERSONAL INFORMATION collected from or about consumers.

11. EQUIFAX shall not offer, provide, or sell any good or service in violation of 15 U.S.C. § 1681c-1(i), and any amendments thereto.

12. EQUIFAX shall comply with Vermont's Security Breach Notice Act, 9 V.S.A. § 2435 .

INFORMATION SECURITY PROGRAM

13. Within ninety (90) days after the EFFECTIVE DATE and for a period of seven (7) years, EQUIFAX shall implement, maintain, regularly review and revise, and comply with a comprehensive information security program ("Information Security Program") the purpose of which shall be to take reasonable steps to protect the confidentiality, integrity, and availability of PERSONAL INFORMATION on the EQUIFAX NETWORK. EQUIFAX's Information

Security Program shall be documented in the GOVERNANCE PROCESSES and shall contain administrative, technical, and physical safeguards appropriate to:

a. The size and complexity of EQUIFAX's operations;

b. The nature and scope of EQUIFAX's activities; and

c. The sensitivity of the PERSONAL INFORMATION on the EQUIFAX NETWORK.

The Information Security Program required by this Judgment shall include the requirements of Paragraphs 14 through 40 in this Judgment.

14. The principles of zero-trust should be considered and, where reasonably feasible, utilized in the design of EQUIFAX's Information Security Program.

15. EQUIFAX may satisfy the implementation and maintenance of the Information Security Program and the safeguards required by this Judgment through review, maintenance, and, if necessary, updating, of an existing information security program or existing safeguards, provided that such existing information security program and existing safeguards meet the requirements set forth in this Judgment.

16. EQUIFAX shall employ an executive or officer who shall be responsible for implementing, maintaining, and monitoring the Information Security Program (for ease, hereinafter referred to as the "Chief Information Security Officer"). The Chief Information Security Officer shall have the education, qualifications, and experience appropriate to the level, size, and complexity of her/his role in implementing, maintaining, and monitoring the Information Security Program. This Chief Information Security Officer shall report annually to the EQUIFAX Board of Directors on the adequacy of EQUIFAX's Information Security Program. The Chief Information Security Officer shall also, at any meeting of the Board of Directors concerning the security posture or security risks faced by EQUIFAX and at each quarterly meeting of the Technology Committee of the Board of Directors, provide reports to EQUIFAX's Board of Directors, and shall inform, advise, and update the Board of Directors or Technology Committee regarding EQUIFAX's security posture and the security risks faced by EQUIFAX. The Chief Information Security Officer shall report to the Chief Executive Officer,

as well as a member of EQUIFAX's Board of Directors, in the event that the Chief Executive Officer is not a member of the Board of Directors, (i) any unauthorized intrusion to the EQUIFAX NETWORK within forty-eight (48) hours of discovery that it is a SECURITY EVENT and (ii) any "THIRD-PARTY REPORTED EVENT" as defined in Paragraph 23 within forty-eight (48) hours of receipt of the report from the third-party vendor. The quarterly reports to the Technology Committee shall also include all SECURITY EVENTS or THIRD-PARTY REPORTED EVENTS that were reported to the Chief Executive Officer after the previous regular report.

17. EQUIFAX shall employ for each of its United States business units an officer who shall be responsible for implementing, maintaining, and monitoring the Information Security Program for that business unit (for ease, hereinafter referred to as a "Business Information Security Officer"). Each Business Information Security Officer shall have the education, qualifications, and experience appropriate to the level, size, and complexity of the Business Information Security Officer's role in implementing, maintaining and monitoring the Information Security Program. Each Business Information Security Officer shall be responsible for regularly informing, advising, and updating the Chief Information Security Officer or his/her designee regarding the security posture of the business unit for which he/she is responsible, the security risks faced by the relevant business units, and the implications of any decision the Business Information Security Officer makes that may materially impact the security posture of the business unit.

18. EQUIFAX shall ensure that the Chief Information Security Officer, Business Information Security Officers, and Information Security Program receive the resources and support reasonably necessary to ensure that the Information Security Program functions as required by this Judgment.

19. Employees who are responsible for implementing, maintaining, or monitoring the Information Security Program, including but not limited to the Chief Information Security Officer and Business Information Security Officers, must have sufficient knowledge of the requirements of this Judgment and receive specialized training on safeguarding and protecting

consumer PERSONAL INFORMATION to help effectuate EQUIFAX's compliance with the terms of this Judgment. EQUIFAX shall provide the training required under this paragraph to all employees within sixty (60) days of the EFFECTIVE DATE of this Judgment or prior to an employee starting their responsibilities for implementing, maintaining, or monitoring the Information Security Program. On an annual basis, or more frequently if appropriate, EQUIFAX shall provide training on safeguarding and protecting PERSONAL INFORMATION to its employees who handle PERSONAL INFORMATION, and its employees responsible for implementing, maintaining, or monitoring the Information Security Program.

20. EQUIFAX's Information Security Program shall be designed and implemented to ensure the appropriate identification, investigation of, and response to SECURITY EVENTS.

21. EQUIFAX shall implement and maintain a written incident response plan to prepare for and respond to SECURITY EVENTS. EQUIFAX shall revise and update this response plan, as necessary, to adapt to any changes to the EQUIFAX NETWORK. Such a plan shall, at a minimum, identify and describe the following phases:

I. Preparation;

II. Detection and Analysis;

III. Containment;

IV. Notification and Coordination with Law Enforcement;

V. Eradication;

VI. Recovery;

VII. Consumer Response (including consideration of appropriate staffing levels, training, and written materials), and Consumer and Regulator Notification and Remediation; and

VIII. Post-Incident Analysis.

22. EQUIFAX shall conduct, at a minimum, biannual incident response plan exercises ("table-top exercises") to test and assess its preparedness to respond to a SECURITY EVENT. These exercises shall include the following, as appropriate:

a. Planning for sufficient staffing levels to handle a high volume of potential consumer traffic and provide consumers access to live agents in a reasonable amount of time;

b. Planning employee training to provide relevant, useful, and accurate information to consumers, including how to place fraud alerts or security freezes;

c. Preparing written materials to provide to consumers that CLEARLY AND CONSPICUOUSLY disclose relevant information;

d. Planning for any necessary online resources to be compliant with the Americans with Disabilities Act (ADA);

e. Planning for oral and written consumer communications in multiple languages depending on the nature of the table-top exercise; and

f. Considering the translation of state-required data breach notifications to consumers into multiple languages including Spanish, Chinese, Tagalog, Vietnamese, Arabic, French, and Korean depending on the nature of the table-top exercise.

23. EQUIFAX shall oversee its third-party vendors who have access to the EQUIFAX NETWORK or who hold or store PERSONAL INFORMATION on EQUIFAX's behalf by maintaining and periodically reviewing and revising, as needed, a GOVERNANCE PROCESS for assessing vendor compliance in accordance with EQUIFAX'S Information Security Program including whether the vendor's security safeguards are appropriate for that business. That GOVERNANCE PROCESS shall require vendors by contract to implement and maintain such safeguards and to notify EQUIFAX within seventy-two (72) hours of discovering a SECURITY EVENT (a "THIRD-PARTY REPORTED EVENT").

PERSONAL INFORMATION SAFEGUARDS AND CONTROLS

24. EQUIFAX shall maintain and comply with a GOVERNANCE PROCESS establishing that PERSONAL INFORMATION will be collected, processed, or stored to the minimum extent necessary to accomplish the intended legitimate business purpose(s) in using such information.

25. EQUIFAX shall maintain, regularly review, revise, and comply with a GOVERNANCE PROCESS requiring EQUIFAX to either ENCRYPT PERSONAL INFORMATION or otherwise implement COMPENSATING CONTROLS to protect PERSONAL INFORMATION from unauthorized access, whether the information is transmitted electronically from the EQUIFAX NETWORK or is stored in the EQUIFAX NETWORK.

26. EQUIFAX shall make reasonable efforts to reduce its use and storage of consumer Social Security numbers. It shall:

a. Actively seek to and, where possible, participate in an external organization or working group focused on the development and implementation of alternative means of identity authentication with a goal of identifying options for minimizing its use of Social Security numbers for identity authentication purposes, to the extent that any such group exists;

b. Conduct an internal study of the primary instances in which Social Security numbers are collected, maintained, or used on the EQUIFAX NETWORK, including for consumer authentication purposes, and evaluate potential alternatives to such collection, maintenance, or use. In evaluating such alternatives, EQUIFAX may consider, among other things, the impact on privacy, security, reducing identity theft and fraud, and ease of incorporation into EQUIFAX's business processes. Upon the conclusion of this study, or within one year of the EFFECTIVE DATE, whichever is sooner, the study shall be provided to the Chief Executive Officer, who shall establish a working group to implement identified alternatives, where feasible. EQUIFAX shall also provide a copy of the study to the California Attorney General's Office.

i. The California Attorney General's Office shall provide a copy of the study received from EQUIFAX to the Vermont Attorney General upon request.

ii. The study and all information contained therein, to the extent permitted by the laws of the State of Vermont: shall be treated by the Vermont Attorney General's Office as confidential; shall not be shared or disclosed except as described in subsection (i); and shall be treated by the Vermont Attorney General's Office as exempt from

disclosure under the relevant public records laws of the State of Vermont. In the event that the Vermont Attorney General's Office receives any request from the public for the study or other confidential documents under this Judgment and believes that such information is subject to disclosure under the relevant public records laws, the Vermont Attorney General's Office agrees to provide EQUIFAX with at least ten (10) days advance notice before producing the information, to the extent permitted by state law (and with any required lesser advance notice), so that EQUIFAX may take appropriate action to defend against the disclosure of such information. The notice under this paragraph shall be provided consistent with the notice requirements contained in Paragraph 81. Nothing contained in this subparagraph shall alter or limit the obligations of the Vermont Attorney General that may be imposed by the relevant public records laws of the State of Vermont, or by order of any court, regarding the maintenance or disclosure of documents and information supplied to the Vermont Attorney General except with respect to the obligation to notify EQUIFAX of any potential disclosure.

c. Maintain authentication protocols that do not allow consumers to access PERSONAL INFORMATION from EQUIFAX in connection with direct-to-consumer products and services, such as credit monitoring and CREDIT REPORTS, using only a name in combination with a Social Security number; and

d. Implement a GOVERNANCE PROCESS that contractually requires EQUIFAX reseller customers who receive consumer PERSONAL INFORMATION from EQUIFAX to maintain authentication protocols that do not allow consumers to access PERSONAL INFORMATION from EQUIFAX in connection with direct-to-consumer products and services, such as credit monitoring and CREDIT REPORTS using only a name in combination with a Social Security number.

27. EQUIFAX shall ENCRYPT Social Security numbers when they are stored in the EQUIFAX NETWORK or transmitted electronically from the EQUIFAX NETWORK, or otherwise implement COMPENSATING CONTROLS to protect Social Security numbers from unauthorized access.

28. EQUIFAX shall maintain, regularly review and revise as necessary, and comply with a GOVERNANCE PROCESS that provides for the secure disposal, using a method that is consistent with the Document Safe Destruction Act, 9 V.S.A. §2445, on a periodic basis, of PERSONAL INFORMATION that is no longer necessary for the legitimate business purpose for which the PERSONAL INFORMATION was collected, processed, or stored, except where such information is otherwise required to be maintained by law.

SPECIFIC TECHNICAL SAFEGUARDS AND CONTROLS

29. **Managing Critical Assets:** EQUIFAX shall rate all software and hardware within the EQUIFAX NETWORK based on criticality, factoring in whether such assets are used to collect, process, or store PERSONAL INFORMATION.

30. **Segmentation:**

a. EQUIFAX shall maintain, regularly review and revise as necessary, and comply with its segmentation protocols and related policies that are reasonably designed to properly segment the EQUIFAX NETWORK, which shall, at a minimum, ensure that systems communicate with each other in a secure manner and only to the extent necessary to perform their business and/or operational functions, and that databases are segmented except from systems with which they are required to interact.

b. EQUIFAX shall regularly evaluate, and, as appropriate, restrict and/or disable any unnecessary ports on the EQUIFAX NETWORK.

c. EQUIFAX shall logically separate its production and non-production environments in the EQUIFAX NETWORK, including the use of appropriate technological safeguards to protect PERSONAL INFORMATION within non-production environments.

31. **Penetration Testing/Risk Assessment:**

a. EQUIFAX shall maintain and regularly review and revise as necessary a risk-assessment program designed to continually identify and assess risks to the EQUIFAX NETWORK. In cases where EQUIFAX deems a risk to be acceptable, EQUIFAX shall generate and retain a report demonstrating how such risk is to be managed in consideration of cost or difficulty in implementing effective countermeasures. All reports shall be maintained by the

Chief Information Security Officer or his or her designee and be available for inspection by the Third-Party Assessor described in Paragraph 61 of this Judgment.

b. EQUIFAX shall implement and maintain a risk-based penetration-testing program reasonably designed to identify, assess, and remediate security vulnerabilities within the EQUIFAX NETWORK. This program shall include at least one annual penetration test of all externally-facing applications within the EQUIFAX NETWORK and at least one weekly vulnerability scan of all systems within the EQUIFAX NETWORK.

c. EQUIFAX shall rate and rank the criticality of all vulnerabilities identified as a result of any vulnerability scanning or penetration testing that it performs on the EQUIFAX NETWORK in alignment with an established industry-standard framework (e.g., NVD, CVSS, or equivalent standard). For each vulnerability that is ranked as most critical, EQUIFAX shall commence remediation planning within twenty-four (24) hours after the vulnerability has been rated as critical and shall apply the remediation within one (1) week after the vulnerability has received a critical rating. If the remediation cannot be applied within one (1) week after the vulnerability has received a critical rating, EQUIFAX shall identify existing or implement new COMPENSATING CONTROLS designed to protect PERSONAL INFORMATION as soon as practicable but no later than one (1) week after the vulnerability received a critical rating.

32. **Access Control and Account Management:**

a. EQUIFAX shall implement and maintain appropriate controls to manage access to, and use of, all EQUIFAX NETWORK accounts with access to PERSONAL INFORMATION, including, without limitation, individual accounts, administrator accounts, service accounts, and vendor accounts. To the extent that EQUIFAX maintains accounts requiring passwords:

i. Such controls shall include strong passwords, password confidentiality policies, password-rotation policies, and two-factor authentication or any other equal or greater authentication protocol, where technically feasible. For purposes of this paragraph, any administrative-level passwords shall be ENCRYPTED or secured using a

password vault, privilege access monitoring, or an equal or greater security tool that is generally accepted by the security industry.

ii. EQUIFAX shall implement and maintain appropriate policies for the secure storage of EQUIFAX NETWORK account passwords based on industry best practices; for example, hashing passwords stored online using an appropriate hashing algorithm that is not vulnerable to a collision attack together with an appropriate salting policy, or other equivalent or stronger protections.

b. EQUIFAX shall implement and maintain adequate access controls, processes, and procedures, the purpose of which shall be to grant access to the EQUIFAX NETWORK only after the user has been properly identified, authenticated, reviewed, and approved.

c. EQUIFAX shall as soon as practicable, and within forty-eight (48) hours, terminate access privileges for all persons whose access to the EQUIFAX NETWORK is no longer required or appropriate.

d. EQUIFAX shall limit access to PERSONAL INFORMATION by persons accessing the EQUIFAX NETWORK on a least-privileged basis.

e. EQUIFAX shall regularly inventory the users who have access to the EQUIFAX NETWORK in order to review and determine whether or not such access remains necessary or appropriate. EQUIFAX shall regularly compare termination lists to user accounts to ensure access privileges have been appropriately terminated. At a minimum, such review shall be performed on a quarterly basis.

f. EQUIFAX shall implement and maintain adequate administration processes and procedures to store and monitor the account credentials and access privileges of employees who have privileges to design, maintain, operate, and update the EQUIFAX NETWORK.

g. EQUIFAX shall implement and maintain controls to identify and prevent unauthorized devices from accessing the EQUIFAX NETWORK such as a network access controller or similar or more advanced technology.

33. **File Integrity Monitoring:** EQUIFAX shall maintain controls designed to provide near real-time notification of unauthorized modifications to the EQUIFAX NETWORK. The notification shall include information available about the modification including, where available, the date of the modification, the source of the modification, the type of modification, and the method used to make the modification.

34. **Unauthorized Applications:** EQUIFAX shall maintain controls designed to identify and protect against the execution or installation of unauthorized applications on the EQUIFAX NETWORK.

35. **Logging and Monitoring:**

a. EQUIFAX shall implement controls the purposes of which shall be to monitor and log material security and operational activities on the EQUIFAX NETWORK, to report anomalous activity through the use of appropriate platforms, and to require that tools used to perform these tasks be appropriately monitored and tested to assess proper configuration and maintenance.

b. All SECURITY EVENTS shall immediately be reported to the Chief Information Security Officer and appropriate Business Information Security Officer, and in no event more than eight (8) hours from the identification of the SECURITY EVENT. Any vulnerability that is associated with a SECURITY EVENT shall be remediated within twenty-four (24) hours of the identification of the vulnerability. If that vulnerability cannot be remediated within twenty-four (24) hours of its identification, then EQUIFAX shall implement COMPENSATING CONTROLS or decommission the system within twenty-four (24) hours of the identification of the vulnerability.

c. EQUIFAX shall monitor on a daily basis, and shall test on at least a monthly basis, any tool used pursuant to this paragraph, to properly configure, regularly update, and maintain the tool, to ensure that the EQUIFAX NETWORK is adequately monitored.

