

CLASS ACTION SETTLEMENT AGREEMENT

This Agreement (“Agreement” or “Settlement Agreement”) is entered into by and among (i) Plaintiffs Lucas Young, Daniel O’Malley, and Charles Buckingham (“Plaintiffs”); (ii) the Settlement Class (as defined herein); and (iii) Defendant FloSports, Inc. (“Defendant” or “FloSports”). The Settlement Class and Plaintiffs are collectively referred to as “Plaintiffs” unless otherwise noted. Plaintiffs and Defendant are collectively referred to herein as the “Parties.” This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the complaints and the Released Claims (as defined herein), upon and subject to the terms and conditions of this Agreement, and subject to the final approval of the Court.

RECITALS

A. Plaintiff Lucas Young filed a Class Action Complaint on August 29, 2022 in the United States District Court, Northern District of California, Case No. Case No. 3:22-cv-04920-JSC (“California Action”). The material allegations of the lawsuit arise out of Defendant’s automatically renewing subscriptions, including its annual subscriptions. Young complains that he was not placed on notice of certain material terms associated with his subscription purchase, including that he was enrolling in an automatically renewing annual subscription or the cancellation policy that applied to his subscription. Plaintiff Young claimed lack of affirmative acknowledgment and consent to the automatic renewal terms, payment charges, or clear and conspicuous disclosures, including with respect to Defendant’s cancellation policy. After the filing of a Class Action Complaint, the Parties engaged in private mediation with Jill R. Sperber, Esq. of Judicate West on January 9, 2023. The mediation was unsuccessful. Thereafter, the Parties continued to negotiate potential settlement at arm’s length, facilitated by

Ms. Sperber. The Parties agreed to participate in a second mediation with Ms. Sperber on February 1, 2023. That mediation was also unsuccessful, however, the Parties continued negotiations through Ms. Sperber and ultimately reached this compromise.

B. On February 13, 2023, Defendant filed a motion to dismiss the Class Action Complaint under Rule 12(b)(6) and Rule 12(b)(1). Plaintiff Lucas amended the Complaint on March 1, 2023, asserting an additional claim for violation of the Electronic Funds Transfer Act.

C. Plaintiff and Class Counsel have advised Defendant of additional claims including those brought by Plaintiffs Daniel O'Malley and Charles Buckingham, who assert damages and allege that FloSports engaged in similar unauthorized bank charges, unfair competition and false advertising arising out of its automatically renewing subscription offers, under various states' laws, including Illinois and New York.

D. At all times, Defendant has denied and continues to deny any wrongdoing whatsoever and has denied and continues to deny that it committed, or threatened or attempted to commit, any wrongful act or violation of law or duty alleged by Plaintiffs in the California Action, the parallel action pending in the Western District of New York entitled *Hill v. FloSports, Inc.*, Case No. 22-cv-00854, the claims referenced above in C, or otherwise. Defendant believes that the claims asserted by Plaintiffs do not have merit and that Defendant would have prevailed on a motion to dismiss, summary judgment, or at trial in this matter. Nonetheless, taking into account the uncertainty and risks inherent in any litigation, Defendant has concluded it is desirable and beneficial that Plaintiffs' asserted claims and any related claims, whether known or unknown, be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement. This Agreement is a compromise, and the Agreement, any related documents, and any negotiations resulting in it

will not be construed as or deemed to be evidence of or an admission or concession of liability or wrongdoing on the part of Defendant, or any of the Released Parties (defined below), with respect to any claim of any fault or liability or wrongdoing or damage whatsoever or with respect to the certifiability of a litigation class.

E. Plaintiffs believe that their claims against Defendant have merit and that they would have prevailed. Nonetheless, Plaintiffs and their Counsel recognize that Defendant has raised factual and legal defenses that present a risk that Plaintiffs may not prevail. Plaintiffs and their Counsel also recognize the expense and delay associated with continued prosecution of their claims against Defendant through class certification, summary judgment, trial, and any subsequent appeals. Plaintiffs and their Counsel also have taken into account the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation. Therefore, Plaintiffs believe it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice. Based on its evaluation, Class Counsel has concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiffs, the Settlement Class, and each of them, and Defendant, by and through its undersigned counsel that, subject to final approval of the Court after a hearing or hearings as provided for in this Settlement Agreement, in consideration of the benefits flowing to the Parties from the Agreement set forth herein, that the Action and the Released Claims will be finally and fully

compromised, settled, and released, and the Action (as defined below) will be dismissed with prejudice, upon and subject to the terms and conditions of this Agreement.

AGREEMENT

1. DEFINITIONS.

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

1.1 “Action” means the California Action, and *O’Malley, et al. v. FloSports, Inc.*, pending in the Circuit Court of DuPage County, Illinois, 18th Judicial District.

1.2 “Active Class Members” or “Active Subscribers” means Class Members, who as of the date a Claim is submitted, maintain an active, paid FloSports Subscription.

1.3 “Alternate Judgment” means a form of final judgment that may be entered by the Court herein but in a form that is materially or substantially different than the form of Final Judgment provided for in this Agreement and where none of the Parties elects to terminate this Settlement by reason of such variance as contemplated in Section 6 below.

1.4 “Approved Claim” means a Claim Form submitted by a Settlement Class Member for cash payment from the Settlement Fund, or a discount on the next FloSports renewal, or an Electronic Voucher for a pay-per-view event, that is: (a) submitted timely and in accordance with the directions on the Claim Form and the provisions of the Settlement Agreement as determined by the Settlement Administrator or the Court; (b) fully and truthfully completed by a Settlement Class Member with all of the information requested in the Claim Form; (c) signed by the Settlement Class Member, physically or electronically and under penalty of perjury; and (d) approved by the Settlement Administrator pursuant to the provisions of this Agreement.

1.5 “**Claimant**” means a Settlement Class Member who submits a Claim Form pursuant to this Settlement Agreement.

1.6 “**Claim Form**” means the document substantially in the form attached hereto as Exhibit A to be submitted by Settlement Class Members seeking a settlement benefit pursuant to this Settlement Agreement. The Claim Form will be available online at the Settlement Website (defined below) and the contents of the Claim Form will be approved by the Court.

1.7 “**Claims Deadline**” means the date by which all Claim Forms must be postmarked or electronically submitted to be considered timely and will be set as a date no later than ninety (90) days following the dissemination of Notice to the Settlement Class by the Settlement Administrator, pursuant to the terms herein. The Claims Deadline will be clearly set forth in the Preliminary Approval Order and will be stated on the Notice and the Claim Form.

1.8 “**Class Counsel**” means the law firms of Bursor & Fisher, P.A. and Gucovschi Rozenshteyn, PLLC.

1.9 “**Class Period**” means the period of time from August 29, 2018, to and through the day of the final execution of this Settlement Agreement.

1.10 “**Class Representatives**” means the named Plaintiffs in the California Action and the Illinois Action.

1.11 “**Court**” means the Circuit Court of DuPage County, Illinois, 18th Judicial District.

1.12 “**Defendant**” or “**FloSports**” means FloSports, Inc.

1.13 “**Defendant’s Counsel**” means counsel of record for Defendant, Ana Tagvoryan and Erica Graves of the law firm of Blank Rome LLP.