36. **Change Control:** EQUIFAX shall maintain, regularly review and revise as necessary, and comply with a GOVERNANCE PROCESS established to manage and document changes to the EQUIFAX NETWORK. At a minimum:

a. EQUIFAX shall define the roles and responsibilities for those involved in the change control process, including a board responsible for reviewing changes (for ease, hereinafter referred to as the "Change Advisory Board"). The Change Advisory Board shall include stakeholders from the appropriate business and informational technology units. The Change Advisory Board's responsibilities shall include: managing overall change control policies and procedures; providing guidance regarding the overall change control policies and procedures; conducting an annual audit of change requests to ensure that changes to the EQUIFAX NETWORK are properly analyzed and prioritized; and reviewing, approving, evaluating, and scheduling requests for changes to the EQUIFAX NETWORK.

b. The change control policies and procedures shall address the process to: request a change to the EQUIFAX NETWORK; determine the priority of the change; determine the change's impact on the EQUIFAX NETWORK, the security of PERSONAL INFORMATION, and EQUIFAX's ongoing business operations; obtain the appropriate approvals from required personnel (e.g., change requester, business unit, Business Information Security Officer, Change Advisory Board); develop, test, and implement the change; and review and test the impact of the change on the EQUIFAX NETWORK and the security of PERSONAL INFORMATION after the change has been made. The change control policies and procedures required by this paragraph shall require that any changes to the EQUIFAX NETWORK be evaluated regarding potential risks, and that all changes receive appropriate additional or heightened (i) analysis, (ii) approvals from required personnel, and (iii) testing.

c. Any action with respect to any changes to the EQUIFAX NETWORK (requesting, analyzing, approving, developing, implementing, and reviewing) shall be documented and retained, with the documentation appropriately secured and stored in repositories that are scoped to an application, business unit, and/or geography and are accessible to appropriate security personnel.

37. **Asset Inventory:** EQUIFAX shall utilize manual processes and, where practicable, automated tool(s) to regularly inventory and classify, and issue reports on, all assets that comprise the EQUIFAX NETWORK, including but not limited to all software, applications,

network components, databases, data stores, tools, technology, and systems. The asset inventory as well as applicable configuration and change management systems shall, at a minimum, collectively identify: (a) the name of the asset; (b) the version of the asset; (c) the owner of the asset; (d) the asset's location within the EQUIFAX NETWORK; (e) the asset's criticality rating; (f) whether the asset collects, processes, or stores PERSONAL INFORMATION; and (g) each security update and security patch applied or installed during the preceding period.

38. **Digital Certificates:** EQUIFAX shall implement and maintain a digital certificate management tool or service the purpose of which shall be to inventory digital certificates that expire longer than a week after their creation and that are used to authenticate servers and systems in the EQUIFAX NETWORK. The system or tool required by this paragraph shall manage the life cycle of all such digital certificates, including whether to issue, cancel, renew, reissue, or revoke a digital certificate. The system or tool required by this paragraph shall track the expiration date of any such digital certificate and provide notification of such expiration to the custodian of the certificate key thirty days (30) prior to expiration, ten days (10) prior to expiration, and on the date the digital certificate expires. Digital certificate for purposes of this paragraph shall include a security token, biometric identifier, or a cryptographic key used to protect externally-facing systems and applications.

39. **Threat Management:** EQUIFAX shall establish a threat management program which shall include the use of automated tools to continuously monitor the EQUIFAX NETWORK for active threats. EQUIFAX shall monitor on a daily basis, and shall test on at least a monthly basis, any tool used pursuant to this paragraph, to assess whether the monitoring tool is regularly configured, tested, and updated.

40. **Updates/Patch Management:** EQUIFAX shall maintain, keep updated, and support the software on the EQUIFAX NETWORK, taking into consideration the impact a software update will have on data security in the context of the EQUIFAX NETWORK and its ongoing business and network operations, and the scope of the resources required to maintain, update, and support the software. At a minimum, EQUIFAX shall also do the following:

a. For any software that will no longer be supported by its manufacturer or a third party, EQUIFAX shall commence the evaluation and planning to replace the software or to maintain the software with appropriate COMPENSATING CONTROLS at least two (2) years prior to the date on which the manufacturer's or third party's support will cease, or from the date the manufacturer or third party announces that it is no longer supporting the software if such period is less than two (2) years. If EQUIFAX is unable to commence the evaluation and planning in the timeframe required by this subparagraph, it shall prepare and maintain a written exception that shall include:

i. A description of why the exception is appropriate, e.g., what business need or circumstance supports the exception;

ii. An assessment of the potential risk posed by the exception; and

iii. A description of the schedule that will be used to evaluate and plan for the replacement of the software or addition of any COMPENSATING CONTROLS.

b. EQUIFAX shall maintain reasonable controls to address the potential impact security updates and security patches may have on the EQUIFAX NETWORK and shall:

i. Maintain a patch management solution(s) to manage software patches that includes the use of automated, standardized patch management distribution tool(s), whenever technically feasible, to: maintain a database of patches; deploy patches to endpoints; verify patch installation; and retain patch history. The patch management program must also have a dashboard or otherwise report on the success, failure, or other status of any security update or security patch; and

ii. Maintain a tool that includes an automated Common Vulnerabilities and Exposures (CVE) feed. The CVE tool required by this subparagraph shall provide EQUIFAX regular updates throughout each day regarding known CVEs for vendor-purchased software applications in use within the EQUIFAX NETWORK. EQUIFAX may satisfy its obligations under this subparagraph by using an industry-standard vulnerability scanning tool. The CVE tool required by this subparagraph shall also:

(a) Identify, confirm, and enhance discovery of the parts of the EQUIFAX NETWORK that may be subject to CVE events and/or incidents;

(b) Scan the EQUIFAX NETWORK for CVEs; and

(c) Scan the EQUIFAX NETWORK to determine whether scheduled security updates and patches have been successfully installed, including whether any security updates or patches rated as critical have been installed consistent with the requirement of this Judgment.

c. EQUIFAX shall appoint an individual ("Patch Supervisor") who shall report up to the Chief Technology Officer and shall be responsible for overseeing a team ("Patch Management Group") of other individuals responsible for regularly reviewing and maintaining the requirements set forth in this paragraph. The Patch Supervisor and the members of the Patch Management Group shall include persons with appropriate experience and qualifications.

d. The Patch Management Group shall be responsible for:

i. Monitoring software and application security updates and security patch management, including but not limited to, receiving notifications from the tools installed pursuant to subparagraph (b) and ensuring the appropriate and timely application of all security updates and/or security patches;

ii. Monitoring compliance with policies and procedures regarding ownership, supervision, evaluation, and coordination of the maintenance, management, and application of all security patches and software and application security updates by appropriate information technology (IT) application and system owners;

iii. Supervising, evaluating, and coordinating any system patch management tool(s) such as those identified in subparagraph (b); and

iv. A training requirement for individuals responsible for implementing and maintaining EQUIFAX's patch management policies.

e. EQUIFAX shall use the inventory created pursuant to Paragraph 37 in its regular operations to assist in identifying assets within the EQUIFAX NETWORK for purposes of applying security updates or security patches that have been released.

f. EQUIFAX shall employ processes and procedures to ensure the timely scheduling and installation of any security update and security patch, considering (without limitation) the severity of the vulnerability for which the update or patch has been released to address, the severity of the issue in the context of the EQUIFAX NETWORK, the impact on EQUIFAX's ongoing business and network operations, and the risk ratings articulated by the relevant software and application vendors or disseminated by the United States Computer Emergency Readiness Team (US-CERT). Such patch management policies shall require EQUIFAX to rate as critical, high, medium, or low all patches and/or updates, rating as "critical" all patches or updates intended to prevent any vulnerability that threatens the safeguarding or security of any PERSONAL INFORMATION maintained on the EQUIFAX NETWORK. If EQUIFAX does not accept or increase the risk ratings disseminated by either a software or application vendor or US-CERT for externally-facing applications on the EQUIFAX NETWORK, EQUIFAX shall identify for any update or patch for which it is attaching the lower risk rating, the assets to which it applies, and create a written explanation that shall include:

i. A description of why the lowered risk rating is appropriate, e.g., what business need or circumstance exists that supports the rating;

ii. A description of the alternatives that were considered, and why they were not appropriate;

iii. An assessment of the potential risks posed by the revised risk rating;

iv. The anticipated length of time for the rating, if the revised risk rating is temporary; and

v. To the extent applicable, a plan for managing or mitigating those risks identified in subparagraph iii (e.g. COMPENSATING CONTROLS, alternative approaches, methods).

The written explanation required by this subparagraph shall be prepared within twenty-four (24) hours of its determination to apply a lower rating, and upon revising the rating, the update

or patch shall be treated under EQUIFAX's applicable patch management policies, standards, or procedures in accordance with its revised rating.

g. EQUIFAX shall, within twenty-four (24) hours, if feasible, but not later than forty-eight (48) hours of rating any security update or patch as critical, either apply the update or patch to the EQUIFAX NETWORK or take the identified application offline until the update or patch has been successfully applied. If EQUIFAX is not able to, within forty-eight (48) hours of rating any security update or patch as critical, either apply the update or patch to the EQUIFAX NETWORK or take the identified application offline, then EQUIFAX shall apply COMPENSATING CONTROLS as appropriate.

h. In connection with the scheduling and installation of any critical patch and/or update, EQUIFAX shall verify that the patch and/or update was applied and installed successfully throughout the EQUIFAX NETWORK. For each security update or security patch rated as critical, EQUIFAX shall maintain records identifying: (1) each critical patch or update that has been applied; (2) the date(s) each patch or update was applied; (3) the assets to which each patch or update was applied; and (4) whether each patch or update was applied and installed successfully (the "Critical Patch Management Records"). The Critical Patch Management Records shall be reviewed on a weekly basis by the Patch Management Group.

i. On at least a biannual basis, EQUIFAX shall perform an internal assessment of its management and implementation of security updates and patches for the EQUIFAX NETWORK. This assessment shall identify (i) all known vulnerabilities to the EQUIFAX NETWORK and (ii) the updates or patches applied to address each vulnerability. The assessment will be formally identified, documented, and reviewed by the Patch Management Group.

41. **Information Security Program Implementation:** EQUIFAX represents that it has worked and will continue to work in good faith to comply with the requirements of the Information Security Program set forth in this Judgment. As to Paragraphs 24, 25, 26(c), 26(d), 27, 34, 37, and 59, only, the Vermont Attorney General agrees that it shall not commence any action, the purpose of which would be to establish a violation of this order or a finding of

contempt until on or after December 31, 2019, subject also to the requirements of Paragraph 82, and that it shall not commence any action, the purpose of which would be to establish a violation of Paragraph 30 or a finding of contempt with respect to that paragraph, until on or after December 31, 2020, subject also to the requirements of Paragraph 82.

CONSUMER-RELATED RELIEF

42. **Extended Credit Monitoring Services:** EQUIFAX shall offer AFFECTED CONSUMERS the opportunity to enroll in credit monitoring services to be provided at no cost for an aggregate of ten (10) years which may be satisfied either through a court-approved settlement in the MULTI-DISTRICT LITIGATION or pursuant to the Federal Trade Commission (FTC) Stipulated Order For Permanent Injunction and Monetary Judgment and the Consumer Financial Protection Bureau (CFPB) Stipulated Order For Permanent Injunction and Monetary Judgment. These credit monitoring services shall consist of the Three-Bureau Credit Monitoring Services set forth in Paragraph 43 and One-Bureau Credit Monitoring Services set forth in Paragraph 44.

43. **Three-Bureau Credit Monitoring Services:** AFFECTED CONSUMERS who file valid claims shall be eligible for at least four (4) years of a free Three-Bureau Credit Monitoring Service. These four (4) years shall be provided in addition to any free credit monitoring services EQUIFAX is currently providing or has previously offered as a result of the 2017 DATA BREACH. The Three-Bureau Credit Monitoring Services will be provided and maintained by an independent third party. The Three-Bureau Credit Monitoring Services shall include:

a. Daily consumer CREDIT REPORT monitoring from each of the three nationwide CONSUMER REPORTING AGENCIES (EIS, Experian, TransUnion) showing key changes to one or more of an AFFECTED CONSUMER's CREDIT REPORTS, including automated alerts when the following occur: new accounts are opened; inquiries or requests for an AFFECTED CONSUMER's CREDIT REPORT for the purpose of obtaining credit;

changes to an AFFECTED CONSUMER's address; and negative information, including delinquencies or bankruptcies;

b. On-demand online access to a free copy of an AFFECTED CONSUMER's Experian CREDIT REPORT, updated on a monthly basis;

c. Automated alerts, using public or proprietary data sources, when data elements submitted by an AFFECTED CONSUMER for monitoring, such as Social Security number, email addresses, or credit card numbers, appear on suspicious websites, including websites on the "dark web"; and

d. One Million Dollars ($1,000,000) in identity theft insurance to cover costs related to incidents of identity theft or identity fraud, with coverage prior to the AFFECTED CONSUMER's enrollment in the Three-Bureau Credit Monitoring Service, provided the costs result from a stolen identity event first discovered during the policy period and subject to the terms of the insurance policy.

44. **One-Bureau Credit Monitoring Services:** AFFECTED CONSUMERS who file valid claims and enroll in Three-Bureau Credit Monitoring Services shall be eligible for single-bureau credit monitoring services ("One-Bureau Credit Monitoring Services"). EQUIFAX shall provide One-Bureau Credit Monitoring Services upon expiration of the Three-Bureau Credit Monitoring Services to AFFECTED CONSUMERS who enroll in the Three-Bureau Credit Monitoring Services. EQUIFAX shall provide One-Bureau Credit Monitoring Services for the period of time necessary for the aggregate number of years of credit monitoring provided under Paragraphs 43 and 44 to equal ten (10) years. The cost of the One-Bureau Credit Monitoring Services shall not be paid from the Consumer Restitution Fund described in Section V of this Judgment. One-Bureau Credit Monitoring Services will include the following:

a. Daily CREDIT REPORT monitoring from EQUIFAX showing key changes to an AFFECTED CONSUMER's EIS CREDIT REPORT including automated alerts when the following occur: new accounts are opened; inquiries or requests for an AFFECTED CONSUMER's CREDIT REPORT for the purpose of obtaining credit; changes to an AFFECTED CONSUMER's address; and negative information, such as delinquencies or bankruptcies;

b. On-demand online access to a free copy of an AFFECTED CONSUMER's EIS CREDIT REPORT, updated on a monthly basis; and

c. Automated alerts using certain available public and proprietary data sources when data elements submitted by an AFFECTED CONSUMER for monitoring, such as Social Security numbers, email addresses, or credit card numbers, appear on suspicious websites, including websites on the "dark web."

45. For any AFFECTED CONSUMERS who were under the age of 18 on May 13, 2017, EQUIFAX shall offer these consumers who make valid claims the opportunity to enroll in credit monitoring to achieve an aggregate of eighteen (18) years of continuous credit monitoring at no cost which may be satisfied either through a court-approved settlement in the MULTI-DISTRICT LITIGATION or pursuant to the FTC Stipulated Order For Permanent Injunction and Monetary Judgment and the CFPB Stipulated Order For Permanent Injunction and Monetary Judgment. These services shall include:

a. At least four (4) years of Three-Bureau Credit Monitoring Services, except that during the period when an AFFECTED CONSUMER is under the age of 18, the services provided will be child monitoring services where the parent or guardian can enroll the AFFECTED CONSUMER under the age of 18 to receive the following services: alerts when data elements submitted for monitoring appear on suspicious websites, such as websites on the "dark web;" and alerts when the Social Security number of an AFFECTED CONSUMER under the age of 18 is associated with new names or addresses or the creation of a CREDIT REPORT at one or more of the three nationwide CREDIT REPORTING AGENCIES.

b. Followed by no more than fourteen (14) years of One-Bureau Credit Monitoring Services, except that during the period when an AFFECTED CONSUMER is under the age of 18, EQUIFAX will provide child monitoring services where the parent or guardian can enroll the AFFECTED CONSUMER under the age of 18 in these services and must validate their status as guardian. These child monitoring services include: alerts when data elements such as a Social Security number submitted for monitoring appear on suspicious websites, including websites on the "dark web;" for minors who do not have an EIS CREDIT REPORT, an EIS CREDIT REPORT is created, locked, and then monitored, and for minors with an EIS CREDIT REPORT, their EIS CREDIT REPORT is locked and then monitored.

46. EIS shall offer all United States consumers two free copies of their EIS CREDIT REPORT every 12 months, for at least five (5) years from the implementation of this paragraph. EQUIFAX shall implement this paragraph by December 31, 2019.

47. Consistent with, and as required by federal law, EIS shall not collect any fees for creating an EIS CREDIT FILE in connection with a request from a PROTECTED INDIVIDUAL to place a security freeze on his/her EIS CREDIT FILE. Additionally, EIS shall not collect any fees for placing, temporarily lifting, or removing a security freeze on an EIS CREDIT FILE.