1.14 “Effective Date” means one business day following the latest of the following events: (i) the date upon which the time expires for filing or noticing any appeal of the Court’s Settlement Approval Order and Final Judgment approving the Settlement Agreement, if no appeal has been filed; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration, writ of certiorari, or petitions for review, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) the date of final dismissal of any appeal or writ.

1.15 “Electronic Voucher” means a redemption code for one free access to a pay per view event from FloSports provided to Inactive Subscribers who claim this option via the Claims Form.

1.16 “Fee Award” means the amount of attorneys’ fees and reimbursement of expenses and costs awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

1.17 “Final Approval Hearing” means the hearing before the Court where the Parties will request the Final Judgment to be entered by the Court approving the Settlement Agreement, the Fee Award, and the Incentive Awards to the Class Representatives.

1.18 “Final Judgment” means the Final Judgment and Order to be entered by the Court approving the Agreement after the Final Approval Hearing, which is substantially in the form of **Exhibit G** attached hereto.

1.19 “Inactive Class Members” or “Inactive Subscribers” means Settlement Class Members who, as of the date their Claim is submitted, no longer maintained an active, paid FloSports’ subscription.

1.20 “Incentive Award” means any award approved by the Court that is payable to the Plaintiffs from the Settlement Fund.

1.21 “Notice Plan” means the Settlement Administrator’s plan to disseminate Notice to Settlement Class Members. The Notice Plan will include a short form notice, email notice, long form notice, and internet notice.

1.22 “Net Settlement Fund” means the amount of the Settlement Fund remaining after payment of claims administration and notice costs, incentive awards to the Class Representatives, and the Fee Award.

1.23 “Notice” means the notice of this proposed Class Action Settlement Agreement and Final Approval Hearing, which is to be given to the Settlement Class substantially in the manner set forth in this Agreement, and substantially in the form of **Exhibits B, C, and D** hereto.

1.24 “Notice and Other Administrative Costs” means all costs and expenses actually incurred by the Settlement Administrator in the publication of Class Notice, establishment of the Settlement Website, the processing, handling, reviewing, and paying of claims made by Claimants, paying taxes and tax expenses related to the Settlement Fund (including all federal, state, or local taxes of any kind and interest or penalties thereon, as well as expenses incurred in connection with determining the amount of and paying any taxes owed and expenses related to any tax attorneys and accountants).

1.25 “Notice Date” means the publication of notice pursuant paragraph 4.1 of this Agreement, which shall be no later than twenty-eight (28) days after the Preliminary Approval Order.

1.26 “FloSports Subscriptions” means all of Defendant’s digital subscription offerings.

1.27 “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be made, which shall be designated as a date no later than ninety (90) days after the Notice Date and no sooner than fourteen (14) days after papers supporting the Fee Award are filed with the Court and posted to the settlement website, or such other date as ordered by the Court.

1.28 “Person” shall mean, without limitation, any individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouse, parent, child, guardian, associate, co-owners, heirs, predecessors, successors, representatives, or assigns. “Person” is not intended to include any governmental agencies or governmental actors, including, without limitation, any state Attorney General office.

1.29 “Plaintiffs” means Lucas Young, Daniel O’Malley, and Charles Buckingham.

1.30 “Preliminary Approval” means the Court’s entry of an order preliminarily approving the terms and conditions of this Settlement Agreement, including the manner of providing, and content of, the notice to Settlement Class Members.

1.31 “Preliminary Approval Date” means the date on which the Court enters an order granting Preliminary Approval.

1.32 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement, conditionally certifying the Settlement Class for settlement purposes, and directing notice thereof to the Settlement Class, which will be agreed upon by the Parties and submitted to the Court in conjunction with Plaintiffs’ motion for preliminary approval of the Agreement. The Parties’ proposed form of Preliminary Approval Order is attached hereto as **Exhibit F**.

1.33 “Released Claims” means any and all causes of action, suits, claims, liens, demands, judgments, costs, damages, obligations, attorneys’ fees (except as provided for in the Class Settlement), and all other legal responsibilities in any form or nature relating to or arising out of state, local, or federal statute, ordinance, regulation, or claim at common law or in equity, whether past or present, known or Unknown Claims, asserted or unasserted, arising out of or in any way related to the facts, practices and allegations asserted in the California Action, and the Illinois Action.

1.34 “Released Parties” means FloSports, Inc. and all of its current, former, and future owners, shareholders, parents, predecessors, successors, affiliates, assigns, subsidiaries, divisions, or related corporate entities, and all of their respective current, future, and former employees, officers, directors, shareholders, assigns, agents, trustees, administrators, executors, insurers, attorneys, and customers.

1.35 “Releasing Parties” means Plaintiffs, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies,

subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

1.36 “Settlement Administration Expenses” means the expenses incurred by the Settlement Administrator in providing Notice, processing claims, responding to inquiries from members of the Settlement Class, mailing checks for Approved Claims, and related services, paying taxes and tax expenses related to the Settlement Fund (including all federal, state or local taxes of any kind and interest or penalties thereon, as well as expenses incurred in connection with determining the amount of and paying any taxes owed and expenses related to any tax attorneys and accountants).

1.37 “Settlement Administrator” means a reputable administration company that has been selected jointly by the Parties and approved by the Court to perform the duties set forth in this Agreement.

1.38 “Settlement Class” means all FloSports subscribers who, from August 29, 2018 through the date the settlement agreement is signed, enrolled in an automatically renewing FloSports subscription using a California, New York, North Carolina, Oregon, Florida, Illinois, DC, N. Dakota, Virginia, Hawaii, Vermont billing address and paid fee(s) in connection with such subscription.

1.39 “Settlement Class Member(s)” means a Person who falls within the definition of the Settlement Class.

1.40 “Settlement Fund” means the non-reversionary total cash commitment of Defendant for purposes of this settlement, with a total value of \$1,550,000.00 USD. The Settlement Fund represents the total extent of Defendant’s monetary obligations under this Agreement. The Settlement Fund shall be used for payment of the following: (i) Approved Claims for cash benefits submitted by Settlement Class Members; (ii) the Notice and Other Administrative Costs actually incurred by the Settlement Administrator; (iii) the Fee Award; and (iv) any Incentive Award to the Plaintiffs, not to exceed \$5,000, as may be ordered by the Court. The Settlement Fund represents the total extent of Defendant’s monetary obligations under this Agreement. The payment of the Settlement Fund amount by Defendant fully discharges the Defendant and the other Released Parties’ financial obligations (if any) in connection with the Settlement. In no event shall Defendant’s total monetary obligation with respect to this settlement and agreement exceed \$1,550,000.00 USD.

1.41 “Settlement Value” means the Settlement Fund (\$1,550,000) plus the market value of the total amount of subscription discounts and electronic vouchers for a free pay-per-view event made available to Active and Inactive Settlement Class Members, plus the estimated value of the prospective changes to be implemented by Defendant (*see* Paragraph 2.2, below).

1.42 “Settlement Website” means a website to be established, operated, and maintained by the Settlement Administrator for purposes of providing notice and otherwise making available to the Settlement Class Members the documents, information, and online claims submission process as referenced herein.

1.43 “Short Form Notice” means the Court-approved form of postcard notice to Settlement Class Members, pursuant to the Notice Plan.