48. EQUIFAX shall continue to refrain from charging consumers any fees for any 2017 BREACH RESPONSE SERVICES AND PRODUCTS.

49. EQUIFAX shall not request or collect payment information (such as payment card information or financial account information) from consumers during their enrollment process for any 2017 BREACH RESPONSE SERVICES AND PRODUCTS regardless of whether such enrollment is or was ultimately completed. This paragraph shall have no impact on prior or future collection of such information if collected for EQUIFAX products or services outside of any 2017 BREACH RESPONSE SERVICES AND PRODUCTS.

50. EQUIFAX, including by or through any partner, affiliate, agent, or third party, shall not use any information provided by consumers (or the fact that the consumer provided information) to enroll, or to attempt to enroll, those consumers in the 2017 BREACH

RESPONSE SERVICES AND PRODUCTS to sell, upsell, or directly market or advertise its FEE-BASED PRODUCTS OR SERVICES. Nothing in this paragraph, or in this Judgment, shall relieve EQUIFAX of any obligation, or prevent EQUIFAX from complying with its obligations, under federal and/or state law to offer and/or advertise security freezes.

51. Consistent with, and as required by federal law, EQUIFAX shall provide information regarding security freezes on its website. EQUIFAX shall not dissuade consumers from placing or choosing to place a security freeze. Should EQUIFAX offer any standalone product or service as an alternative with substantially similar features as a security freeze (e.g., Lock & Alert), it shall not seek to influence or persuade consumers to choose the alternative product or service instead of a security freeze.

52. EQUIFAX shall not require consumers to agree to arbitrate disputes with EQUIFAX or waive class action rights or any other private right of action against EQUIFAX when receiving or enrolling in any 2017 BREACH RESPONSE SERVICES AND PRODUCTS.

53. **Dedicated Resources for Continued 2017 BREACH RESPONSE:** For a period of three (3) years from the EFFECTIVE DATE, EQUIFAX shall devote reasonable and sufficient resources focused on administering its efforts to support consumers related to the 2017 DATA BREACH ("2017 BREACH RESPONSE"), including but not limited to:

a. Maintaining all consumer-facing internet tools and applications in such a manner that they work reliably and quickly;

b. Establishing and maintaining sufficient staffing levels to handle the volume of consumer traffic;

c. Training employees to provide relevant, useful, and accurate information to consumers who contact EQUIFAX regarding the 2017 DATA BREACH;

d. Promptly handling requests by consumers to place fraud alerts or security freezes consistent with, and as required by, federal law; and

e. Ensuring that the online resources are compliant with the Americans with Disabilities Act (ADA).

54. EQUIFAX shall make the following digital communications available in Spanish, Chinese, Tagalog, Vietnamese, Arabic, French, and Korean: (1) within sixty (60) days of content being finalized, all webpages that EQUIFAX makes available on its website, or on any website that it operates or controls that are dedicated to describing the terms of this Judgment and any benefits available under the Judgment; (2) all legally-required consumer notices regarding any future data breach that are made available on its website, or on any website that it operates or controls; and (3) all notices and claim forms that are made available on any website operated by the settlement administrator. EQUIFAX may satisfy its obligation under this paragraph by providing an automated translation function on the applicable web page(s) which automatically translates all content capable of being translated by the selected translation tool, which, at a minimum, shall translate text appearing directly on the website.

55. **Placing Freezes for PROTECTED INDIVIDUALS:**

a. Pursuant to Paragraph 51 and consistent with, and as required by, federal law, EQUIFAX shall provide information regarding security freezes on its webpage, including information on placing a security freeze on behalf of PROTECTED INDIVIDUALS.

b. EIS shall place, temporarily lift, and remove a security freeze for a PROTECTED INDIVIDUAL consistent with and as required by federal law.

c. EIS shall make good faith efforts to evaluate methods by which representatives of PROTECTED INDIVIDUALS may place, temporarily lift, or remove freezes on behalf of PROTECTED INDIVIDUALS and submit any required documentation via a secure online connection on EQUIFAX's website and take steps to implement such method(s) to the extent they are reasonably feasible and can be accomplished in a manner that complies with federal law.

56. **Consumer Assistance Process:** As part of or in addition to that which is required by federal and state law, EIS shall continue to offer direct assistance, processes, and informational resources to United States consumers who have questions about their EIS CREDIT FILE, who wish to place a fraud alert and/or security freeze on their EIS CREDIT FILE, or who have or may have been the victim of fraud or identity theft. These processes shall

include the ability for consumers to contact EIS online, by toll-free phone numbers, and by United States mail, or any other reasonably accessible means established by EIS to communicate directly with consumers.

a. At a minimum, EIS shall:

i. Handle consumer complaints regarding identity theft or fraudulent activity, which may include dedicated teams to review and handle referred complaints by the Consumer Financial Protection Bureau, Federal Trade Commission, or other equivalent federal agency, and the Vermont Attorney General;

ii. Provide direct assistance and informational resources, including, for example, sample template letters and checklists, to help consumers understand their EIS CREDIT FILES and submit disputes related to their EIS CREDIT FILES;

iii. Assist consumers in fulfilling requests for fraud alerts and placing, temporarily lifting, or removing a security freeze on their EIS CREDIT FILE, as well as provide information on how to contact the other CONSUMER REPORTING AGENCIES to place, temporarily lift, or remove a security freeze;

iv. Fulfill its responsibilities to REINVESTIGATE consumers' disputes that information on their EIS CREDIT FILE is inaccurate or incomplete including, as appropriate, escalating disputes for fraud and identity theft to agents specially trained in fraud and identity theft protection;

v. Maintain enhanced consumer dispute results letters to assist consumers in understanding the basis and results of EIS's REINVESTIGATION process, including the actions taken by EIS as a result of the consumer's dispute, the role of the FURNISHER in the REINVESTIGATION process, the results of the dispute including any modified or deleted information, and the options the consumer may take if dissatisfied with the results of the REINVESTIGATION;

vi. Provide informational resources on what supporting and relevant consumer documents may assist a consumer in disputing information on his/her EIS CREDIT FILE and the methods available for consumers to submit documents;

vii. Assist consumers who contact EIS in understanding the basis for when EIS declines to block or rescinds a block of information previously disputed as a result of an alleged identity theft;

viii. Assist consumers disputing inaccurate or fraudulent information and/or accounts by facilitating dispute or REINVESTIGATION requests with FURNISHERS via the Automated Consumer Dispute Verification (ACDV) process; and

ix. Refer consumers to available federal, state, and/or local resources for additional information about consumer rights and identity theft protection measures, such as the sources found at https://www.identitytheft.gov.

b. EIS shall provide direct assistance to members of the United States armed forces, including without limitation members of the National Guard and military reserve, (collectively "Service Members"), or their spouses or other dependents (collectively "Military Families"). At a minimum, EIS shall train a department or group to: help Service Members and Military Families review their EIS CREDIT FILES; review complaints regarding identity theft or fraudulent activity; and help Service Members and Military Families place a security freeze on their EIS CREDIT FILES and implement active duty alerts.

c. EQUIFAX shall designate a department or group to act as the point of contact for the Vermont Attorney General to directly contact and which will provide assistance to consumers who have submitted complaints to the Vermont Attorney General's Office. This department or group shall be trained in the specific provisions of this paragraph.

d. EQUIFAX shall develop a method to identify and track consumer complaints related to the 2017 DATA BREACH and report these metrics to the MULTISTATE LEADERSHIP COMMITTEE as part of the Consumer Remedies Reports required by Paragraph 62 of this Judgment.

e. Disclosure of the Consumer Assistance Process

i. EQUIFAX shall CLEARLY AND CONSPICUOUSLY disclose on its website the following components of the Consumer Assistance Process: the existence of the processes and informational resources offered by EQUIFAX; the content of and how to

access an EIS CREDIT FILE; the methods to request a fraud or active duty alert, or take advantage of any security freeze feature on an EIS CREDIT FILE; the methods to dispute the accuracy or completeness of an item on an EIS CREDIT FILE; and informational materials for Service Members and Military Families. EQUIFAX may comply with this paragraph by: (1) maintaining a dedicated website page that describes or provides the resources set forth above; and (2) providing the consumer with a link to said dedicated website page.

ii. For telephone calls with consumers related to the 2017 DATA BREACH, EQUIFAX shall train staff to be prepared to discuss or address in appropriate circumstances: the existence of the processes and informational resources offered by EQUIFAX; the content of and how to access an EIS CREDIT FILE; the methods to request a fraud or active duty alert, or take advantage of any security freeze feature on an EIS CREDIT FILE; the methods to dispute the accuracy or completeness of an item on an EIS CREDIT FILE; and informational materials for Service Members and Military Families. EQUIFAX shall also maintain documentation of this training.

f. EQUIFAX shall maintain reasonable and sufficient staffing levels, resources, and support necessary to respond to foreseeable consumer contact volume.

g. The Vermont Attorney General agrees that it shall not commence any action, the purpose of which would be to establish a violation of this paragraph or a finding of contempt with respect to this paragraph, until on or after December 31, 2019, subject also to the requirements of Paragraph 82.

57. **Declining to Block Information in a CREDIT FILE:** If EIS declines to block, as that term is used in FCRA, or rescinds any block on, the information in a CREDIT FILE that the consumer identifies as information that resulted from an alleged identity theft, EIS shall provide the consumer with additional steps the consumer can take if the REINVESTIGATION of such information results in the information remaining on the consumer's CREDIT FILE, including his/her ability to utilize the Escalated Identity Theft Block Process set forth in Paragraph 58. EIS can choose to satisfy this provision by drafting a form letter to send to consumer that provides this information. This paragraph shall not limit or restrict EIS's ability to

designate a dispute filing frivolous or abusive disputes pursuant to 15 U.S.C. § 1681i(a)(3). The Vermont Attorney General agrees that it shall not commence any action, the purpose of which would be to establish a violation of this paragraph or a finding of contempt with respect to this paragraph, until on or after December 31, 2019, subject also to the requirements of Paragraph 82.

58. **Escalated Identity Theft Block Process:** If a consumer complains to the Vermont Attorney General that EIS declined to either block information or rescind the block of information, the Vermont Attorney General may send such complaint to the department or group designated pursuant to Paragraph 56(c) of this Judgment. Upon referral, EIS will review and process the consumer's identity theft report and shall take appropriate action to block the noted information or decline to block or rescind a block, as applicable, from the consumer's EIS CREDIT FILE. This paragraph shall not limit or restrict EIS's ability to designate a dispute filing frivolous or abusive disputes pursuant to 15 U.S.C. § 1681i(a)(3).

59. **Consumer Transparency:** EQUIFAX shall post on the homepage of any website owned or controlled by EQUIFAX: a notice that details categories of the PERSONAL INFORMATION EQUIFAX collects and maintains, including NON-FCRA INFORMATION; how EQUIFAX collects the PERSONAL INFORMATION; how EQUIFAX uses the PERSONAL INFORMATION; how EQUIFAX protects the PERSONAL INFORMATION; whether EQUIFAX shares the PERSONAL INFORMATION with others, and if so, what PERSONAL INFORMATION is shared and the categories of persons or entities with whom the PERSONAL INFORMATION is shared; and whether consumers have control over their PERSONAL INFORMATION, and if so, what kind of control they have and how to exercise the control. If EQUIFAX's PERSONAL INFORMATION practices change, the notice shall be updated to reflect those changes. EQUIFAX may comply with this paragraph by including this information in its online privacy notices.

60. Unless otherwise specified herein, Paragraphs 42 through 59 shall apply for seven (7) years from the EFFECTIVE DATE.

ASSESSMENT AND REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

61. **Third-Party Assessment**: During the time period established in Paragraph 13, EQUIFAX shall obtain from an independent third party an initial assessment, followed by biennial assessments of the Information Security Program required under the terms of this Judgment (the "Third-Party Assessments"). The Third-Party Assessments required by this paragraph shall be conducted by a third-party (the "Third-Party Assessor").

a. The findings of each of the Third-Party Assessments shall be documented in individual reports (the "Third-Party Assessor's Reports") that shall:

i. Identify the specific administrative, technical, and physical safeguards maintained by EQUIFAX's Information Security Program;

ii. Document the extent to which the identified administrative, technical and physical safeguards are appropriate considering EQUIFAX's size and complexity, the nature and scope of EQUIFAX's activities, and the sensitivity of the PERSONAL INFORMATION maintained on the EQUIFAX NETWORK; and

iii. Assess the extent to which the administrative, technical, and physical safeguards that have been implemented by EQUIFAX meet the requirements of the Information Security Program.

b. EQUIFAX may fulfill its assessment and reporting obligations under this paragraph by providing a copy of the Third Party Assessor's Report required under the FTC Stipulated Order For Permanent Injunction and Monetary Judgment and the CFPB Stipulated Order For Permanent Injunction and Monetary Judgment (the "Federal Security Assessment Report") to the California Attorney General's Office during the time period set forth in Paragraph 13. The California Attorney General's Office may provide a copy of the Federal Security Assessment Report received from EQUIFAX to the Vermont Attorney General's Office upon request.

c. Any Third Party Assessor's Report provided pursuant to this paragraph and all information contained therein, to the extent permitted by the laws of the State of

Vermont shall be treated by the Vermont Attorney General's Office as confidential; shall not be shared or disclosed except as described in subsection b; and shall be treated by the Vermont Attorney General's Office as exempt from disclosure under the relevant public records laws of the State of Vermont. In the event that the Vermont Attorney General's Office receives any request from the public to inspect any Third Party Assessor's Report provided pursuant to this paragraph or other confidential documents under this Judgment and believes that such information is subject to disclosure under the relevant public records laws, the Attorney General's Office agrees to provide EQUIFAX with at least ten (10) days advance notice before producing the information, to the extent permitted by state law (and with any required lesser advance notice), so that EQUIFAX may take appropriate action to defend against the disclosure of such information. The notice under this paragraph shall be provided consistent with the notice requirements contained in Paragraph 81. Nothing contained in this subparagraph shall alter or limit the obligations of the Vermont Attorney General that may be imposed by the relevant public records laws of the State of Vermont, or by order of any court, regarding the maintenance or disclosure of documents and information supplied to the Vermont Attorney General except with respect to the obligation to notify EQUIFAX of any potential disclosure.

62. **Consumer Relief and Internal Metrics Report:** EQUIFAX shall prepare a report regarding its compliance with Paragraphs 53, 55, and 56 ("Consumer Remedies Report") as outlined below.

a. The reporting periods for the Consumer Remedies Reports must cover: (1) the first one-hundred and eighty (180) days after the EFFECTIVE DATE for the initial Consumer Remedies Report; and (2) each one-year period thereafter for the following five (5) years.

b. The Consumer Remedies Reports shall include the following information and metrics:

i. An organizational chart identifying the individuals employed or contracted by EQUIFAX to respond to consumer complaints related to the 2017 DATA BREACH as specified in Paragraph 56(d) and complaints submitted through a State Attorney

General as specified in Paragraph 56(c), identified by their titles with a number designating how many staff are assigned to each position;

ii. A description of the training EQUIFAX provides to first-line employees or contractors responsible for directly responding to consumers;

iii. A count of the number of complaints EQUIFAX received, broken down by telephone, email, or regular mail, in which the consumer's complaint relates to the 2017 DATA BREACH as specified in Paragraph 56(d);

iv. The number of fraud alerts placed on EIS CREDIT FILES for United States consumers;

v. The number of security freezes placed, temporarily lifted, or permanently removed on EIS CREDIT FILES;

vi. The number of security freezes placed on behalf of PROTECTED CONSUMERS on EIS CREDIT FILES;

vii. The number of complaints received by EQUIFAX from the Vermont Attorney General's Office pursuant to Paragraph 56(c); and

viii. For the complaints listed in subsection vii EQUIFAX shall indicate whether they were resolved within fifteen (15) business days.

c. Each Consumer Remedies Report must be completed within sixty (60) days after the end of the reporting period to which the Consumer Remedies Report applies. EQUIFAX shall provide a copy of the Consumer Remedies Report to the California Attorney General's Office within ten (10) business days of the completion of the Consumer Remedies Report.

d. The California Attorney General's Office may provide a copy of the Consumer Remedies Report received from EQUIFAX to the Vermont Attorney General upon request.

e. The Consumer Remedies Reports and all information contained therein, to the extent permitted by the laws of the State of Vermont: shall be treated by the Vermont Attorney General's Office as confidential; shall not be shared or disclosed except as described in

subsection (d); and shall be treated by the Vermont Attorney General's Office as exempt from disclosure under the relevant public records laws of the State of Vermont. In the event that the Vermont Attorney General's Office receives any request from the public for a Consumer Remedies Report or other confidential documents under this Judgment and believes that such information is subject to disclosure under the relevant public records laws, the Vermont Attorney General's Office agrees to provide EQUIFAX with at least ten (10) days advance notice before producing the information, to the extent permitted by state law (and with any required lesser advance notice), so that EQUIFAX may take appropriate action to defend against the disclosure of such information. The notice under this paragraph shall be provided consistent with the notice requirements contained in Paragraph 81. Nothing contained in this subparagraph shall alter or limit the obligations of the Vermont Attorney General that may be imposed by the relevant public records laws of the State of Vermont, or by order of any court, regarding the maintenance or disclosure of documents and information supplied to Vermont Attorney General except with respect to the obligation to notify EQUIFAX of any potential disclosure.

IV. DOCUMENT RETENTION

63. EQUIFAX shall retain and maintain the reports, records, exceptions, information and other documentation required by Paragraphs 31.a, 36.c, 37, 40.a, 40.f, 40.h, 40.i, 60, and 62 for a period of no less than seven (7) years.

V. CONSUMER RESTITUTION

64. **Consumer Restitution Fund:**

a. EQUIFAX shall pay the ATTORNEYS GENERAL an amount of at least Three Hundred Million Dollars ($300,000,000), and no more than Four Hundred and Twenty-Five Million ($425,000,000), for the purpose of providing restitution to AFFECTED CONSUMERS, including the cost of the Three-Bureau Credit Monitoring Services set forth in Paragraph 43 and the monitoring for minors set forth in Paragraph 45(a).

b. The payment/s required by this paragraph may be satisfied in its or their entirety by EQUIFAX making the payments described in subsection (a) into a fund (the "Consumer Restitution Fund") established pursuant to a court-approved settlement in the

MULTI-DISTRICT LITIGATION that pays for restitution and redress to AFFECTED CONSUMERS that includes the Three-Bureau Credit Monitoring Services set forth in Paragraph 43 and the monitoring for minors set forth in Paragraph 45(a) and may also include other restitution and redress to AFFECTED CONSUMERS provided through the MULTI-DISTRICT LITIGATION.

c. The Consumer Restitution Fund shall be established and administered, payments shall be made by EQUIFAX, and consumer restitution shall be disbursed from the Consumer Restitution Fund in accordance with the terms of the court-approved settlement in the MULTI-DISTRICT LITIGATION.

d. If the FTC and the CFPB jointly issue a written notice of termination pursuant Section XI(A) of the FTC Stipulated Order For Permanent Injunction and Monetary Judgment and Section XI.I of the CFPB Stipulated Order For Permanent Injunction and Monetary Judgment, the Vermont Attorney General and EQUIFAX agree that the payment/s required by this paragraph may instead be satisfied in its or their entirety by:

i. EQUIFAX making payments in accordance with the terms of the FTC and CFPB Stipulated Orders For Permanent Injunction and Monetary Judgment. Such amounts shall be deposited into a fund and administered by the FTC or its designee in accordance with the terms of the FTC and CFPB Stipulated Orders for Permanent Injunction and Monetary Judgment to be used for consumer restitution and redress on behalf of the FTC, CFPB, and ATTORNEYS GENERAL; and

ii. The MULTISTATE LEADERSHIP COMMITTEE and EQUIFAX will coordinate with the FTC and/or CFPB so that AFFECTED CONSUMERS receive materially similar restitution as that set forth in Paragraphs 43 and 45(a) of this Judgment.

VI. MONETARY PAYMENT

65. No later than thirty (30) days after the EFFECTIVE DATE, EQUIFAX shall pay a total of One Hundred and Seventy Five Million Dollars ($175,000,000.00) to be divided and paid by EQUIFAX directly to the Vermont Attorney General in an amount to be designated by

and in the sole discretion of the MULTISTATE LEADERSHIP COMMITTEE. The distribution to Vermont shall be used in the manner provided by the Constitution of the State of Vermont, CH II § 27 and 32 V.S.A. § 462.

VII. RELEASE

66. Following full payment of the amounts due under this Judgment, the Vermont Attorney General shall release and discharge EQUIFAX and its directors, officers, and employees from all civil claims alleged in the Complaint, and any civil claims that it could have brought based on EQUIFAX's conduct related to the 2017 DATA BREACH under the Vermont Consumer Protection Act 9 V.S.A. §§ 2451-2481, the Vermont Security Breach Notice Act 9 V.S.A. § 2435, the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. and any state credit reporting law, or common law claims, including those concerning unfair, deceptive, or fraudulent trade practices. Nothing contained in this paragraph shall be construed to limit the ability of the Vermont Attorney General to enforce the obligations that EQUIFAX has under this Judgment.

67. Notwithstanding any term of this Judgment, any and all of the following forms of liability are specifically reserved and excluded from the release in Paragraph 66 as to any entity or person, including EQUIFAX:

a. Any criminal liability that any person or entity, including EQUIFAX, has or may have to the States.

b. Any civil or administrative liability that any person or entity, including EQUIFAX, has or may have to the States under any statute, regulation or rule giving rise to, any and all of the following claims:

i. State or federal antitrust violations;

ii. State or federal securities violations; or

iii. State or federal tax claims.

68. Nothing in this Judgment shall be construed as excusing or exempting EQUIFAX from complying with any state or federal law, rule, or regulation, nor shall any of the

provisions of this Judgment be deemed to authorize or require EQUIFAX to engage in any acts or practices prohibited by any law, rule, or regulation.

VIII. NO ADMISSION OF LIABILITY

69. **Violations of Law:** In stipulating to the entry of this Judgment, EQUIFAX does not admit to any violation of or liability arising from any state, federal, or local law.

70. **Admissions of Fact:** EQUIFAX does not admit to any fact alleged in the Complaint, except admits that on March 8, 2017, it received notification of a vulnerability in Apache Struts open-source software (CVE-2017-5638) prior to the 2017 DATA BREACH.

71. Nothing contained in this Judgment shall be construed as an admission or concession of liability by EQUIFAX, or create any third-party beneficiary rights or give rise to or support any right of action in favor of any consumer or group of consumers, or confer upon any person other than the parties hereto any rights or remedies. By entering into this Judgment, EQUIFAX does not intend to create any legal or voluntary standard of care and expressly denies that any practices, policies, or procedures inconsistent with those set forth in this Judgment violate any applicable legal standard. This Judgment is not intended to be and shall not be construed as, deemed to be, represented as, or relied upon in any manner by any party in any civil, criminal, or administrative proceeding before any court, administrative agency, arbitration, or other tribunal as an admission, concession, or evidence that EQUIFAX has violated any federal, state, or local law, or that EQUIFAX's current or prior practices related to the 2017 DATA BREACH or its information security program is or was not in accordance with any federal, state, or local law.

IX. GENERAL PROVISIONS

72. Nothing herein shall be construed to exonerate any failure to comply with any provision of this Judgment after the EFFECTIVE DATE, or to compromise the authority of the Vermont Attorney General to initiate a proceeding for any failure to comply with this Judgment.

73. Nothing in this Judgment shall be construed to limit the authority or ability of the Vermont Attorney General to protect the interests of the State of Vermont or the people of Vermont. This Judgment shall not bar the Vermont Attorney General or any other governmental

entity from enforcing laws, regulations, or rules against EQUIFAX for conduct subsequent to or otherwise not covered by this Judgment. Further, nothing in this Judgment shall be construed to limit the ability of the Vermont Attorney General to enforce the obligations that EQUIFAX has under this Judgment.

74. Nothing in this Judgment shall be construed as relieving EQUIFAX of the obligation to comply with all state and federal laws, regulations, and rules, nor shall any of the provisions of this Judgment be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, and rules.

75. EQUIFAX shall deliver a copy of this Judgment to, and otherwise fully apprise, its Chief Executive Officer, Chief Technology Officer, Chief Information Security Officer, each of its Business Information Security Officers, Patch Supervisor designated pursuant to this Judgment, General Counsel, and Board of Directors within ninety (90) days of the EFFECTIVE DATE. To the extent EQUIFAX replaces any of the above listed officers, counsel, or Directors, EQUIFAX shall deliver a copy of this Judgment to their replacements within ninety (90) days from the date on which such person assumes his/her position with EQUIFAX.

76. EQUIFAX shall pay all court costs associated with the filing of this Judgment.

77. EQUIFAX shall not participate in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited by this Judgment or for any other purpose that would otherwise circumvent any term of this Judgment. EQUIFAX shall not knowingly cause, permit, or encourage any other persons or entities acting on its behalf, to engage in practices prohibited by this Judgment.

78. EQUIFAX agrees that this Judgment does not entitle it to seek or to obtain attorneys' fees as a prevailing party under any statute, regulation, or rule, and EQUIFAX further waives any right to attorneys' fees that may arise under such statute, regulation, or rule.

79. This Judgment shall not be construed to waive any claims of sovereign immunity the State of Vermont may have in any action or proceeding.

80. If any portion of this Judgment is held invalid or unenforceable, the remaining terms of this Judgment shall not be affected and shall remain in full force and effect.

81. Whenever EQUIFAX shall provide notice to the Vermont Attorney General under this Judgment, that requirement shall be satisfied by sending notice to: Ryan Kriger, Assistant Attorney General, Office of the Vermont Attorney General, 109 State Street, Montpelier, VT 05609 . Any notices or other documents sent to EQUIFAX pursuant to this Judgment shall be sent to the following address:

Chief Legal Officer
Equifax Inc.
1550 Peachtree Street, N.W.
Atlanta, GA 30309

Phyllis Sumner
King & Spalding LLP
1180 Peachtree Street, N.E.
Suite 1600
Atlanta, GA 30309

Zachary Fardon
King & Spalding LLP
444 West Lake Street
Suite 1650
Chicago, IL 60606

All notices or other documents to be provided under this Judgment shall be sent by United States mail, certified mail return receipt requested, or other nationally recognized courier service that provides for tracking services and identification of the person signing for the notice or document, and shall have been deemed to be sent upon mailing. Any party may update its designee or address by sending written notice to the other party informing them of the change.

82. If the Vermont Attorney General reasonably believes that EQUIFAX has failed to comply with any of Paragraphs 9 through 63 of this Judgment, and if in the Vermont Attorney General's sole discretion the failure to comply does not threaten the health or safety of the citizens of the State of Vermont and/or does not create an emergency requiring immediate action, the Vermont Attorney General shall provide notice to EQUIFAX of such alleged failure to comply and EQUIFAX shall have thirty (30) days from receipt of such notice to provide a good faith written response, including either a statement that EQUIFAX believes it is in full

compliance with the relevant provision or a statement explaining how the violation occurred, how it has been addressed or when it will be addressed, and what EQUIFAX will do to make sure the violation does not occur again. The Vermont Attorney General may agree to provide EQUIFAX with more than thirty (30) days to respond. The Vermont Attorney General shall receive and consider the response from EQUIFAX prior to initiating any proceeding for any alleged failure to comply with this Judgment.

83. In the event that technological or industry developments or other intervening changes in law or fact cause EQUIFAX to believe that elimination or modification of this Judgment is warranted or appropriate, EQUIFAX will provide notice to the Vermont Attorney General. If the Parties reach a mutual agreement that elimination or modification of a provision is appropriate, they may jointly petition the Court to eliminate or modify such provision. If the Parties fail to reach an agreement, EQUIFAX may petition the Court to eliminate or modify such provision.

84. Jurisdiction is retained by the Court for the purpose of enabling any party to the Judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or the carrying out of this Judgment, for the modification of any of the injunctive provisions hereof, for enforcement of compliance herewith, and for the punishment of violations hereof, if any.

85. The clerk is ordered to enter this Judgment forthwith.

ORDERED AND ADJUDGED at MONTPELIER, VERMONT, this 13th day of ~~JULY~~ August, 2019.

Mary Miles Teachout

Judge of the Superior Court

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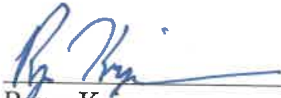

July 19, 2019

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VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

STATE OF VERMONT

2019 APR 26 A 8: 16

SUPERIOR COURT
WASHINGTON UNIT

CIVIL DIVISION
Docket No. 221-4-19 Wncv

STATE OF VERMONT,

Plaintiff,

v.

FCA US LLC, FIAT CHRYSLER AUTOMOBILES N.V., VM MOTORI S.P.A., and VM NORTH AMERICA, INC.,

Defendants.

VERMONT SUPERIOR COURT
WASHINGTON CIVIL

CONSENT ORDER AND FINAL JUDGMENT ORDER

WHEREAS, Plaintiff the State of Vermont ("State"), acting by and through the Attorney General and on behalf of Vermont consumers and the Vermont Agency of Natural Resources, filed a Complaint in this action alleging that FCA US LLC, Fiat Chrysler Automobiles N.V., VM Motori S.p.A., and VM North America, Inc. (hereinafter collectively, the "Defendants") manufactured, marketed, advertised, and/or engaged in the wholesale distribution of more than 100,000 model year 2014-2016 Ram 1500 trucks and Jeep Grand Cherokee sport utility vehicles equipped with 3.0-liter V6 diesel engines, (sometimes called "EcoDiesel" engines) (the "Diesel Vehicles," as specifically defined below), including more than 250 within Vermont; and that the Diesel Vehicles contained undisclosed software allegedly intended to circumvent federal or state emission standards and concealed this software from the public and state and federal regulators;

WHEREAS, the State alleged that the foregoing conduct violated 10 V.S.A. §§ 567(b) & 579; Vermont Air Pollution Control Regulations §§ 5-407, 5-701, 5-702 & Subchapter XI.; and Vermont's Consumer Protection Act, 9 V.S.A. §§ 2453 & 2453(a);

WHEREAS, the State, along with the Attorneys General of 51 other States, Commonwealths, and territories, as well as several state environmental enforcement agencies, formed the Multistate Working Group to investigate the Defendants in connection with the emission control systems of the Diesel Vehicles and the offer and sale of those vehicles to consumers;

WHEREAS, the State and the Defendants (collectively, the "Parties") have agreed to resolve the environmental and consumer protection claims raised by the Covered Conduct by entering into this Consent Order and Judgment (hereinafter, the "Judgment");

WHEREAS, each member of the Multistate Working Group and the Defendants are entering into agreements memorializing or implementing a settlement, and as part of the relief provided in these settlements, the Defendants will pay Seventy-Two Million, Five Hundred Thousand Dollars ($72,500,000) to the Multistate Working Group in aggregate;

WHEREAS, the Defendants have agreed to fund a restitution program for current owners and lessees and certain former owners and lessees of the Diesel Vehicles in Vermont and throughout the United States as more fully set forth in the MDL Consumer and Reseller Dealership Class Action Settlement Agreement and

Release (*In re: Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices and Products Liability Litigation*), Case No. 3:17-md-02777-EMD (N.D. Cal.) (hereinafter "MDL Consumer Settlement Agreement"), pursuant to which eligible class member owners will receive a weighted average of approximately $2,908 per vehicle and eligible class member lessees and former owners will receive $990 per vehicle;

WHEREAS, as more fully set forth in the Department of Justice and California Consent Decree, (*In re: Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices and Products Liability Litigation*), Case No. 3:17-md-02777-EMD (N.D. Cal.) (hereinafter "DOJ-CA Consent Decree," as specifically defined below), the Defendants have agreed to offer to owners and lessees of Diesel Vehicles an Approved Emissions Modification that is expected to ensure the vehicles comply with Clean Air Act and California Health and Safety Code emissions requirements through the full useful life of the vehicles and to offer, through May 1, 2029, a comprehensive emissions warranty for Diesel Vehicles that receive the Approved Emissions Modification;

WHEREAS, for the reasons set forth herein and in the contemporaneously filed Stipulation for Entry of Consent Order and Final Judgment Order, and for the purpose of avoiding prolonged and costly litigation, and in furtherance of the public interest, the State and the Defendants consent to the entry of this Judgment;

NOW, THEREFORE, IT IS ADJUDGED, ORDERED AND DECREED:

I. JURISDICTION AND VENUE

1. Defendants consent to this Court's continuing subject matter and personal jurisdiction solely for the purposes of entry, enforcement, and modification of this Judgment and without waiving their right to contest this Court's jurisdiction in other matters. This Court retains jurisdiction of this action for the purposes of enforcing or modifying the terms of this Judgment, or granting such further relief as the Court deems just and proper.

2. Defendants consent to venue in this Court solely for the purposes of entry, enforcement, and modification of this Judgment and do not waive their right to contest this Court's venue in other matters.

3. Defendants hereby accept and expressly waive any defect in connection with service of process in this action issued to each Defendant by the Attorney General and further consent to service upon the below-named counsel via e-mail of all process in this action.