1.44 “Unknown Claims” means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object, or not to object to the Settlement. Upon the Effective Date, the Releasing Parties will be deemed to have, and will have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of § 1542 of the California Civil Code, which provides as follows:

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

Upon the Effective Date, the Releasing Parties also will be deemed to have, and will have, waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable, or equivalent to § 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

2. SETTLEMENT RELIEF.

2.1 Payments to Settlement Class Members. Settlement Class Members will be entitled to the following relief upon submitting a valid and approved Claim Form to the Settlement Administrator before the Claims Deadline:

(a) Active Class Members may elect to either:

1. Receive a 10% discount to be applied to the next immediate renewal charge. If, as of the Effective Date, the Class Member no longer maintains an active, paid FloSports subscription, this benefit will automatically convert to an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions; or
2. Receive a prorated cash payment of up to \$30.00 for annual subscribers and up to \$6 for monthly subscribers via check from the Settlement Fund.

(b) Inactive Class Members may elect to either:

1. Receive an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions; or
2. Receive a prorated cash payment of up to \$30.00 for annual subscribers and up to \$6 for monthly subscribers via check from the Settlement Fund.

(c) Settlement Class Members who so elect will receive their Electronic Vouchers within 60 days of the Effective Date, and such vouchers shall not expire and shall be available for use by the claimant during the pendency of FloSports' business for that particular vertical. No payment or billing information will be required for a Settlement Class Member to use the Electronic Voucher.

(d) Settlement Class Members wishing to receive cash must make an election to receive cash by submitting a valid Claim Form to the Settlement Administrator. Settlement Class Members shall have until the Claims Deadline to submit a Claim Form for approval by the

Settlement Administrator as an Approved Claim. Each Settlement Class Member who submits an Approved Claim will receive a *pro rata* payment from the Settlement Fund in the form of a check, issued and mailed by the Settlement Administrator within 60 days of the Effective Date.

(e) The Settlement Administrator will be responsible for reviewing all claims to determine their validity. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or is submitted after the Claims Deadline. Defendant has the right to audit the claims process for evidence of fraud or error; provided, however, that the Settlement Administrator or the Court shall be the final arbiter of a claim's validity.

(f) Each claimant who submits an invalid Claim Form to the Claims Administrator must be given a notice of the Claim Form's deficiency and an opportunity to cure the deficiency within seven (7) days of the date of the deficiency notice.

(g) All cash payments issued to Settlement Class Members via check will state on the face of the check that it will expire and become null and void unless cashed within one hundred and eighty (180) days after the date of issuance. If a check issued to a Settlement Class Member is not cashed within one hundred and eighty (180) days after the date of issuance, such funds shall revert to the Legal Aid Society, Inc., a non-sectarian, not-for-profit organization, or another non-sectarian, not-for-profit organization(s) recommended by Class Counsel and Defendant, and as approved by the Court.

2.2 Prospective Relief - Practice Changes. Prospectively, Defendant agrees to present on the checkout page the automatic renewal offer terms (including cancellation policy) in a clear and conspicuous manner before the subscription or purchasing agreement and in visual proximity to the request for consent to the offer and obtain affirmative consent to the agreement

containing the automatic renewal terms in a manner that substantially complies with the automatic renewal laws of the states at issue. Defendant further agrees to disclose, in a manner that substantially complies with the automatic renewal laws of the states at issue, how to cancel and by when in an acknowledgment email that is capable of being retained by consumers. The costs to Defendant in implementing these changes are estimated to be at least \$250,000.

3. RELEASE.

3.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the Action and any and all Released Claims, as against all Released Parties.

3.2 Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

3.3 Plaintiffs, the Settlement Class Members, and the Releasing Parties each individually covenant not to bring any Released Claim and expressly agree that the release and consideration will be, and may be raised as, a complete defense to and will preclude any action or proceeding encompassed by the release(s) contained herein with respect to any FloSports' subscription offering associated with a Settlement Class Member.

4. NOTICE TO THE CLASS.

4.1 The Notice Plan shall consist of the following:

a. *Settlement Class List.* Defendant shall produce an electronic list from its records that includes the names, email addresses, and last known U.S. Mail addresses, belonging to Persons within the Settlement Class. The electronic list shall also differentiate between Active Class Members and Inactive Class Members and shall include the Settlement Class Member's FloSports Subscriptions. This electronic document shall be called the "Class

List,” and shall be provided to the Settlement Administrator only. In no event shall the Class List be provided to the Settlement Administrator later than fourteen (14) days prior to the date notice shall be disseminated. This Class List is confidential and shall not be used for any purpose beyond providing notice to the Settlement Class and assisting with the determination of valid claims. Class Counsel’s assent to this Agreement shall constitute consent on behalf of each and every class member of the Settlement Class as defined herein to disclose this information as stated in this paragraph. The Settlement Administrator shall hold the Class List and all class member information confidential and not provide it or any portion thereof to Class Counsel absent Defendant’s written consent.

b. *Direct Notice to Settlement Class Members.* No later than the twenty-eight (28) days from entry of the Preliminary Approval Order, the Settlement Administrator shall send notice to Settlement Class Members with Active FloSports accounts via U.S. mail and email in the form attached as **Exhibit B**. At the same time, the Settlement Administrator shall send notice to those Settlement Class Members with Inactive FloSports’ accounts via U.S. mail and email substantially in the form attached as **Exhibit C**. The notice will be sent first by email and will only be sent by U.S. mail if the email is undeliverable or bounces back. Notice via U.S. mail to the Settlement Class Member’s billing or mailing address shall be accompanied by a postcard Claim Form with return postage prepaid.

c. If any Notice is returned as non-deliverable, and a forwarding address is provided, the Settlement Administrator shall re-mail the Notice to the forwarding address within five (5) business days. If any Notice is returned as non-deliverable, and no forwarding address is provided, the Settlement Administrator shall attempt to ascertain a valid address for the affected Settlement Class Member by seeking change of address information through the U.S.

Postal Service's National Change of Address Link, and shall re-mail the Notice within five (5) business days to the address(es) that are found. The Settlement Administrator shall have no obligation to send Notices beyond those obligations specified herein.

d. *Settlement Website.* Within ten (10) days from entry of the Preliminary Approval Order, Notice shall be provided on a website at an available URL (such as, for example, www.FSRenewalSettlement.com) which shall be obtained, administered and maintained by the Settlement Administrator and shall include the ability to file Claim Forms online, provided that such Claim Forms, if signed electronically, will be binding for purposes of applicable law and contain a statement to that effect. The Notice provided on the Settlement Website shall be substantially in the form of **Exhibit D** hereto.

4.2 The Notice shall advise the Settlement Class of their rights, including the rights to be excluded from or object to the Settlement Agreement or any of its terms. The Notice shall specify that any objection to the Settlement Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the Person making the objection files notice of an intention to do so and at the same time (a) files copies of such papers he or she proposes to be submitted at the Final Approval Hearing with the Clerk of the Court, or alternatively, if the objection is from a Class Member represented by counsel, files any objection through the Court's e-filing system, and (b) sends copies of such papers by mail, hand, or overnight delivery service to Class Counsel and Defendant's Counsel.