II. DEFINITIONS

4. As used herein, the below terms shall have the following meanings (in alphabetical order):

a. "**ANR**" means the Vermont Agency of Natural Resources.

b. "**Attorney General**" means the Vermont Attorney General's Office.

c. "**Auxiliary Emission Control Device**" or "**AECD**" means "any element of design which senses temperature, vehicle speed, engine RPM,

transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system." 40 C.F.R. § 86.1803-01.

d. "**California Consent Decree**" means the Second California Partial Consent Decree, filed on January 10, 2019 in the U.S. District Court for the Northern District of California (the "Federal Court"), as agreed by (1) the Attorney General of California and the California Air Resources Board on behalf of the People of California; and (2) Defendants, resolving certain aspects of the disputes between those parties on the terms described therein. If the Federal Court approves the consent decree, "California Consent Decree" shall mean the decree as and in the form that it is ultimately approved and entered by the Federal Court.

e. "**California UDAP Claims**" means claims or potential claims California asserted or could assert under its consumer protection and unfair trade and deceptive acts and practices laws, as well as common law and equitable claims, arising from or related to the Covered Conduct, including in its sovereign enforcement capacity or as parens patriae on behalf of its citizens.

f. "**California UDAP Payment**" means the amount paid to California and its agencies to resolve the California UDAP Claims and does not include any other amounts paid by Defendants to California, including, without limitation, restitution, payments to resolve environmental claims, attorney fees or costs.

g. "**CARB**" means the California Air Resources Board.

h. "**Covered Conduct**" means any and all acts or omissions, including all communications, occurring up to and including the Effective Date of this Judgment, relating to: (i) the design, installation, presence, or failure to disclose any Defeat Device or Undisclosed AECD in any Diesel Vehicle; (ii) the marketing or advertisement of any Diesel Vehicle as green, clean, environmentally friendly (or similar such terms), and/or compliant with state or federal emissions standards, including the marketing or advertisement of any Diesel Vehicle without disclosing the design, installation or presence of a Defeat Device or Undisclosed AECD; (iii) any emissions-related conduct in connection with the distribution to, offering for sale, delivery for sale, sale, or lease of any Diesel Vehicle in any State; (iv) statements or omissions concerning the Diesel Vehicles' emissions and/or the Diesel Vehicles' compliance with applicable emissions standards, including, but not limited to, certifications of compliance or other similar documents or submissions; (v) conduct alleged, or any related conduct that could have been alleged, in any Complaint, Notice of Violation, Executive Order or Notice of Penalty filed or issued, or that could have been filed or issued, by any state or state agency, that the Diesel Vehicles contain prohibited Undisclosed AECDs or Defeat Devices that cause the Diesel Vehicles to emit oxides of nitrogen ("NOx") in excess of applicable legal standards, or that as a result of or in connection to any such conduct, Defendants falsely reported the Diesel Vehicles' emissions of NOx, Defendants tampered with any emissions control device or element of design related to emissions controls installed in the Diesel Vehicles, Defendants affixed labels related to emissions to

the Diesel Vehicles that were false, invalid or misleading and/or Defendants breached their emissions warranties relating to the Diesel Vehicles; and (vi) the effect of the conduct described in subparts (i) and (ii) to give rise to violations of laws or regulations governing air pollution from motor vehicles, including, without limitation, emission standards, emission control system standards, on-board diagnostics standards, and certification and disclosure requirements.

i. "**Defeat Device**" means an AECD "that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use, unless: (1) Such conditions are substantially included in the federal emission test procedure; (2) The need for the AECD is justified in terms of protecting the vehicle against damage or accident; (3) The AECD does not go beyond the requirements of engine starting; or (4) The AECD applies only for emergency vehicles," 40 C.F.R. § 86.1803-01, or "any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with [the Emission Standards for Moving Sources section of the Clean Air Act], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use." 42 U.S.C. § 7522(a)(3)(B).

j. "**Diesel Vehicle**" means each and every light duty diesel vehicle equipped with a 3.0-liter "EcoDiesel" engine that Defendants or their respective

affiliates sold or offered for sale in, leased or offered for lease in, or introduced or delivered for introduction into commerce in the United States or its states or territories, or imported into the United States or its states or territories, and that is or was purported to have been covered by the following U.S. Environmental Protection Agency ("EPA") Test Groups:

Model Year	EPA Test Groups	Vehicle Makes and Models
2014	ECRXT03.05PV	Ram 1500
2014	ECRXT03.05PV	Jeep Grand Cherokee
2015	FCRXT03.05PV	Ram 1500
2015	FCRXT03.05PV	Jeep Grand Cherokee
2016	GCRXT03.05PV	Ram 1500
2016	GCRXT03.05PV	Jeep Grand Cherokee

k. "**DOJ**" means the United States Department of Justice.

l. "**DOJ-CA Consent Decree**" means the consent decree, filed on January 10, 2019 in the Federal Court, as agreed by (1) the United States on behalf of the Environmental Protection Agency, and California; and (2) Defendants, resolving certain aspects of the disputes between those parties on the terms described therein. If the Federal Court approves the consent decree, "DOJ-CA Consent Decree" shall mean the decree as and in the form that it is ultimately approved and entered by the Federal Court.

m. "**Effective Date**" means the date on which this Judgment has been signed by the Parties and entered as an order by the Court.

n. "**Environmental Claims**" means claims or potential claims, including for emissions mitigation or NOx mitigation, or for any emissions-related payments, that were brought or could be brought under Environmental Laws by the State,

including in its sovereign enforcement capacity or as parens patriae on behalf of its citizens, or by ANR.

o. "**Environmental Laws**" means any potentially applicable federal, state and/or local laws, rules, regulations and/or common law or equitable principles or doctrines under which the Environmental Claims may arise including, without limitation, 10 V.S.A. §§ 551 - 585 and VAPCR §§ 5-1101 – 1109, and laws, rules and/or regulations regarding air pollution control from motor vehicles, mobile source emissions, certification, reporting of information, inspection and maintenance of vehicles and/or anti-tampering provisions, together with related common law and equitable claims.

p. "**EPA**" means the United States Environmental Protection Agency.

q. "**MDL**" means the multidistrict litigation styled as In re: Chrysler-Dodge-Jeep "Ecodiesel" Marketing, Sales Practices, and Products Liability Litigation, No. 3:17-md-02777-EMD (N.D. Cal.).

r. "**Multistate Working Group**" means the Attorneys General of Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina,

South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

s. "**UDAP Claims**" means claims or potential claims the State asserted or could assert in its sovereign enforcement capacity or as parens patriae on behalf of its citizens under UDAP Laws (e.g., Vermont's Consumer Protection Act), as well as common law and equitable claims, including claims or potential claims that could be brought for injunctive relief and/or restitution or other monetary payments to consumers under UDAP Laws.

t. "**UDAP Laws**" means all potentially applicable consumer protection and unfair trade and deceptive acts and practices laws, rules and/or regulations, including, without limitation, 9 V.S.A. §§ 2453 and 2453(a), as well as under federal, state and/or local laws, rules, regulations and/or common law or equitable principles or doctrines.

u. "**Undisclosed AECD**" means an AECD that was not disclosed to federal or state regulators in the course of applying to such regulators for certification of emission compliance or Executive Order.

III. EFFECT OF JUDGMENT

5. This Judgment fully and finally resolves and disposes of the Environmental Claims and UDAP Claims arising from or related to the Covered Conduct that were alleged in the Complaint in this matter or that could be brought by the State in its sovereign enforcement capacity or as parens patriae on behalf of the citizens of the State or ANR.

6. The Judgment will, upon its Effective Date, constitute a fully binding and enforceable agreement between the Parties, and the Parties consent to its entry as a final judgment by the Court.

IV. RELIEF

7. Without admitting any of the factual or legal allegations in the Complaint, the Defendants have agreed to the following relief.

Monetary Relief

8. Within ten (10) business days of the State providing written notice to Defendants containing (i) a signed certification on State letterhead that the Judgment is final under the laws of the State of Vermont such that no further judicial or administrative action is required in order for the Judgment to be final; (ii) a copy of the Judgment entered by the Court and any other documents evidencing the finality of the Parties' settlement; and (iii) signed wire instructions on State letterhead in a mutually agreed format (collectively, the "Settlement Documents"), Defendants shall pay $362,428 ("the Vermont Settlement Amount") to the State in accordance with the wire instructions in the Settlement Documents.

9. The parties stipulate for purposes of this judgment, 253 Diesel Vehicles were sold or leased in Vermont. The State represents that, of the Vermont Settlement Amount, $158,125 is on account of Vermont's release of its UDAP Claims.

10. If Defendants pay a California UDAP Payment that is greater than $625 per Diesel Vehicle sold or leased in California (as agreed with California in the

California Consent Decree), then Defendants shall within thirty (30) business days pay by wire transfer payable to the State of Vermont an additional amount so as to make the amount paid to Vermont on account of Vermont's release of its UDAP Claims (or $625 per Diesel Vehicle sold or leased in Vermont) equal, on a per Diesel Vehicle basis, to the California UDAP Payment. For the avoidance of doubt, the payment described in this paragraph, if made at all, need not be made until thirty (30) business days after the later of the following dates: (i) the date that Vermont provides the Settlement Documents; or (ii) the date Defendants make the California UDAP Payment.

Injunctive Relief

11. Except as otherwise stated herein, Defendants and their officers and employees are hereby enjoined, as follows:

a. The Defendants and their affiliates shall not engage in future unfair or deceptive acts or practices under Vermont law in connection with their dealings with consumers and state regulators, directly or indirectly, by:

i. Advertising, marketing, offering for sale, selling, offering for lease, leasing, or distributing in Vermont any vehicle that contains a Defeat Device;

ii. Misrepresenting to consumers or knowingly assisting others in misrepresenting to consumers that a vehicle complies with United States, State or local emissions standards;

iii. Making a materially misleading statement or omission to consumers regarding the compliance of a vehicle with any United States or State emissions standard applicable to that vehicle;

iv. Misrepresenting to consumers that a vehicle has low NOx emissions; and

v. Misrepresenting to consumers that a vehicle has low emissions, lower emissions than other vehicles, or a specific level(s) of emissions.

12. Defendants shall not engage in any act or practice prohibited by the DOJ-CA Consent Decree attached hereto as Exhibit A, to the extent enjoined by Section VI (Injunctive Measures) therein. The making of any determination of whether Defendants have materially violated the terms of the DOJ-CA Consent Decree shall continue to be governed exclusively by the processes, procedures, and mechanisms described in the DOJ-CA Consent Decree.

Additional Undertakings

13. The Defendants shall comply with the Approved Emissions Modification Program (Sec. 4 and related provisions of Secs. 5 & 6), including the Approved Emissions Modification, the Owner Payment, the Former Owner Payment, the Lessee Payment, and the Warranty Obligations provisions, of the MDL Consumer Settlement Agreement, attached hereto as Exhibit B, which provisions will be deemed part of this Judgment.

14. The Defendants shall implement the Emissions Modification Recall Program (Sec. VI(B)), United States Mitigation Program (Sec. VI(D) ¶¶ 66-68) and

California Mitigation Program (Sec. VI(D) ¶ 69) provisions of the DOJ-CA Consent Decree, attached hereto as Exhibit A, which provisions will be deemed part of this Judgment.

V. REPORTING AND NOTICES

15. The Defendants shall produce to the State: (i) any status reports concerning the Recall Program provided to the Department of Justice pursuant to the DOJ-CA Consent Decree; (ii) annual reports generated by the corporate compliance auditor required under the DOJ-CA Consent Decree; and (iii) as to consumers with an address in the State, any consumer name and address information to be provided by the Defendants to the Notice Administrator under the MDL Consumer Settlement Agreement. The Defendants shall provide this information to the State contemporaneous with its provision to the DOJ, EPA, CARB, the California Attorney General (the "CAAG"), and the MDL Consumer Settlement Agreement Notice Administrator, as applicable. All such reports and information shall be submitted to the State's representative listed in paragraph 17 (Notice) or such other person as the State may direct. The State shall take all reasonable efforts to protect consumer data provided for any purpose related to this Judgment or the other settlement agreements and orders referenced herein.

16. Defendants shall promptly respond to the State's reasonable inquiries about the status of its consumers' claims submitted under the MDL Consumer Settlement Agreement. Defendants shall provide the State with contact information for a representative of Defendants for purposes of such inquiries.

17. Any notices required to be sent to the State or the Defendants under this Judgment shall be sent by United States mail, certified mail return receipt requested, or other nationally recognized courier service that provides for tracking services and identification of the person signing for the document. Communications enclosing or regarding the Settlement Documents, as set forth in paragraph 8, or providing reporting under paragraph 15, may be sent by e-mail to the addresses provided below. The notices or documents shall be sent to the following addresses:

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For the Defendants:

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David M.J. Rein
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Sullivan & Cromwell LLP

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reind@sullcrom.com
monahanw@sullcrom.com)

VI. RELEASE

18. Subject to paragraph 19 below, in consideration of the monetary and non-monetary relief described in Section IV, and the undertakings to which the Defendants have agreed in the MDL Consumer Settlement Agreement and the DOJ-CA Consent Decree, and upon the Defendants' payment of the amount contemplated in paragraph 8, and upon the Federal Court's approval of the MDL Consumer Settlement Agreement and DOJ-CA Consent Decree:

i. Except as provided in paragraph 19 below, the State releases the Defendants, their affiliates and any of the Defendants' or their affiliates' former, present or future owners, shareholders, directors, officers, employees, attorneys, parent companies, subsidiaries, predecessors, successors, dealers, agents, assigns and representatives (collectively, the "Released Parties"), from all UDAP Claims arising from or related to the Covered Conduct, including without limitation (i) restitution or other monetary payments or injunctive relief to consumers; and (ii) penalties, fines, restitution or other monetary payments or injunctive relief to the State.

ii. Except as provided in paragraph 19 below, the State releases the Released Parties from all Environmental Claims arising from or related

to the Covered Conduct, including, without limitation, injunctive relief, penalties, fines, restitution or other monetary payments.

19. The State reserves, and this Judgment is without prejudice to, all claims, rights, and remedies against Defendants, and Defendants reserve, and this Judgment is without prejudice to, all defenses, with respect to all matters not expressly released in paragraph 18, including, without limitation:

a. any claims arising under state tax laws;

b. any claims for the violation of securities laws;

c. any criminal liability;

d. any civil claims unrelated to the Covered Conduct; and

e. any action to enforce this Judgment and subsequent, related orders or judgments.

20. The claims set forth in the Complaint are resolved in their entirety.

VII. MISCELLANEOUS

21. The provisions of this Judgment shall be construed in accordance with the laws of the State of Vermont.

22. This Judgment is made without (i) trial or adjudication of any issue of fact or law; (ii) admission of any issue of fact or law; or (iii) finding of wrongdoing or liability of any kind.

23. Nothing in this Judgment shall limit or expand the Attorney General's or ANR's right to obtain information, documents, or testimony from the Defendants pursuant to any state or federal law, regulation, or rule concerning the claims

reserved in paragraph 19, or to evaluate the Defendants' compliance with the obligations set forth in this Judgment.

24. Defendants agree not to deduct the Vermont Settlement Amount in calculating their state or local income taxes in Vermont. Nothing in this Judgment releases any private rights of action asserted by entities or persons not releasing claims under this Judgment, nor does this Judgment limit any defense available to the Defendants in any such action.

25. This Judgment shall be enforceable by the Attorney General and ANR, acting together or separately.

26. The Parties agree that this Judgment does not enforce the laws of other countries, including the emissions laws or regulations of any jurisdiction outside the United States. Nothing in this Judgment is intended to apply to, or affect, Defendants' obligations under the laws or regulations of any jurisdiction outside the United States. At the same time, the laws and regulations of other countries shall not affect Defendants' obligations under this Judgment.

27. Nothing in this Judgment constitutes an agreement by the State concerning the characterization of the amounts paid hereunder for purposes of any proceeding under the Internal Revenue Code or any state tax laws. The Judgment takes no position with regard to the tax consequences of the Judgment with regard to federal, state, local and foreign taxes.

28. Nothing in this Judgment shall be construed to waive any claims of sovereign immunity any party may have in any action or proceeding.

29. Any failure by any party to this Judgment to insist upon the strict performance by any other party of any of the provisions of this Judgment shall not be deemed a waiver of any of the provisions of this Judgment.

30. This Judgment shall act as an injunction issued under 10 V.S.A. § 8221 and 9 V.S.A. § 2458(a). Nothing in this Judgment shall constitute an admission or finding of fact or an admission or finding that Defendants have engaged in or are engaged in a violation of law.

31. This Judgment, which constitutes a continuing obligation, is binding upon the State and Defendants, and any of Defendants' respective successors, assigns, or other entities or persons otherwise bound by law.

32. Aside from any action stemming from compliance with this Judgment and except in the event of a Court's material modification of this Judgment, the Parties waive all rights of appeal or to re-argue or re-hear any judicial proceedings upon this Judgment, any right they may possess to a jury trial, and any and all challenges in law or equity to the entry of this Judgment. The Parties will not challenge or appeal (i) the entry of the Judgment, unless the Court materially modifies the terms of the Judgment, or (ii) the Court's jurisdiction to enter and enforce the Judgment.

33. The terms of this Judgment may be modified only by a subsequent written agreement signed by all Parties. Where the modification constitutes a material change to any term of this Judgment, it will be effective only by written approval of all Parties and the approval of the Court.

34. Consent to this Judgment does not constitute an approval by the Attorney General of the Defendants' business acts and practices, and Defendants shall not represent this Judgment as such an approval.

35. In entering into this Judgment, Defendants have made no admission of law or fact. The Defendants shall not take any action or make any statement denying, directly or indirectly, the propriety of this Judgment. Nothing in this paragraph affects the Defendants' right to take legal or factual positions in defense of litigation or other legal, administrative or regulatory proceedings, or any person's testimonial obligations.

36. Nothing in this Judgment shall preclude any party from commencing an action to pursue any remedy or sanction that may be available to that party upon its determination that another party has failed to comply with any of the requirements of this Judgment.

37. Nothing in this Judgment shall create or give rise to a private right of action of any kind or create any right in a non-party to enforce any aspect of this Judgment or claim any legal or equitable injury for a violation of this Judgment. The exclusive right to enforce any violation or breach of this Judgment shall be with the parties to this Judgment and the Court.

38. Nothing in this Judgment shall relieve the Defendants of their obligation to comply with all federal, state or local law and regulations.

39. If any portion of this Judgment is held invalid by operation of law, the remaining terms of this Judgment shall not be affected and shall remain in full force and effect.

40. This Judgment supersedes all prior communications, discussions or understandings, if any, of the Parties, whether oral or in writing.

41. Any filing or related court costs imposed shall be paid by the Defendants.

42. Each of the persons who signs his/her name below affirms that he/she has the authority to execute this Judgment on behalf of the Party whose name appears next to his/her signature and that this Judgment is a binding obligation enforceable against said Party under Vermont law. The signatory from the Vermont Attorney's General Office represents that he/she has the authority to execute this Judgment on behalf of the State and that this Judgment is a binding obligation enforceable against the State under Vermont law.

IT IS SO ORDERED. JUDGMENT is hereby entered in accordance with the foregoing.

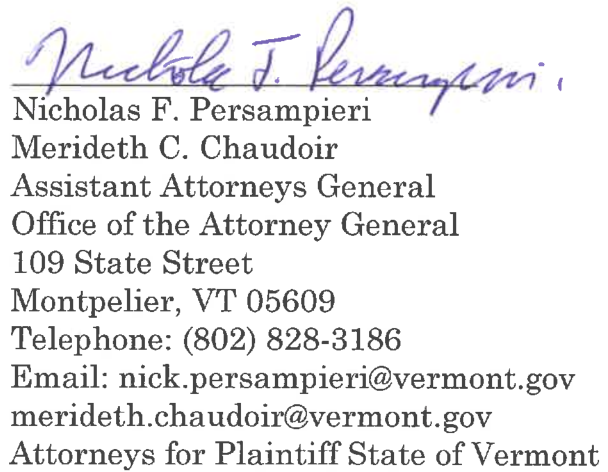
By the Court:

Dated: April 25, 2019

Mary Miles Teachout

Hon. Mary Miles Teachout
Washington Superior Court Judge

The Undersigned Parties enter into this Consent Judgment in the matter of *State v. FCA US LLC* (Sup. Ct. Wash. Div.).



THOMAS. J. DONOVAN, JR.

Attorney General of Vermont

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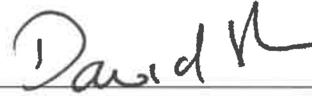
Attorneys for Defendants



Robert J. Giuffra, Jr.
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VT SUPERIOR COURT
WASHINGTON UNIT
2018 JAN -2 P 3: 27
FILED

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re: DARYL WISCH) CIVIL DIVISION
HERBERT WISCH) Docket No. 3-1-18 Wncv

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Daryl Wisch and Herbert Wisch ("Respondents"), hereby enter into this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is "presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based." 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices ("EMPs") specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified

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05609

or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).

7. A violation of the lead law requirements may result in a maximum civil penalty of $10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).

8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.

9. Violations of the Consumer Protection Act are subject to a civil penalty of up to $10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondents' Rental Housing and Lead Compliance Practices

10. Respondents are the owners of at least twelve rental properties, located at: 78 Traverse Place, Rutland (5 units); 9 Hopkins Street, Rutland (4 units); 57 River Street, Springfield (4 units); 51 Merrill Street, Springfield (3 units); 11 Clover Street, Rutland; 2137 VT Route 30, Bomoseen, 126 State Street, Rutland; 128 State Street, Rutland, 130 State Street, 132 State Street, 164.5 State Street, Rutland, 14-14.5 Cottage Street, Rutland, all located in Vermont (collectively, "the Properties").

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11. The Properties were all constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent units in the Properties.
13. On July 23, 2017, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 78 Traverse Place, 57 River Street, and 51 Merrill Street.
14. The EMP Statements represented that Respondent performed EMPs at those three properties in August and November 2016.
15. The EMP Statements specifically certified that Respondents:
    a. visually inspected exterior surfaces and outbuildings;
    b. stabilized exterior paint; and
    c. did not identify deteriorated paint exceeding 1 square foot on exterior surfaces of the buildings, or repaired such deteriorated paint within 30 days.
16. The EMP Statements were signed by Respondents' property manager and certified that "all information provided on this form is true and accurate" and acknowledged that "providing false, incomplete or inaccurate information on this form is unlawful and is punishable by civil and criminal penalties pursuant to Vermont law."
17. In August and September 2017, Vermont Department of Health staff inspected the exterior of the three properties in ¶ 13 and documented (via photographs) deteriorated paint exceeding more than 1 square foot on those properties' exterior surfaces.

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18. Further, on August 7, 2017 the Vermont Department of Health sent a "Notice of Non-Compliance" indicating that Respondents had not filed an "EMP Rental Property Compliance Statement" for two properties at 11 Clover Street and 2137 VT Route 30. The Department allowed for 30 days for Respondents to file the necessary statements.

19. Respondents did not respond to the 30-day Notice, and did not file the EMP compliance statements within 30 days.

20. As of October 2017, Respondents have not filed current EMP compliance statements for those two rental properties.

21. Additionally, Respondents have not filed current EMP compliance statements for six properties located in Rutland: 126, 128, 130, 132, and 164.5 State Street, and 14-14.5 Cottage Street.

22. Respondents admit the truth of the facts described in ¶¶ 10-21.

The State's Allegations

23. The Vermont Attorney General's Office alleges the following violations of the Consumer Protection Act and Lead Law:

    a. Submitting false EMP compliance statements and inaccurately representing that the property was in compliance with the lead law; and

    b. Failing to file EMP compliance statements for rental properties.

24. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

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Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondents are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

25. Respondents shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the Properties and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.
26. By May 31, 2018, all exterior EMP work of 11 Clover Street shall be completed in a lead-safe manner in accordance with 18 V.S.A. § 1760. Until the exterior work is complete, Respondent shall restrict access to exterior surfaces and components of 11 Clover Street with lead hazards and areas directly below the deteriorated surfaces, pursuant to 18 V.S.A. § 1759(a)(3).
27. By November 30, 2017, all exterior EMP work of all Properties listed in ¶ 10 (except for 11 Clover Street) shall be completed in a lead-safe manner in accordance with 18 V.S.A. § 1760. If Respondents require additional time to complete the work, Respondents will contact the Department of Health to request an extension of time agreement before the expiration of the above deadlines and provide a detailed justification for any extension. Any extension will be granted only for the exterior of the Properties; all interior work must be completed by November 30, 2017.
28. Within one week of completion of the EMP work at the Properties described in the paragraph above, Respondents will file with the Vermont Department of Health,

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Respondents' insurance carrier and with the Office of the Attorney General, a completed EMP compliance statement for all Properties, and will give a copy of the compliance statement to an adult in each rented unit of all Properties. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

29. In the event Respondents wish to rent a unit which becomes vacant in any of Respondents' pre-1978 rental housing before such housing is made EMP compliant, Respondents shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondents' advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondents shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondents that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.

30. Respondents shall pay the sum of $10,000 in civil penalties and costs for the filing of false EMP compliance statements as follows: (1) $2,500, paid to the "State of Vermont" and sent to the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609; and (2) $7,500 to be expended on lead hazard reduction improvements at any of the Properties.

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Other Terms

31. This AOD is binding on Respondents, however, sale of any pre-1978 rental property may not occur unless Respondents have complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.
32. Transfer of ownership of any of Respondents' pre-1978 rental properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.
33. This AOD shall not affect marketability of title.
34. Nothing in this AOD in any way affects Respondents' other obligations under state, local, or federal law.
35. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondents to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least $5,000 and not more than $10,000.

SIGNATURES APPEAR ON NEXT PAGE

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

DATED at Montpelier, Vermont this 29th day of ~~November~~ December, 2017.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By:

Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

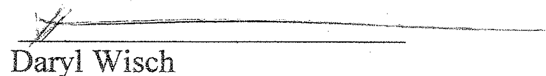
DATED at Ludlow, VT this 18 day of ~~November~~ December, 2017.

HERBERT WISCH

By:
Herbert Wisch

DATED at Ludlow, VT this 18 day of ~~November~~ December, 2017.

DARYL WISCH

By: 
Daryl Wisch

VT SUPERIOR COURT
WASHINGTON UNIT

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2018 JAN -2 P 3: 27

In Re: DARYL WISCH) CIVIL DIVISION
HERBERT WISCH) Docket No. 3-1-18 Wncv

FILED

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Daryl Wisch and Herbert Wisch ("Respondents"), hereby enter into this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is "presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based." 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices ("EMPs") specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified

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or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).

7. A violation of the lead law requirements may result in a maximum civil penalty of $10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).

8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.

9. Violations of the Consumer Protection Act are subject to a civil penalty of up to $10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondents' Rental Housing and Lead Compliance Practices

10. Respondents are the owners of at least twelve rental properties, located at: 78 Traverse Place, Rutland (5 units); 9 Hopkins Street, Rutland (4 units); 57 River Street, Springfield (4 units); 51 Merrill Street, Springfield (3 units); 11 Clover Street, Rutland; 2137 VT Route 30, Bomoseen, 126 State Street, Rutland; 128 State Street, Rutland, 130 State Street, 132 State Street, 164.5 State Street, Rutland, 14-14.5 Cottage Street, Rutland, all located in Vermont (collectively, "the Properties").

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11. The Properties were all constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.

12. Respondent has in the past and continues presently to rent and offer for rent units in the Properties.

13. On July 23, 2017, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 78 Traverse Place, 57 River Street, and 51 Merrill Street.

14. The EMP Statements represented that Respondent performed EMPs at those three properties in August and November 2016.

15. The EMP Statements specifically certified that Respondents:

    a. visually inspected exterior surfaces and outbuildings;

    b. stabilized exterior paint; and

    c. did not identify deteriorated paint exceeding 1 square foot on exterior surfaces of the buildings, or repaired such deteriorated paint within 30 days.

16. The EMP Statements were signed by Respondents' property manager and certified that "all information provided on this form is true and accurate" and acknowledged that "providing false, incomplete or inaccurate information on this form is unlawful and is punishable by civil and criminal penalties pursuant to Vermont law."

17. In August and September 2017, Vermont Department of Health staff inspected the exterior of the three properties in ¶ 13 and documented (via photographs) deteriorated paint exceeding more than 1 square foot on those properties' exterior surfaces.

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18. Further, on August 7, 2017 the Vermont Department of Health sent a "Notice of Non-Compliance" indicating that Respondents had not filed an "EMP Rental Property Compliance Statement" for two properties at 11 Clover Street and 2137 VT Route 30. The Department allowed for 30 days for Respondents to file the necessary statements.

19. Respondents did not respond to the 30-day Notice, and did not file the EMP compliance statements within 30 days.

20. As of October 2017, Respondents have not filed current EMP compliance statements for those two rental properties.

21. Additionally, Respondents have not filed current EMP compliance statements for six properties located in Rutland: 126, 128, 130, 132, and 164.5 State Street, and 14-14.5 Cottage Street.

22. Respondents admit the truth of the facts described in ¶¶ 10-21.

The State's Allegations

23. The Vermont Attorney General's Office alleges the following violations of the Consumer Protection Act and Lead Law:

    a. Submitting false EMP compliance statements and inaccurately representing that the property was in compliance with the lead law; and

    b. Failing to file EMP compliance statements for rental properties.

24. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

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Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondents are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

25. Respondents shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the Properties and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.
26. By May 31, 2018, all exterior EMP work of 11 Clover Street shall be completed in a lead-safe manner in accordance with 18 V.S.A. § 1760. Until the exterior work is complete, Respondent shall restrict access to exterior surfaces and components of 11 Clover Street with lead hazards and areas directly below the deteriorated surfaces, pursuant to 18 V.S.A. § 1759(a)(3).
27. By November 30, 2017, all exterior EMP work of all Properties listed in ¶ 10 (except for 11 Clover Street) shall be completed in a lead-safe manner in accordance with 18 V.S.A. § 1760. If Respondents require additional time to complete the work, Respondents will contact the Department of Health to request an extension of time agreement before the expiration of the above deadlines and provide a detailed justification for any extension. Any extension will be granted only for the exterior of the Properties; all interior work must be completed by November 30, 2017.
28. Within one week of completion of the EMP work at the Properties described in the paragraph above, Respondents will file with the Vermont Department of Health,

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Respondents' insurance carrier and with the Office of the Attorney General, a completed EMP compliance statement for all Properties, and will give a copy of the compliance statement to an adult in each rented unit of all Properties. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

29. In the event Respondents wish to rent a unit which becomes vacant in any of Respondents' pre-1978 rental housing before such housing is made EMP compliant, Respondents shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondents' advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondents shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondents that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.

30. Respondents shall pay the sum of $10,000 in civil penalties and costs for the filing of false EMP compliance statements as follows: (1) $2,500, paid to the "State of Vermont" and sent to the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609; and (2) $7,500 to be expended on lead hazard reduction improvements at any of the Properties.

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

Other Terms

31. This AOD is binding on Respondents, however, sale of any pre-1978 rental property may not occur unless Respondents have complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.
32. Transfer of ownership of any of Respondents' pre-1978 rental properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.
33. This AOD shall not affect marketability of title.
34. Nothing in this AOD in any way affects Respondents' other obligations under state, local, or federal law.
35. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondents to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least $5,000 and not more than $10,000.

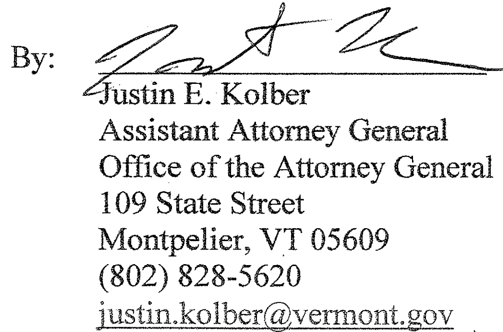
SIGNATURES APPEAR ON NEXT PAGE

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 05609

DATED at Montpelier, Vermont this 29th day of ~~November~~ December, 2017.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL



By: ______________________
Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

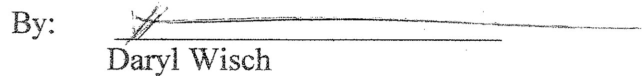
DATED at Ludlow, VT this 18 day of ~~November~~ December, 2017.

HERBERT WISCH

By: ______________________
Herbert Wisch

DATED at Ludlow, VT this 18 day of ~~November~~ December, 2017.

DARYL WISCH



By: ______________________
Daryl Wisch

VT SUPERIOR COURT
WASHINGTON UNIT

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2018 FEB 12 P 3:07

In Re: JONATHAN PIERCE) CIVIL DIVISION
) Docket No. 97-2-18 Wncv

FILED

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Jonathan Pierce ("Respondent"), hereby enter into this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is "presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based." 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices ("EMPs") specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified

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or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of $10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to $10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of seven rental properties: (1) 32 Johnson Street, Barre; (2) 7 Farwell Street, Barre; (3) 76-78 Maple Street, Barre; (4) 850 Graniteville Road, Graniteville; (5) 852 Graniteville Road, Graniteville; (6) 300-302 Elm Street, Montpelier; and (7) 2333 VT Route 14, Williamstown ("the Properties").
11. The Properties were constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are subject to the requirements of 18 V.S.A. Chapter 38.

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12. Respondent has in the past and continues presently to rent and offer for rent units in the Properties.

13. On September 28, 2017, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 76-78 Maple Street and 2333 VT Route 14.

14. The EMP Statements represented that Respondent performed EMPs at 76-78 Maple Street on September 2, 2017, and at 2333 VT Route 14 on September 8, 2017.

15. The EMP Statements specifically certified that Respondent:

    a. visually inspected exterior surfaces and outbuildings and did not identify deteriorated paint exceeding 1 square foot on exterior surfaces of the buildings; and

    b. removed visible paint chips from the outdoor area of the buildings.

16. The EMP Statements were signed by Jonathan Pierce and certified that "all information provided on this form is true and accurate" and acknowledged that "providing false, incomplete or inaccurate information on this form is unlawful and is punishable by civil and criminal penalties pursuant to Vermont law."

17. On October 4, 2017, Vermont Department of Health staff inspected the exterior of 76-78 Maple Street and 2333 VT Route 14 and documented (via photographs) deteriorated paint exceeding more than 1 square foot on the properties' exterior surfaces, and observed visible paint chips on the ground at 2333 VT Route 14.

18. Respondent admits the facts described in ¶¶ 10-17.

Office of the ATTORNEY GENERAL
109 State Street
Montpelier, VT 05609

The State's Allegations

19. The Vermont Attorney General's Office alleges the following violations of the Consumer Protection Act and Lead Law:

    a. Submitting a false EMP compliance statement and inaccurately representing that the properties were in compliance with the lead law.

20. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

21. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the property and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.

22. By May 31, 2018, all exterior EMP work of the Properties shall be completed in a lead-safe manner in accordance with 18 V.S.A. § 1760. Until the exterior work is complete, Respondent shall restrict access to exterior surfaces and components of the Properties with lead hazards and areas directly below the deteriorated surfaces, pursuant to 18 V.S.A. § 1759(a)(3). If Respondent requires additional time to complete the work, Respondent will contact the Department of Health to request an extension of time agreement before the expiration of the above deadlines and provide

a detailed justification for any extension. Any extension will be granted only for the exterior of the Properties; all interior work must be completed by December 31, 2017.