4.3 Any Settlement Class Member who intends to object to this Agreement must present the objection in writing to the Settlement Administrator, postmarked on or before the Objection/Exclusion deadline approved by the Court and specified in the Notice, which must be

personally signed by the objector, and must include: (1) the objector's name and address; (2) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the "Objecting Attorneys"); and (5) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules).

4.4 A Settlement Class Member may request to be excluded from the Settlement Class by sending a written request postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person in the Settlement Class must timely send a written request for exclusion to the Settlement Administrator providing his/her name and address, a signature, the name and number of the case, and a statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement. A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person(s) serving such a request shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. The request for exclusion must be personally

signed by each Person requesting exclusion. So-called “mass” or “class” opt-outs shall not be allowed. To be valid, a request for exclusion must be postmarked or received by the date specified in the Notice. A request for exclusion is also called an “opt out.”

4.5 Upon receiving any request for exclusion, the Settlement Administrator shall stamp on the original the date it was received and shall promptly notify Class Counsel and Defendant’s Counsel of such request no later than two (2) calendar days after receiving any request. The Settlement Administrator shall indicate whether such request is timely received, and provide copies of the request for exclusion, the mailing envelope, and the accompanying documentation, by email.

5. SETTLEMENT ADMINISTRATION.

5.1 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant’s Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant’s Counsel with regular reports at weekly intervals containing information concerning Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a report of all

amounts from the Settlement Fund paid to Settlement Class Members on account of Approved Claims. Without limiting the foregoing, the Settlement Administrator shall:

(a) Provide Class Counsel and Defendant's Counsel with drafts of administration related documents, follow-up class notices or communications with Settlement Class Members, telephone scripts, website postings or language or other communications with the Settlement Class, at least five (5) days before the Settlement Administrator is required to or intends to publish or use such communications, unless Class Counsel and Defendant's Counsel agree to waive this requirement in writing on a case by case basis;

(b) Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;

(c) Provide weekly reports to Class Counsel and Defendant's Counsel, including without limitation, reports regarding the number of Claim Forms received, the number approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator; and

(d) Make available for inspection by Class Counsel or Defendant's Counsel the Claim Forms received by the Settlement Administrator at any time upon reasonable notice.

5.2 The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement Administrator shall determine whether a Claim Form submitted by a Settlement Class Member is an Approved Claim by determining if the Person is on the Class List

and shall reject Claim Forms that fail to (a) comply with the instructions on the Claim Form or the terms of this Agreement, or (b) provide full and complete information as requested on the Claim Form. If a Person submits a timely Claim Form by the Claims Deadline where the Person appears on the Class List but the Claim Form is not otherwise complete, then the Settlement Administrator shall give such Person one (1) reasonable opportunity to provide any requested missing information, which information must be received by the Settlement Administrator as directed after the Claims Deadline. If the Settlement Administrator receives such information after the allotted time passed the Claims Deadline, then any such claim shall be denied. The Settlement Administrator may contact any Person who has submitted a Claim Form to obtain additional information necessary to verify the Claim Form.

5.3 Defendant's Counsel and Class Counsel shall have the right to challenge the acceptance or rejection of a Claim Form submitted by Settlement Class Members. The Settlement Administrator shall follow any agreed decisions of Class Counsel and Defendant's Counsel as to the validity of any disputed submitted Claim Form. To the extent Class Counsel and Defendant's Counsel are not able to agree on the disposition of a challenge, the disputed claim shall be submitted to the Court for binding determination.

5.4 In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

5.5 Defendant, the Released Parties, and Defendant's Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Class Counsel, or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the settlement or otherwise; (ii) the

management, investment, or distribution of the Settlement Fund; (iii) the allocation of Net Settlement Funds to Settlement Class Members or the implementation, administration, calculation or interpretation thereof; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in value of, the Settlement Fund; or (vi) the payment, reporting, or withholding of any taxes, tax expenses, or costs incurred in connection with the taxation of the Settlement Fund or the filing of any federal, state, or local returns.

5.7. To allow a calculation of the *pro rata* payments to Settlement Class Members, no later than twenty-one (21) days before any distribution of Settlement Funds must occur, the Settlement Administrator shall submit to Class Counsel and Defendant's Counsel a final and total invoice for all of the Settlement Administrator's services.

5.8. All taxes and tax expenses shall be paid out of the Settlement Fund and shall be timely paid by the Settlement Administrator pursuant to this Agreement and without further order of the Court. Any tax returns or reporting forms prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with this Agreement and in all events shall reflect that all taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Released Parties shall have no responsibility or liability for the acts or omissions of the Settlement Administrator or its agents with respect to the reporting or payment of taxes or tax expenses.

6. TERMINATION OF SETTLEMENT.

6.1 Subject to Paragraphs 9.2-9.4 below, Defendant or the Class Representatives on behalf of the Settlement Class, shall have the right to terminate this Agreement by providing written notice of the election to do so ("Termination Notice") to all other Parties hereto within

twenty-one (21) days of any of the following events: (i) the Court's refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court's refusal to grant final approval of this Agreement in any material respect; (iii) the Court's refusal to enter the Final Judgment in this Action in any material respect, including if the Court enters an Alternate Judgment as defined in Paragraph 1.3 above; (iv) the date upon which the Final Judgment is vacated, modified or reversed in any material respect by the Court, the Court of Appeals or the Supreme Court; or (v) the date upon which an Alternate Judgment, as defined in Paragraph 1.3 of this Agreement is vacated, modified or reversed in any material respect by the Court, the Court of Appeals or the Supreme Court.

6.2 Defendant may elect, in its sole discretion, to terminate the settlement if there are more than 1000 opt outs from the Settlement Class. Defendant must exercise its right to terminate by giving notice as set forth in paragraph 6.1 above to Class Counsel within 7 days after the settlement administrator notifies the Parties of the total number of opt-out requests after the exclusion deadline. The Parties and/or their respective counsel shall not encourage objections and/or opt-outs.

7. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER.

7.1 Promptly after the execution of this Settlement Agreement, Class Counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for Preliminary Approval of the settlement set forth in this Agreement; certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representative; and entry of a Preliminary Approval Order substantially in the form of **Exhibit F** hereto, which order shall set a Final Approval Hearing date and approve the Notice and Claim Form for dissemination substantially in the form of **Exhibits A, B, C, and D** hereto. The

Preliminary Approval Order shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all Exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class or materially expand the obligations of Defendant.

7.2 At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and approve the settlement of the Action as set forth herein.

7.3 After Notice is given, the Parties shall request and seek to obtain from the Court a Final Judgment substantially in the form of **Exhibit G** hereto, which will (among other things):

(a) find that the Court has jurisdiction over the Settlement Class claims and to approve the Agreement and enter Final Judgment;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

(c) find that the Notice Plan implemented pursuant to the Agreement (1) constituted the best practicable notice under the circumstances; (2) constituted notice that was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Agreement, and to

appear at the Final Approval Hearing; (3) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) met all applicable requirements of the Illinois Code of Civil Procedure including those related to certification of a class, the Due Process Clauses of the United States and Illinois Constitutions, and the rules of the Court;

(d) find that the Class Representatives and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the Action (including all individual claims and Settlement Class Claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the Release set forth above in Sections 1.33 and 3, make the Release effective as of the Effective Date, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Releasing Parties from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit or other action in any jurisdiction based on the Released Claims;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions as the Court deems necessary and just, provided that such other provisions do not materially abridge, enlarge or modify any rights or responsibilities of the Released Parties or Settlement Class Members under this Agreement.