23. Within one week of completion of the EMP work at the Properties described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, an updated and completed EMP compliance statement for the Properties, and will give a copy of the compliance statement to an adult in each rented unit of the Properties. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

24. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant, Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; or (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondent that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.

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Other Terms

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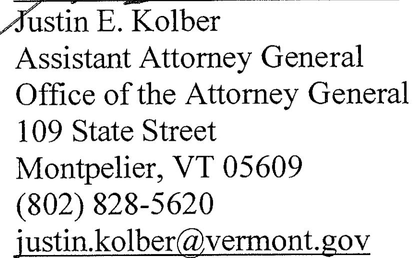
28. This AOD shall not affect marketability of title.
29. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.
30. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondent to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least $5,000 and not more than $10,000.

SIGNATURES APPEAR ON NEXT PAGE

DATED at Montpelier, Vermont this 12th day of ~~January~~ February, 2018.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By: 

Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at Montpelier, VT this 31 day of January, 2018.

JONATHAN PIERCE

By:

Jonathan Pierce

VT SUPERIOR COURT

2019 JAN 22 P 3:14

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

STATE OF VERMONT Plaintiff, v. MEDICAL DEVICE BUSINESS SERVICES, INC. f/k/a DEPUY INC., DEPUY ORTHOPEDICS, INC., and DEPUY ORTHOPAEDICS, INC.; DEPUY PRODUCTS, INC.; DEPUY SYNTHES, INC.; DEPUY SYNTHES SALES, INC., and JOHNSON & JOHNSON, Defendants.	)	CIVIL DIVISION Docket No.__________

CONSENT JUDGMENT

Plaintiff, State of Vermont, by and through Attorney General Thomas J. Donovan, Jr., has brought this action against Medical Device Business Services, Inc. f/k/a DePuy Inc., DePuy Orthopedics, Inc., and DePuy Orthopaedics; Inc.; DePuy Products, Inc.; DePuy Synthes, Inc.; DePuy Synthes Sales, Inc. (hereinafter referred to as "DePuy") and Johnson & Johnson (hereinafter, collectively referred to as "Defendants") pursuant to various provisions of the Vermont Consumer Protection Act ("CPA"). The Parties have consented to the entry of this Consent Judgment ("Judgment") for the purposes of settlement only, without any admission by any party, and without trial or finding of any issue of fact or law.

PARTIES

1. The State of Vermont, by and through the Vermont Attorney General, is the Plaintiff in this case. The Attorney General is charged with, among other things, the responsibility of enforcing the CPA, and may bring an enforcement action pursuant to 9 V.S.A. § 2458.

2. Medical Device Business Services, Inc., f/k/a DePuy Inc., DePuy Orthopedics, Inc., and DePuy Orthopaedics, Inc., is a Defendant in this case and is an Indiana company, with executive offices located at 700 Orthopaedic Drive, Warsaw, Indiana 46582.

3. DePuy Products, Inc. is a Defendant in this case and is an Indiana company, with executive offices located at 700 Orthopaedic Drive, Warsaw, Indiana 46582.

4. DePuy Synthes, Inc. is a Defendant in this case and is a Delaware company, with executive offices located at 700 Orthopaedic Drive, Warsaw, Indiana 46582.

5. DePuy Synthes Sales, Inc. is a Defendant in this case and is a Massachusetts company, with executive offices located at 325 Paramount Drive, Raynham, Massachusetts 02767.

6. DePuy does business in the State of Vermont and at all times relevant hereto engaged in trade affecting consumers, within the meaning of the CPA.

7. Johnson & Johnson is a Defendant in this case and is a New Jersey company, with executive offices located at One Johnson & Johnson Plaza New Brunswick, New Jersey 08933.

8. Johnson & Johnson consents to the jurisdiction of the court solely for purposes of this judgment.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

I. FINDINGS

A. This Court has jurisdiction over the subject matter of this lawsuit and over the Parties.

B. The terms of this Judgment shall be governed by the laws of the State of Vermont.

C. Entry of this Judgment is in the public interest and reflects a negotiated settlement among the Parties.

D. The Parties have agreed to resolve and settle the issues resulting from the Covered Conduct (defined below) by entering into this Judgment.[1]

E. Defendants are willing to enter into this Order regarding the Covered Conduct in order to resolve the Signatory Attorney General's concerns under the State Consumer Protection Laws as to the matters addressed in this Order and thereby avoid significant expense, inconvenience, and uncertainty.

F. Defendants are entering into this Order solely for the purpose of settlement, and nothing contained herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Defendants expressly deny. Defendants do not admit any violation of the State Consumer Protection Laws set forth in footnote 2[2], and do not admit any wrongdoing

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[1] This agreement is entered into pursuant to and subject to the State Consumer Protection law(s) cited in footnote 2.

[2] ALABAMA – *Alabama Deceptive Trade Practices Act, Ala. Code § 8-19-1 et seq.*; ALASKA – Alaska's Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 – 561; ARIZONA – *Arizona Consumer Fraud Act*, A.R.S. § 44-1521 *et seq.*; ARKANSAS – *Arkansas Deceptive Trade Practices Act, Ark. Code Ann.* § 4-88-101, *et seq.*; CALIFORNIA – Bus. & Prof Code §§ 17200 *et seq.* and 17500 *et seq.*; COLORADO – *Colorado Consumer Protection Act*, Colo. Rev. Stat. § 6-1-101 *et seq.*; CONNECTICUT – *Connecticut Unfair Trade Practices Act,* Conn. Gen. Stat. §§ 42-110a *et seq.;* DELAWARE – *Delaware Consumer Fraud Act and Uniform Deceptive Trade Practices Act*, Del. CODE ANN. tit. 6, §§ 2511 to 2536; DISTRICT OF COLUMBIA – *District of Columbia Consumer Protection Procedures Act*, D.C. Code §§ 28-3901 *et seq.*; FLORIDA – *Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II*, Florida Statutes, 501.201 *et seq.*; GEORGIA – Fair Business Practices Act, O.C.G.A. § 10-1-390 *et seq.*; HAWAII – *Uniform Deceptive Trade Practice Act,* Haw. Rev. Stat. Chpt. 481A and *Monopolies; Restraint of Trade*, Haw. Rev. Stat. Chpt. 480; IDAHO – *Consumer Protection Act*, Idaho Code Section 48-601 *et seq.*; ILLINOIS – *Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 et seq.* and *Uniform Deceptive Trade Practices Act, 815 ILCS 510/1 et seq.*; INDIANA – *Deceptive Consumer Sales Act*, I.C. § 24-5-0.5 *et seq.*; IOWA – *Iowa Consumer Fraud Act,* Iowa Code Section 714.16, *et seq.*; KANSAS – *Kansas Consumer Protection Act*, K.S.A. 50-623 *et seq.*; KENTUCKY – KRS 367.110 *et seq.*; LOUISIANA – *Unfair Trade-Practices and Consumer Protection Law*, LSA-R.S. 51:1401, *et seq.*; MAINE – *Unfair Trade Practices Act*, 5 M.R.S. §§ 205-A through 214; MARYLAND – *Maryland Consumer Protection Act*, Md. Code Ann., Com. Law §§ 13-101 to 13-501; MASSACHUSETTS – *Mass. Gen. Laws* c. 93A, §§ 2 and 4; MICHIGAN – *Michigan Consumer Protection Act*, MCL § 445.901 *et seq.*; MINNESOTA – *Minnesota Deceptive Trade Practices Act*, Minn. Stat. §§ 325D.43-48; *Minnesota False Advertising Act*, Minn. Stat. § 325F.67; *Minnesota Consumer Fraud Act*, Minn. Stat. §§ 325F.68-694; *Minnesota Deceptive Trade Practices Against Senior Citizens or Disabled Persons Act*, Minn. Stat. § 325F.71.; MISSOURI – Merchandising Practices Act, Chapter 407, RSMo. MONTANA – *Mont. Code Ann. § 30-14-101 et seq.*; NEBRASKA – *Consumer Protection Act*, Neb. Rev. Stat. § 59-1601 *et seq.* and *Uniform Deceptive Trade Practices Act*, Neb. Rev. Stat. §§ 87-301 *et seq.*; NEVADA – *Deceptive Trade Practices Act*, Nevada Revised Statutes 598.0903 *et seq.*; NEW HAMPSHIRE – *New Hampshire Consumer Protection Act*, RSA 358-A; NEW MEXICO – *New Mexico Unfair Practices Act*, NMSA 1978, §§ 57-12-1 to -26 (1967, as amended through 2009); NEW YORK – General Business Law Art. 22-A, §§ 349-50, and Executive Law § 63(12); NORTH CAROLINA – *North Carolina*

that was or could have been alleged by any Signatory Attorney General. No part of this Judgment, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Defendants. This document and its contents are not intended for use by any third party for any purpose, including submission to any court for any purpose. The Parties acknowledge that the payment described herein is not a fine, penalty, or payment in lieu thereof.

G. This Judgment shall not be construed or used as a waiver or limitation of any legal right, remedy, or defense otherwise available to Defendants in any action, or of Defendants' right to defend themselves from, or make any arguments in, any private individual, regulatory, governmental, or class claims or suits relating to the subject matter or terms of this Judgment. Moreover, the Parties do not intend the terms of this Judgment to limit lawful non-promotional statements made by DePuy and Johnson & Johnson regarding products which are the subject of the Covered Conduct. This Judgment is made without trial or adjudication of any issue of fact or law, or finding of liability of any kind. Notwithstanding the foregoing, the State of Vermont may file an action to enforce the terms of this Judgment.

H. It is the intent of the Parties that this Judgment not be admissible in other cases or binding on Defendants in any respect other than in connection with the enforcement of this Judgment.

Unfair and Deceptive Trade Practices Act, N.C.G.S. §§ 75-1.1, *et seq.*; NORTH DAKOTA – *Unlawful Sales or Advertising Practices*, N.D. Cent. Code § 51-15-02 *et seq.*; OHIO – *Ohio Consumer Sales Practices Act*, R.C. 1345.01, *et seq.*; OKLAHOMA – *Oklahoma Consumer Protection Act* 15 O.S. §§ *751 et seq.*; PENNSYLVANIA – *Pennsylvania Unfair Trade Practices and Consumer Protection Law*, 73 P.S. 201-1 *et seq.*; RHODE ISLAND – *Rhode Island Deceptive Trade Practices Act*, Rhode Island General Laws § 6-13.1-1, *et seq.*; SOUTH CAROLINA – South Carolina Unfair Trade Practices Act, S.C. Code §§ 39-5-10 *et seq.*; SOUTH DAKOTA – *South Dakota Deceptive Trade Practices and Consumer Protection*, SDCL ch. 37-24; TENNESSEE – *Tennessee Consumer Protection Act*, Tenn. Code Ann. § 47-18-101 *et seq.*; TEXAS – Texas Deceptive Trade Practices-Consumer Protection Act, Tex. Bus. And Com. Code 17.41, *et seq.*; UTAH – Utah Consumer Sales Practices Act, Utah Code § 13-11-1, *et seq.*; VERMONT – *Consumer Protection Act*, 9 V.S.A. §§ 2451 *et seq.*; VIRGINIA – *Virginia Consumer Protection Act*, Va. Code Ann. §§ 59.1-196 through 59.1-207; WASHINGTON – *Unfair Business Practices/Consumer Protection Act*, RCW §§ 19.86 *et seq.*; WISCONSIN – Wis. Stat. § 100.18(1) (Fraudulent Representations).

I. No part of this Judgment shall create a private cause of action or confer any right to any third party for violation of any federal or state statute except that the State of Vermont may file an action to enforce the terms of this Judgment.

J. This Judgment (or any portion thereof) shall in no way be construed to prohibit Defendants from making representations with respect to any DePuy Product that are permitted under Federal law or regulations or in Food and Drug Administration ("FDA") approved Labeling for the device under the most current draft or final standard promulgated by the FDA or the most current draft or final FDA Guidance for Industry, so long as the representation, taken in its entirety, is not false, misleading, or deceptive. Nothing in this Judgment shall prohibit Defendants from revising their procedures and policies to be consistent with then current Federal law under the Food, Drug and Cosmetic Act, 21 U.S.C. § 301 *et seq.* ("FDCA"), FDCA regulations, FDA Guidance, other FDA interpretations or amendments thereto, as it relates to medical devices.

K. Nothing in this Judgment shall:

1. require Defendants to take any action that is prohibited by the FDCA or any regulation promulgated thereunder, or by the FDA; or

2. require Defendants to fail to take any action that is required by the FDCA or any regulation promulgated thereunder, or by the FDA, unless facts are or become known to Defendants that cause the claim to be false, misleading, or deceptive; or

3. preclude Defendants from providing health care economic information to a formulary committee or similar entity or its members in the course of the committee or entity carrying out its responsibilities for the selection of medical devices for managed care or other similar organizations pursuant to the applicable standards of

Section 114 of the Food and Drug Administration Modernization Act of 1997 ("FDAMA"), as FDAMA may be amended or revised.

II. DEFINITIONS

The following definitions shall be used in construing this Judgment:

A. "Clearly and Conspicuously" shall mean a disclosure in size, color, contrast, font, and location that is readily noticeable, readable and understandable and is presented in proximity to all information necessary to prevent it from being misleading or deceptive. A statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains, or clarifies other information or is necessary to prevent other information from being misleading or deceptive, that the statement must be presented in close proximity to that information, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner.

B. "Covered Conduct" shall mean Promotional practices and dissemination of information regarding the ASR XL Acetabular, ASR Hip Resurfacing, and Pinnacle Ultamet metal-on-metal hip replacement systems, or any parts thereof.

C. "Defendants' Scientifically Trained Personnel" shall mean Defendants' personnel who are highly trained experts with specialized scientific or medical knowledge whose roles involve the provision of specialized, medical or scientific information, scientific analysis and/or scientific information but excludes Defendants' personnel who perform sales, marketing, or other primarily commercial roles.

D. "DePuy" shall mean Medical Device Business Services, Inc. f/k/a DePuy Inc., DePuy Orthopedics, Inc., and DePuy Orthopaedics, Inc.; DePuy Products, Inc.; DePuy Synthes,

Inc.; and DePuy Synth Sales, Inc. including all of their predecessors, subsidiaries, successors, and assigns, and each and all of their current and former officers, directors, shareholders, employees, agents, responsible for manufacturing, selling, offering for sale, marketing, Promoting, or distributing any DePuy Product in the United States. This term shall also encompass any contractor responsible for marketing or Promoting any DePuy Product in the United States.

E. "DePuy Marketing" shall mean DePuy personnel responsible for marketing any DePuy Product (defined below) in the United States.

F. "DePuy Product" or "DePuy Products" or "Product(s)" shall mean any hip replacement system, including its individual components, manufactured and/or Promoted by DePuy or DePuy Sales (defined below).

G. "DePuy Sales" shall mean DePuy and third party personnel responsible for Promoting (defined below) DePuy Products in the United States.

H. "Effective Date" shall mean the date on which a copy of this Order, duly executed by Defendants and by the Signatory Attorney General, is approved by, and becomes a Judgment of the Court and Defendants have been notified via e-mail or regular U.S. mail that all the Parties hereto have fully executed the Judgment.

I. "Health Care Professional" or "HCP" shall mean any U.S.-based physician or other health care practitioner who is licensed to provide health care services or to recommend hip replacement systems.

J. "Johnson & Johnson" shall mean Johnson & Johnson including all of its predecessors, subsidiaries, successors, and assigns, and each and all of their current and former officers, directors, shareholders, employees, and agents, doing business in the United States. This

term shall also encompass any contractor responsible for marketing or Promoting (defined below) any DePuy Product in the United States.

K. "Multistate Executive Committee" shall mean the Attorneys General and their staff representing Florida, Indiana, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, and Washington.

L. "Multistate Working Group" shall mean the Attorneys General and their staff representing Alabama, Arkansas, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Iowa, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, Wisconsin, Utah, and District of Columbia.

M. "Parties" shall mean Defendants and the Signatory Attorney General

N. "Promotional," "Promoting," "Promote," or "Promoted" shall refer to any representation about a DePuy Product intended to influence sales of that product, including attempts to influence Health Care Professional practices for recommending and utilizing that product, which would be deemed promotional labeling or advertising under the FDCA or any regulation promulgated thereunder, or by the FDA, under the most current draft or final standard promulgated by the FDA or the most current draft or final FDA Guidance for Industry.

O. "Signatory Attorney General" shall mean the Attorney General of Vermont, or his authorized designee, who has agreed to this Order.

P. "Sponsor" or "Sponsorship" or "Sponsored" shall mean to pay or have paid in whole or in part, to provide or have provided financial support or subsidization, or to provide or have provided goods or materials of value in support of more than de minimis value.

Q. "State Consumer Protection Laws" shall mean the CPA.

III. COMPLIANCE PROVISIONS

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT:

1. General Provision:

A. In Promoting a DePuy Product, DePuy shall not violate the CPA.

2. Specific Provisions:

The following subsections of Section III. shall be effective for five years from the Effective Date of this Judgment.