8. CLASS COUNSEL’S ATTORNEYS’ FEES AND REIMBURSEMENT OF EXPENSES; INCENTIVE AWARD.

8.1 Defendant agrees that Class Counsel may receive from the Settlement Fund, subject to Court approval, attorneys’ fees, costs, and expenses not to exceed \$1,000,000.00 USD. Plaintiffs will petition the Court for an award of such attorneys’ fees, costs, and expenses, and Defendant agrees to not object to or otherwise challenge, directly or indirectly, Class Counsel’s petition for attorneys’ fees, costs, and expenses if limited to this amount. Class Counsel, in turn, agrees to seek no more than this amount from the Court in attorneys’ fees, costs, and expenses. Payment of the Fee Award shall be made from the Settlement Fund and should the Court award less than the amount sought by Class Counsel, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund for *pro rata* distribution to Settlement Class Members in distributions for Approved Claims.

8.2 The Fee Award shall be payable by the Settlement Administrator within ten (10) days after entry of the Court’s Final Judgment, subject to Class Counsel executing the Undertaking Regarding Attorneys’ Fees and Costs (the “Undertaking”) attached hereto as **Exhibit E**. Payment of the Fee Award shall be made from the Settlement Fund by wire transfer to Bursor & Fisher, P.A., in accordance with wire instructions to be provided by Bursor & Fisher, P.A. and completion of necessary forms, including but not limited to W-9 forms. Notwithstanding the foregoing, if for any reason the Final Judgment is reversed, vacated, or rendered void as a result of an appeal(s) then Class Counsel shall return such funds to the Defendant within fourteen (14) days of such order. Additionally, should any parties to the Undertaking dissolve, merge, declare bankruptcy, become insolvent, or cease to exist prior to the final payment to Class Members, those parties shall execute a new undertaking guaranteeing repayment of funds within 14 days of such an occurrence.

8.3 Defendant agrees that, subject to Court approval, the Settlement Administrator will pay incentive awards to from the Settlement Fund, in addition to any settlement payment pursuant to this Agreement, in the amount of up to five thousand dollars (\$5,000.00) per Class Representative, for a total of up to fifteen thousand dollars (\$15,000.00). Defendant shall not object to or otherwise challenge, directly or indirectly, Class Counsel's application for the incentive award to the three Class Representative if limited to this amount. Class Counsel, in turn, agrees to seek no more than this amount from the Court as the incentive award for the Class Representatives. Should the Court award less than this amount, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund for *pro rata* distribution to Settlement Class Members in Credit Awards or distributions for Approved Claims. Such incentive award shall be paid from the Settlement Fund (in the form of a check to the Class Representatives that is sent care of Class Counsel), within five (5) business days after entry of the Final Judgment if there have been no objections to the Settlement Agreement, and, if there have been such objections, within five (5) business days after the Effective Date.

9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.

9.1 The Effective Date of this Settlement Agreement shall not occur unless and until ten (10) days after each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

- (a) The Parties and their counsel have executed this Agreement;
- (b) The Court has entered the Preliminary Approval Order;
- (c) The Court has entered an order finally approving the Agreement,

following Notice to the Settlement Class and a Final Approval Hearing, as provided in the

Federal Rules of Civil Procedure, and has entered the Final Judgment, or a judgment consistent with this Agreement in all material respects; and

(d) The Final Judgment has become a Final Order, as defined above, or, if the Court enters an Alternate Judgment, such Alternate Judgment becomes a Final Order.

9.2 If some or all of the conditions specified in Paragraph 9.1 are not met, or if this Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be canceled and terminated subject to Paragraph 6.1 unless Class Counsel and Defendant's Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Agreement on notice to all of the Settling Parties. Notwithstanding anything herein, the Parties agree that the Court's failure to approve, in whole or in part, Class Counsel's request for payment of attorneys' fees, costs and/or expenses and/or the request for incentive award payments set forth in Paragraph 8 above shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination.

9.3 If this Agreement is terminated or fails to become effective for the reasons set forth in Paragraphs 6.1-6.2 and 9.1-9.2 above, the Parties shall be restored to their respective positions in the Action as of the moment just prior to the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this Agreement had never been entered into.

9.4 Within five (5) business days after written notification of termination as provided in this Agreement is sent to the other Parties, the Settlement Fund, less any Settlement

Administration costs actually incurred, paid or payable shall be refunded by the Settlement Administrator to Defendant, based upon written instructions provided by Defendant's counsel.

9.5 If the Final Settlement Order and Judgment or any part of it is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, Class Counsel shall, within thirty (30) days repay to Defendant, based upon written instructions provided by Defendant's Counsel, the full amount of the attorneys' fees and costs paid to Class Counsel from the Settlement Fund, including any accrued interest. If the attorney fees and costs awarded by the Court or any part of them are vacated, modified, reversed, or rendered void as a result of an appeal, Class Counsel shall within thirty (30) days repay to Defendant, based upon written instructions provided by Defendant's Counsel, the attorneys' fees and costs paid to Class Counsel and/or Class Representatives from the Settlement Fund, in the amount vacated or modified, including any accrued interest.

10. MISCELLANEOUS PROVISIONS.

10.1 The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement, to secure final approval, and to defend the Final Judgment through any and all appeals. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Settlement Agreement, entry of the Preliminary Approval Order, and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

10.2 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiffs, the Settlement Class and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand.

10.3 The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

10.4 Whether or not the Effective Date occurs, or the Settlement Agreement is terminated, neither this Agreement nor the settlement contained herein or any term, provision or definition therein, nor any act or communication performed, or document executed in the course of negotiating, implementing or seeking approval pursuant to or in furtherance of this Agreement or the settlement:

(a) is, may be deemed, or shall be used, offered or received in any civil, criminal or administrative proceeding in any court, administrative agency, arbitral proceeding or other tribunal against the Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by the Plaintiffs, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the definition or scope of any term or provision, the reasonableness of the settlement amount or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them. Defendant, while continuing to deny all allegations of wrongdoing and disclaiming all liability with respect to all

claims, considers it desirable to resolve the action on the terms stated herein to avoid further expense, inconvenience, and burden, and therefore has determined that this settlement is in Defendant's best interests. Any public statements made by Plaintiffs or Class Counsel will be consistent with this paragraph and Class Counsel will not issue any press release concerning this Agreement or the settlement contained herein;

(b) is, may be deemed, or shall be used, offered or received against any Released Party, as an admission, concession or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, negligence, fault or wrongdoing or statutory meaning as against any Released Parties, or supporting the certification of a litigation class, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Judgment in any action that may be brought against such Party or Parties to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

(d) is, may be deemed, or shall be construed against Plaintiffs, the Settlement Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(e) is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiffs, the Settlement Class, the Releasing Parties, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

10.5 The Parties acknowledge that (a) any certification of the Settlement Class as set forth in this Agreement, including certification of the Settlement Class for settlement purposes in the context of Preliminary Approval, shall not be deemed a concession that certification of a litigation class is appropriate, or that the Settlement Class definition would be appropriate for a litigation class, nor would Defendant be precluded from challenging class certification in further proceedings in the Action or in any other action if the Settlement Agreement is not finalized or finally approved; (b) if the Settlement Agreement is not finally approved by the Court for any reason whatsoever, then any certification of the Settlement Class will be void, the Parties and the Action shall be restored to the status quo ante, and no doctrine of waiver, estoppel or preclusion will be asserted in any litigated certification proceedings in the Action or in any other action; and (c) no agreements made by or entered into by Defendant in connection with the Settlement may be used by Plaintiffs, any person in the Settlement Class, or any other person to establish any of

the elements of class certification in any litigated certification proceedings, whether in the Action or any other judicial proceeding.

10.6. No person or entity shall have any claim against the Class Representatives, Class Counsel, the Settlement Administrator, or any other agent designated by Class Counsel, or the Released Parties and/or their counsel, arising from distributions made substantially in accordance with this Agreement. The Parties and their respective counsel, and all other Released Parties shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the determination, administration, calculation, or payment of any claim or nonperformance of the Settlement Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

10.7. All proceedings with respect to the administration, processing and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, and the enforcement of the Release and Covenant not to Sue set forth herein, shall be subject to the jurisdiction of the Court.

10.8 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.9 The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

10.10 All of the Exhibits to this Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

10.11 This Agreement and its Exhibits set forth the entire agreement of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. This Agreement may

be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.12 Except as otherwise provided herein, each Party shall bear its own costs.

10.13 Plaintiffs represent and warrant that they have not assigned any claim or right or interest therein as against the Released Parties to any other Person or Party and that they are fully entitled to release the same.

10.14 Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such Person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms.

10.15 This Agreement may be executed in one or more counterparts. Signature by digital means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

10.16 This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties.

10.17 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

10.18 This Settlement Agreement shall be governed by and construed in accordance with the substantive laws of the State of Illinois without giving effect to its conflict of laws provisions.


10.19 This Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Because all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

10.20 Where this Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: L. Timothy Fisher, Bursor & Fisher, P.A., 1990 N. California Blvd., Suite 940, Walnut Creek, California 94596, ltfisher@bursor.com; Ana Tagvoryan, Blank Rome LLP, 2029 Century Park East, Ste. 6, Los Angeles, CA 90067, ana.tagvoryan@blankrome.com

IT IS SO AGREED TO BY THE PARTIES:

Dated: June 8, 2023

BURSOR & FISHER, P.A.

By: 
L. Timothy Fisher, Esq.

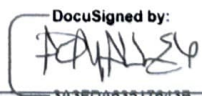
Dated: June 12, 2023

PLAINTIFF LUCAS YOUNG

By: 
Lucas Young, individually and for the Class

Dated: June 09, 2023

PLAINTIFF DANIEL O'MALLEY

By: 
Daniel O'Malley, individually and for the Class

Dated: June 08, 2023

PLAINTIFF CHARLES BUCKINGHAM

By: DocuSigned by:
Charles Buckingham
Charles Buckingham, individually and
for the Class

Dated: June __, 2023

FLOSPORTS, INC.

By: _____
Paul Hurdlow, as Corporate Secretary
and Executive Vice President

Dated: June __, 2023

BLANK ROME LLP

By: _____
Ana Tagvoryan, Esq.

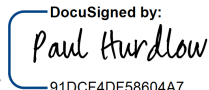
Dated: June __, 2023

PLAINTIFF CHARLES BUCKINGHAM

By: _____
Charles Buckingham, individually and
for the Class

Dated: June 15, 2023

FLOSPORTS, INC.

By:  _____
91DCF4DF58604A7...
Paul Hurdlow, as Corporate Secretary
and Executive Vice President

Dated: June __, 2023

BLANK ROME LLP

By: _____
Ana Tagvoryan, Esq.

Dated: June __, 2023

PLAINTIFF CHARLES BUCKINGHAM

By: _____
Charles Buckingham, individually and
for the Class

Dated: June 15, 2023

FLOSPORTS, INC.

By: _____
Paul Hurdlow, as Corporate Secretary
and Executive Vice President

Dated: June 15, 2023

BLANK ROME LLP


By:  _____
Ana Tagvoryan, Esq.

EXHIBIT A

Young, et al. v. FloSports, Inc.

In the Circuit Court of DuPage County, Illinois, 18th Judicial Circuit

Case No. 2023LA000516

Settlement Claim Form

If you are a Settlement Class Member and wish to receive a settlement benefit, your completed Claim Form must be postmarked on or before [____], or submitted online at www.FSRenewalSettlement.com on or before [____].

Please read the full notice of this settlement (available at www.FSRenewalSettlement.com) carefully before filling out this Claim Form.

To be eligible to receive any benefits from the settlement obtained in this class action lawsuit, you must submit this completed Claim Form online or by mail:

ONLINE: Visit www.FSRenewalSettlement.com and submit your claim online.

MAIL: [ADDRESS]

PART ONE: CLAIMANT INFORMATION

Provide your name and contact information below. It is your responsibility to notify the Settlement Administrator of any changes to your contact information after the submission of your Claim Form.

FIRST NAME

LAST NAME

STREET ADDRESS

CITY

STATE

ZIP CODE

EMAIL ADDRESS

PART TWO: SUBSCRIPTION INFORMATION

To qualify for a settlement benefit, you must have been a FloSports subscriber who, from August 29, 2018 through [DATE], enrolled in an automatically renewing FloSports subscription using a California, New York, North Carolina, Oregon, Florida, Illinois, Washington D.C., North Dakota, Virginia, Hawaii, Vermont billing address and paid fee(s) in connection with your subscription.

If you are an **ACTIVE SUBSCRIBER** to FloSports:

OPTION 1: Check here if you would like to receive a cash payment. Annual subscribers are eligible to receive **up to \$30.00**. Monthly subscribers are eligible to receive **up to \$6**.

QUESTIONS? VISIT www.FSRenewalSettlement.com OR CALL [NUMBER] TOLL-FREE

OPTION 2: Check here if you would like to receive a **10% discount** on your next immediate renewal charge (or an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions,¹ if your membership is no longer active when the settlement becomes final).

If you are an **INACTIVE SUBSCRIBER** to FloSports:

OPTION 1: Check here if you would like to receive a cash payment. Annual subscribers are eligible to receive **up to \$30.00**. Monthly subscribers are eligible to receive **up to \$6**.

OPTION 2: Check here if you would like to receive an **electronic voucher for one free pay-per-view event** from FloSports, with certain exceptions.²

The cash payments set out herein represent the maximum that you can receive under the settlement. The actual cash paid may be reduced depending on the aggregate total of claims submitted by all class members.

PART THREE: ATTESTATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the State of Illinois and the United States of America that all of the information on this Claim Form is true and correct to the best of my knowledge. I understand that my Claim Form may be subject to audit, verification, and Court review.

SIGNATURE

DATE

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

¹ The electronic vouchers should be available within ninety (90) days after the settlement becomes final. The vouchers will not expire. Exceptions apply.

² The electronic vouchers should be available within **ninety (90)** days after the settlement becomes final. The vouchers will not expire. Exceptions apply.