A. In Promoting a DePuy Product, any representations by DePuy about implant wear, survivorship, stability, or dislocations of any DePuy Product or component part of a DePuy Product shall be based on information approved by Scientifically Trained Personnel as relevant, cite to the source of the information consistent with all guidelines for citation promulgated by the information source, and expressly disclose if DePuy Sponsored or otherwise funded the study that generated the cited information consistent with provision III.2.C below. Where such Promotions utilize registry data, DePuy shall use the most recent dataset available from the registry at the time the Promotional material is approved for distribution, and shall notate on the Promotional material the registry sources and dates utilized.

B. When submitting or publishing a study, manuscript, or abstract, DePuy shall follow its practice of following the most recent Recommendations for the Conduct, Reporting, Editing, and Publication of Scholarly Work in Medical Journals developed by the International Committee of Medical Journal Editors (ICMJE) guidelines for the naming of authors.

C. In all DePuy-Sponsored manuscripts reporting the results of a DePuy-Sponsored study, DePuy shall comply with its policy of disclosing DePuy's role as a Sponsor, and any author's potential conflict of interest, consistent with the disclosure requirements of the ICMJE.

D. In any materials used to Promote any DePuy Product, including, but not limited to abstracts, posters, brochures, and direct-to-consumer marketing advertisements, whether distributed in hard copy, digital, or electronic format, in which information is derived primarily from a study that has been designed or Sponsored by DePuy, DePuy shall Clearly and Conspicuously identify itself as the Sponsor of the study. This provision shall not apply to communications or materials that are only used internally by DePuy. Any such communications or materials that are used internally by DePuy that do not Clearly and Conspicuously identify DePuy as the Sponsor of a study shall not be used to market or Promote any DePuy Product.

E. DePuy shall, when citing to any clinical study, clinical data, or preclinical data in any materials used to Promote any DePuy Product:

1. Present in accordance with applicable FDA guidance a fair balance of available scientific literature with respect to the safety, efficacy, risks, and complications of DePuy Products;

2. Present favorable information or conclusions only from studies that DePuy Scientifically Trained Personnel determine to have clinical significance or validity in terms of study design, scope, and conduct;

3. Use only data that DePuy Scientifically Trained Personnel determine to have clinical significance or validity, and use such data only in a manner approved by DePuy Scientifically Trained Personnel prior to the distribution of Promotional materials.

F. DePuy shall update as warranted, and maintain a post market surveillance program that provides for a comprehensive review and analysis of product performance and safety information, and a product complaint handling program that promotes compliance with product complaint handling and medical device reporting regulations and requirements, including, but not limited to, what is currently titled 21 CFR Part 803 and relevant FDA Guidance documents.

G. DePuy shall update as warranted, and maintain internal product complaint handling operating procedures and guidance that provide clear instruction, comply with applicable regulations, and define terms consistent with applicable FDA definitions of those terms. Any DePuy employee whose responsibilities include complaint handling shall review the operating procedures and guidance and be trained on them.

H. DePuy shall update as warranted, and maintain processes and procedures to track and analyze product complaints, including those that do not meet the definition of Medical Device Reportable Event under applicable regulations, have more than one cause, or present more than one symptom or issue.

I. DePuy shall comply with any and all federal requirements regarding the reporting of any Medical Device Reportable Event associated with any DePuy Products, and shall report any such event from any source to the federal Food and Drug Administration as required under the Mandatory Device Reporting regulation (21 CFR 803).

J. DePuy shall maintain a quality assurance program that includes an audit procedure for tracking complaints regarding DePuy Products that do not rise to the level of a Medical Device Reportable Event but that may indicate a device-related serious-injury or malfunction.

K. DePuy shall perform at least quarterly reviews of complaints, and where any clearly identifiable and definable sub-group of the patient population has a higher incidence of adverse events or Medical Device Reportable Events than the rest of the patient population indicating a potential safety signal, DePuy shall: (1) take good faith measures to determine the cause, if any, of a higher incidence, and (2) communicate findings to DePuy Marketing and engage in good faith discussions regarding whether such findings should alter Promotional practices that may Promote the product to the portion or group of the patient population in question. In the event that DePuy determines that such findings should alter Promotional practices, DePuy shall notify Health Care Professionals accordingly, either in person or via Dear Doctor letters.

L. DePuy shall not represent or imply that Plaintiff or the Signatory Attorney General acquiesces in or approves of DePuy's past or current business practices, efforts to reform it practices, or any future practices that DePuy may adopt or consider adopting.

IV. PAYMENT

No later than 30 days after the Effective Date of this Judgment, Defendants shall pay a total amount of $ 120,000,000.00 (One Hundred Twenty Million Dollars) to be divided and paid by Defendants directly to each Attorney General of the Multistate Working Group in an amount to be designated by and in the sole discretion of the Multistate Executive Committee.[3] Said payment shall be used by the States as attorneys' fees and other costs of investigation and litigation, or to

[3] The payment to the Signatory Attorney General under this paragraph shall be $ $1,283,543.29.

be placed in, or applied to, consumer protection enforcement funds, including future consumer protection enforcement, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for any lawful purpose, at the sole discretion of each Attorney General of the Multistate Working Group, and in Vermont, pursuant to the Constitution of the State of Vermont, Ch. II § 27 and 32 V.S.A. § 462.

V. RELEASE

A. By its execution of this Judgment, the State of Vermont releases and forever discharges Defendants (the "Released Parties") from the following: all civil claims, causes of action, damages, restitution, disgorgement, fines, costs, attorneys' fees, remedies, and/or penalties that the Signatory Attorney General has asserted or could have asserted against the Released Parties under the State Consumer Protection Laws, or any amendments thereto, or by common law claims concerning unfair, deceptive, or fraudulent trade practices or, if applicable, state statutes equivalent to the federal Food, Drug, and Cosmetic Act that the Signatory Attorney General has the authority to release resulting from the Covered Conduct up to and including the Effective Date that is the subject of the Judgment.

B. Notwithstanding any term of this Judgment, specifically reserved and excluded from the release in Paragraph V.A. as to any entity or person, including Released Parties, are any and all of the following:

1. any criminal liability that any person and/or entity, including Released Parties, has or may have to the State of Vermont.

2. any civil or administrative liability that any person and/or entity, including Released Parties, has or may have to the State of Vermont not expressly covered by the

release in Paragraph V.A. above, including, but not limited to, any and all of the following claims:

a. state or federal antitrust violations;

b. claims involving "best price," "average wholesale price," "wholesale acquisition cost," or any reporting practices;

c. Medicaid claims, including, but not limited to, federal Medicaid drug rebate statute violations, Medicaid fraud or abuse, and/or kickback violations related to any State's Medicaid program;

d. state false claims violations; and

e. actions of state program payors of the Vermont arising from the purchase of DePuy Product.

3. any claims individual consumers, including classes of consumers bringing class actions, have or may have under the State of Vermont's above-cited consumer protection law, and any common law claims individual consumers, including classes of consumers bringing class actions, may have concerning unfair, fraudulent or deceptive trade practices against any person and/or entity, including Released Parties.

VI. DISPUTE RESOLUTION

A. For the purposes of resolving disputes with respect to compliance with this Judgment, should the Signatory Attorney General have a reasonable basis to believe that Defendants have violated, or are violating, any provision of this Judgment subsequent to the Effective Date, then the Signatory Attorney General shall notify Defendants in writing of the specific objection, identify with particularity the provisions of this Judgment that the practice appears to violate, and give Defendants 30 days to respond to the notification.

B. Upon receipt of written notice from the Signatory Attorney General, Defendants shall provide a good-faith written response to the Signatory Attorney General notification, containing either a statement explaining why Defendants believe they are in compliance with the Judgment or a detailed explanation of how the alleged violation occurred and statement explaining how and when Defendants intend to remedy the alleged violation.

C. Except as set forth in Sections VI.D. and E. below, the Signatory Attorney General may not take any action concerning the alleged violation of this Judgment during the 30-day response period. Nothing shall prevent the Signatory Attorney General from agreeing in writing to provide Defendants with additional time beyond the 30 days to respond to the notice.

D. Nothing in this Judgment shall be interpreted to limit the State's investigative subpoena authority, to the extent such authority exists under applicable state law, and Defendants reserve all of their rights in responding to an investigative subpoena issued pursuant to such authority.

E. The Signatory Attorney General may assert any claim that Defendants have violated this Judgment in a separate civil action to enforce compliance with this Judgment, or may seek any other relief afforded by law for violations of the Judgment, but only after providing Defendants an opportunity to respond to the notification as described above and to remedy, to the satisfaction of the Signatory Attorney General, the alleged violation within the 30 day response period as described above, or within any other period as agreed to by Defendants and the Signatory Attorney General. However, the Signatory Attorney General may take any action, including, but not limited to legal action to enforce compliance with the Judgment, without delay if the Signatory Attorney General believes that, because of the specific practice, a threat to the health or safety of the public requires immediate action.

VII. GENERAL PROVISIONS

A. Defendants shall not knowingly permit, cause, or encourage third parties acting on their behalf, to engage in practices from which Defendants are prohibited by this Judgment.

B. This Judgment does not constitute an approval by the Signatory Attorney General of Defendants' business practices, and Defendants shall make no representation or claim to the contrary.

C. Any failure by any party to this Judgment to insist upon the strict performance by any other party of any of the provisions of this Judgment shall not be deemed a waiver of any of the provisions of this Judgment, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Judgment.

D. This Judgment represents the full and complete terms of the settlement entered into by the Parties hereto. The Parties acknowledge that no other promises, representations, or agreements of any nature have been made or entered into by the Parties. The Parties further acknowledge that this Judgment constitutes a single and entire agreement that is not severable or divisible, except that if any provision herein is found to be legally insufficient or unenforceable, the remaining provisions shall continue in full force and effect. In any action undertaken by the Parties, no prior versions of this Judgment and no prior versions of any of its terms that were not entered by the Court in this Judgment may be introduced for any purpose whatsoever.

E This Court retains jurisdiction of this Judgment and the Parties hereto for the purpose of enforcing and modifying this Judgment and for the purpose of granting such additional relief as may be necessary and appropriate

F. The Judgment may be modified by a stipulation of the Parties, once it is approved by, and becomes a Judgment of the Court, or by court proceedings resulting in modifying judgment of the court.

G. In the event any law or regulation is enacted or adopted by the federal government or by the State of Vermont, and the requirements of such law or regulation create a conflict with any terms of this Judgment, Defendants shall notify the Vermont Attorney General in writing as to the extent of the conflict. If the Vermont Attorney General agrees, he/she shall consent to a modification of such provision of the judgment to the extent necessary to eliminate such conflict. If the Attorney General disagrees and the Parties are not able to resolve the disagreement, Defendants may seek a modification from this court of any provision of this Judgment that presents a conflict with any such federal or state law or regulation. Changes in federal or state laws or regulations, with respect to the matters governed by this Judgment, shall not be deemed to create a conflict with a provision of this Consent Judgment unless Defendants cannot reasonably comply with both such law or regulation and the applicable provision of this Judgment.

H. This Judgment may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.

I. All Notices under this Judgment shall be provided to the following via e-mail and Overnight Mail:

For Defendants:

William Craco
Johnson & Johnson Law Department
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
wcraco@its.jnj.com

Ross Galin
O'Melveny & Myers LLP

7 Times Square, New York, NY 10036
rgalin@omm.com

Notice shall also be provided to any person subsequently designated by Defendants to receive such notice of failure to comply.

For the State of Vermont:

Jill S. Abrams
Director, Consumer Protection Division
Vermont Attorney General's Office
109 State Street
Montpelier, Vermont 05609

J. To the extent that any provision of this Judgment obligates Defendants to change any policy(ies) or procedure(s) and to the extent not already accomplished, Defendants shall implement the policy(ies) or procedure(s) as soon as reasonably practicable but no later than 120 days after the Effective Date of this Judgment.

SO ORDERED, ADJUDGED AND DECREED.

______________________________ __________________________
Judge Date

For Plaintiff State of Vermont

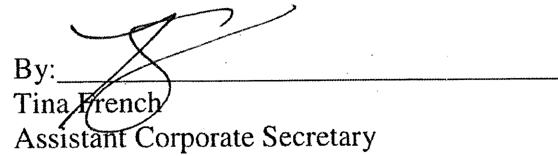
By: ____________________________
Jill S. Abrams
Director, Consumer Protection Division

Date: Jan. 22, 2019

Defendants

Johnson & Johnson

Date: JAN 1 5 2019



By:______________________________
Tina French
Assistant Corporate Secretary

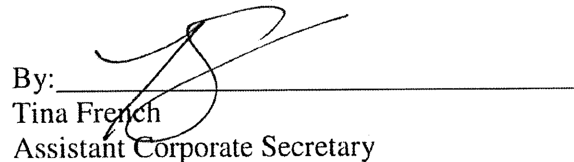
Medical Device Business Services, Inc. f/k/a DePuy Inc., and DePuy Orthopaedics, Inc.

Date: JAN 1 5 2019

By:______________________________
Tina French
Assistant Corporate Secretary

DePuy Products, Inc.

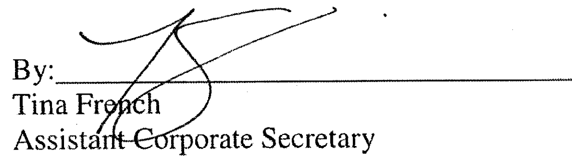
Date: JAN 1 5 2019



By:______________________________
Tina French
Assistant Corporate Secretary

DePuy Synthes, Inc.

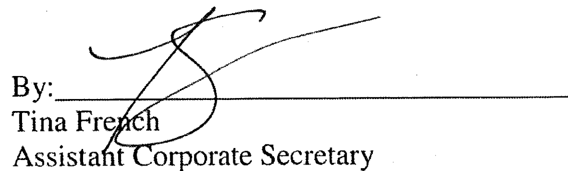
Date: JAN 1 5 2019



By:______________________________
Tina French
Assistant Corporate Secretary

DePuy Synth Sales, Inc.

Date: JAN 1 5 2019



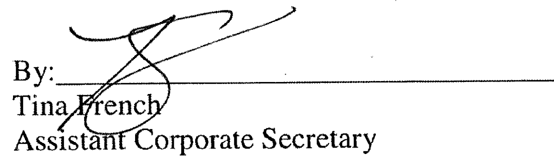
By:______________________________
Tina French
Assistant Corporate Secretary

Approved as to form:

Defendants

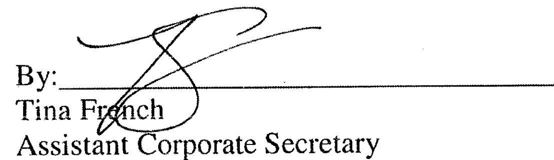
Johnson & Johnson

Date: JAN 15 2019


By:________________________________
Tina French
Assistant Corporate Secretary

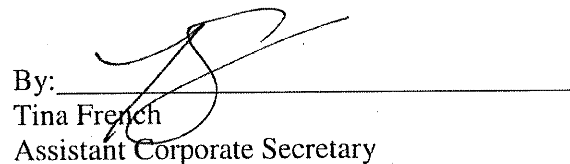
Medical Device Business Services, Inc. f/k/a DePuy Inc., and DePuy Orthopaedics, Inc.

Date: JAN 15 2019


By:________________________________
Tina French
Assistant Corporate Secretary

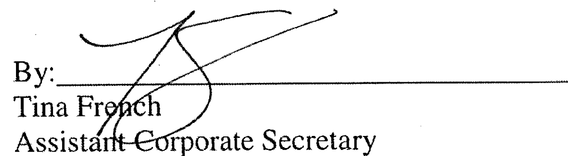
DePuy Products, Inc.

Date: JAN 15 2019


By:________________________________
Tina French
Assistant Corporate Secretary

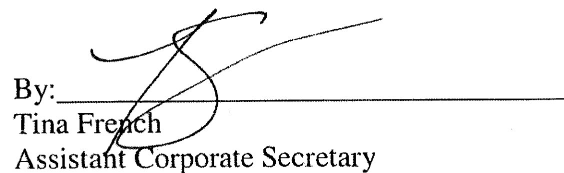
DePuy Synthes, Inc.

Date: JAN 15 2019


By:________________________________
Tina French
Assistant Corporate Secretary

DePuy Synth Sales, Inc.

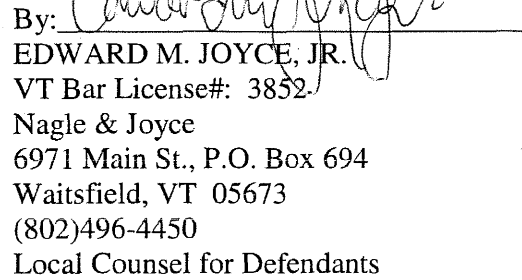
Date: JAN 15 2019


By:________________________________
Tina French
Assistant Corporate Secretary

Approved as to form:

Date:

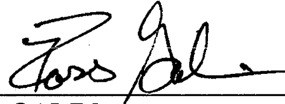
By:____________________________
ROSS GALIN
STEVE BRODY
O'Melveny & Myers
Counsel for Defendants



Date: 1/15/2019

By:
EDWARD M. JOYCE, JR.
VT Bar License#: 3852
Nagle & Joyce
6971 Main St., P.O. Box 694
Waitsfield, VT 05673
(802)496-4450
Local Counsel for Defendants

Date: 1/16/2019

By: 

ROSS GALIN
STEVE BRODY
O'Melveny & Myers
Counsel for Defendants