EXHIBIT B

From:
To: JonQClassMember@domain.com
Re: Legal Notice of Class Action Settlement

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
Young, et al. v. FloSports, Inc., Case No. 2023LXXXXX
(In the Circuit Court of DuPage County, Illinois, 18th Judicial Circuit)

This notice is to inform you of the settlement of a class action lawsuit against FloSports, Inc. (“FloSports”), the “Defendant,” filed by Plaintiffs Lucas Young, Daniel O’Malley, and Charles Buckingham (collectively, the “Plaintiffs”) in the Circuit Court of DuPage County, Illinois. The Class Plaintiffs allege that they were enrolled in automatically renewing subscriptions for FloSports’ content without adequate disclosures and notice regarding renewal charges and cancellation terms. FloSports claims its subscription renewal practices complied with all applicable laws and regulations and that it fairly disclosed all terms associated with its subscriptions. Thus, FloSports denies all allegations of wrongdoing, and the Court has not determined who is right. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

Am I a Class Member? Yes. Our records indicate you are a Settlement Class Member. Class Members are persons who, from August 29, 2018 through [the date the settlement agreement is signed], enrolled in an automatically renewing FloSports subscription using a California, New York, North Carolina, Oregon, Florida, Illinois, Washington D.C., North Dakota, Virginia, Hawaii, Vermont billing address and paid fee(s) in connection with such subscription.

What Can I Get? You **must** submit a Claim Form (see instructions below) to receive a benefit from this Settlement. Class Members with **active subscriptions** to FloSports may choose to receive either (1) a pro rata cash payment of up to \$30.00 for annual subscribers, and up to \$6 for monthly subscribers via check; or (2) a 10% discount on the next immediate FloSports renewal charge (or an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions, if your membership is no longer active when the settlement becomes final). If you are an **inactive subscriber** to FloSports, you may choose to receive either (1) a pro rata cash payment of up to \$30.00 for annual subscribers, and up to \$6 for monthly subscribers via check; or (2) an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions.

Details on the electronic voucher option can be found on the settlement website at {address}.

The cash payments may be subject to *pro rata* adjustment depending on the number of valid claims that are filed. A Settlement Fund of up to \$1,550,000.00 will be established to pay all approved claims to the Settlement Class, together with notice and administration expenses, approved attorneys’ fees and costs to Class Counsel, and Service Awards to the Plaintiffs.

How Do I Get a Cash Payment, Discount, or Voucher? You **must** complete and submit a Claim Form to receive a benefit from the Settlement. You may submit a Claim Form either electronically on the Settlement Website by clicking [here](http://www.FSRenewalSettlement.com) www.FSRenewalSettlement.com, or by printing and mailing in a paper Claim Form, copies of which are available for download [here](#)

www.FSRenewalSettlement.com. Claim Forms must be submitted online by 11:59 p.m. EST on [date] or postmarked and mailed by [date].

What are My Other Options? You may exclude yourself from the Settlement Class by sending a letter to the settlement administrator no later than [objection/exclusion deadline]. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue FloSports over the legal issues in the lawsuit. You and/or your lawyer have the right to appear before the Court and/or to object to the proposed settlement. Your written objection must be filed no later than [objection/exclusion deadline]. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at [URL]. If you do nothing, and the Court approves the Settlement, you will be bound by all of the Court's orders and judgments. In addition, your claims against FloSports and others will be released.

Who Represents Me? The Court has appointed Bursor & Fisher, P.A. and Gucovschi Rozenshteyn, PLLC to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

When Will the Court Consider the Proposed Settlement? The Court will hold the Final Approval Hearing at [time] on [date] at the 18th Judicial Circuit Courthouse, 505 N. County Farm Road, Wheaton, IL 60187. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award the Plaintiffs \$5,000 each from the Settlement Fund for their services in helping to bring and settle this case. FloSports has agreed that Class Counsel may be paid reasonable attorneys' fees and costs from the Settlement Fund in an amount to be determined by the Court. Class Counsel is entitled to seek no more than \$1,000,000, but the Court may award less than this amount.

How Do I Get More Information? For more information, including a more detailed Class Notice, a copy of the Settlement Agreement and other documents, go to [URL], contact the settlement administrator by calling (800) 000-000 or by writing to FloSports Settlement Administrator, [address], or contact Class Counsel by calling (646) 837-7150.

EXHIBIT C

COURT AUTHORIZED NOTICE OF CLASS
ACTION AND PROPOSED SETTLEMENT

OUR RECORDS
INDICATE YOU
SUBSCRIBED TO
FLOSPORTS AND MAY
BE ENTITLED TO A
PAYMENT FROM A
CLASS ACTION
SETTLEMENT.

FloSports Settlement
Settlement Administrator
P.O. Box 0000
City, ST 00000-0000



Postal Service: Please do not mark barcode

XXX—«ClaimID» «MailRec»

«First1» «Last1»

«C/O»

«Addr1» «Addr2»

«City», «St» «Zip» «Country»

By Order of the Court Dated: [date]

FLOSPORTS SETTLEMENT

A settlement has been reached in a class action lawsuit against Defendant FloSports, Inc. Plaintiffs Lucas Young, Daniel O'Malley, and Charles Buckingham (collectively, the "Plaintiffs") allege that they were enrolled in automatically renewing subscriptions for FloSports' content without adequate disclosures and notice regarding renewal charges and cancellation terms. FloSports claims its subscription renewal practices complied with all applicable laws and regulations and that it fairly disclosed all terms associated with its subscriptions. Thus, FloSports denies all allegations of wrongdoing, and the Court has not determined who is right. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

Am I a Settlement Class Member? Our records indicate you are a Settlement Class Member. Class Members are persons who, from August 29, 2018 through [the date the settlement agreement is signed], enrolled in an automatically renewing FloSports subscription using a California, New York, North Carolina, Oregon, Florida, Illinois, Washington D.C., North Dakota, Virginia, Hawaii, Vermont billing address and paid fee(s) in connection with such subscription.

What Can I Get? You must submit a Claim Form (see instructions below) to receive a benefit from this Settlement. Class Members with **active subscriptions** to FloSports may choose to receive either (1) a pro rata cash payment of up to \$30.00 for annual subscribers, and up to \$6 for monthly subscribers via check; or (2) a 10% discount on the next immediate FloSports renewal charge (which will automatically convert to an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions, if your membership is no longer active when the settlement becomes final). If you are an **inactive subscriber** to FloSports, you may choose to receive either (1) a pro rata cash payment of up to \$30.00 for annual subscribers, and up to \$6 for monthly subscribers via check; or (2) an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions. Details on the electronic voucher option can be found on the settlement website at {address}. The cash payments may be subject to pro rata adjustment depending on the number of valid claims that are filed. A Settlement Fund of up to \$1,550,000.00 will be established to pay all approved claims to the Settlement Class, together with notice and administration expenses, approved attorneys' fees and costs to Class Counsel, and Service Awards to the Plaintiffs.

How Do I Get a Payment? You must complete and submit a Claim Form to receive a benefit from the Settlement. You may submit a Claim Form either electronically on the Settlement Website by visiting www.FSRenewalSettlement.com, or by printing and mailing in a paper Claim Form, copies of which are available for download [here](http://www.FSRenewalSettlement.com) www.FSRenewalSettlement.com. Claim Forms must be submitted online by 11:59 p.m. EST on [date] or postmarked and mailed by [date].

What are My Other Options? You may exclude yourself from the Settlement Class by submitting an online form on the Settlement Website no later than 11:59 p.m. on [objection/exclusion deadline] or by sending a letter to the settlement administrator no later than [objection/exclusion deadline]. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue FloSports over the legal issues in the lawsuit. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Any written objection must be filed no later than [objection/exclusion deadline]. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at [URL]. If you do nothing, and the Court approves the Settlement, you will be bound by all of the Court's orders and judgments. In addition, your claims against FloSports and others will be released.

Who Represents Me? The Court has appointed Bursor & Fisher, P.A. and Gucovschi Rozenshteyn, PLLC to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

When Will the Court Consider the Proposed Settlement? The Court will hold the Final Approval Hearing at [time] on [date] at the 18th Judicial Circuit Courthouse, 505 N. County Farm Road, Wheaton, IL 60187. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award the Plaintiffs \$5,000 each from the Settlement Fund for their services in helping to bring and settle this case. FloSports has agreed that Class Counsel may be paid reasonable attorneys' fees from the Settlement Fund in an amount to be determined by the Court. Class Counsel is entitled to seek no more than \$1,000,000, but the Court may award less than this amount.

How Do I Get More Information? For more information, including the full Class Notice, Claim Form and Settlement Agreement go to [URL], contact the settlement administrator by calling (800) 000-0000 or writing to FloSports Settlement Administrator, [address], or contact Class Counsel by calling (646) 837-7150.

FloSports Settlement Administrator
c/o [Settlement Administrator]
PO Box 0000
City, ST 00000-0000

XXX

EXHIBIT D

CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS, 18TH JUDICIAL CIRCUIT

Young, et al v. FloSports, Inc., Case No. 2023LXXXX

IF YOU ENROLLED IN A FLOSPORTS SUBSCRIPTION BETWEEN AUGUST 29, 2018 AND [DATE] AND PAID FEES IN CONNECTION WITH THAT SUBSCRIPTION, YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT.

A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

- A settlement has been reached in a class action lawsuit against FloSports, Inc. Plaintiffs Lucas Young, Daniel O’Malley, and Charles Buckingham (collectively, the “Class Representatives”) allege that they were enrolled in automatically renewing subscriptions for FloSports’ content without adequate disclosures and notice regarding renewal charges and cancellation terms. FloSports claims its subscription renewal practices complied with all applicable laws and regulations and that it fairly disclosed all terms associated with its subscriptions. Thus, FloSports denies all allegations of wrongdoing, and the Court has not determined who is right. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.
- You are included if, from August 29, 2018 through [date], you enrolled in an automatically renewing FloSports subscription using a California, New York, North Carolina, Oregon, Florida, Illinois, Washington D.C., North Dakota, Virginia, Hawaii, Vermont billing address, and paid fee(s) in connection with such subscription.
- Those included in the settlement will be eligible to receive a cash payment (up to \$30 for annual subscribers and up to \$6 for monthly subscribers), a renewal discount, or an electronic voucher for a free pay-per-view event (with certain exceptions).
- Read this notice carefully. Your legal rights are affected whether you act, or don’t act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
FILE A CLAIM BY [CLAIMS DEADLINE]	The only way to receive a benefit from the settlement. By participating in the settlement, you will be bound by the terms of the Settlement Agreement and will give up certain rights.
EXCLUDE YOURSELF BY [EXCLUSION DEADLINE]	You will receive no benefits, but you will retain any rights you currently have to sue the Defendant about the claims in this case.
OBJECT BY [OBJECTION DEADLINE]	Write to the Court explaining why you don’t like the settlement.
GO TO THE FINAL APPROVAL HEARING ON [DATE]	Ask to speak in Court about your opinion of the settlement.
DO NOTHING	You will not get a share of the settlement benefits and will give up your rights to sue Defendant about issues related to the claims and allegations in this case.

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FSRENEWALSETTLEMENT.COM

These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

BASIC INFORMATION

1. Why was this Notice issued?

A Court authorized this notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your options before the Court decides whether to give final approval to the settlement. This Notice explains the lawsuit, the settlement, and your legal rights.

The Honorable [REDACTED] of the Circuit Court of DuPage County, Illinois, 18th Judicial Circuit, is overseeing this case. The case is called *Young, et al. v. FloSports, Inc.*, Case No. 2023LXXXXX. The people who sued are called the Plaintiffs. The Defendant is FloSports, Inc.

2. What is a class action?

In a class action, one or more people called class representatives (in this case, Lucas Young, Daniel O'Malley, and Charles Buckingham) sue on behalf of a group or a "class" of people who have similar claims. In a class action, the court resolves the issues for all class members, except for those who exclude themselves from the Settlement Class.

3. What is this lawsuit about?

The Class Representatives allege that they were enrolled in automatically renewing subscriptions for FloSports' content without adequate disclosures and notice regarding renewal charges and cancellation terms. FloSports claims its subscription renewal practices complied with all applicable laws and regulations and that it fairly disclosed all terms associated with its subscriptions. Thus, FloSports denies all allegations of wrongdoing, and the Court has not determined who is right. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

4. Why is there a settlement?

The Court has not decided whether the Plaintiffs or the Defendant should win this case. Instead, both sides agreed to a settlement. That way, they avoid the uncertainties and expenses associated with ongoing litigation, and Settlement Class Members will get compensation sooner rather than, if at all, after the completion of a trial.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

The Court decided that everyone who fits the following description is a member of the **Settlement Class**:

All persons who, from August 29, 2018 through [the date the settlement agreement is signed], enrolled in an automatically renewing FloSports subscription using a California, New York, North Carolina, Oregon, Florida, Illinois, Washington D.C., North Dakota, Virginia, Hawaii, Vermont billing address and paid fee(s) in connection with such subscription.

THE SETTLEMENT BENEFITS

6. What does the settlement provide?

Monetary Relief: If approved, a Settlement Fund will be created totaling up to \$1,550,000.00. Settlement Class Member cash payments, the cost to administer the settlement, the cost to inform people about the settlement, attorneys' fees (inclusive of litigation costs), and awards to the Class Representatives will also come out of this fund (*see* Question 12). Settlement Class Members who are active subscribers to FloSports at the time of their claim also have the option to receive a 10% discount on their next immediate FloSports renewal charge—which will automatically convert to an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions, if their membership is no longer active when the settlement becomes final (*see* Questions 7 and 8). Settlement Class Members who are inactive (or former) subscribers to FloSports have the option to receive an electronic voucher for a free pay-per-view event from FloSports with certain exceptions.

A detailed description of the settlement benefits can be found in the Settlement Agreement, a copy of which is accessible on the Settlement Website by clicking [here](http://www.FSRenewalSettlement.com). www.FSRenewalSettlement.com.

Prospective Relief: In addition to the monetary relief described above, Defendant has also agreed to present on the checkout page the automatic renewal offer terms (including cancellation policy) in a clear and conspicuous manner before the subscription or purchasing agreement and in visual proximity to the request for consent to the offer and obtain affirmative consent to the agreement containing the automatic renewal terms in a manner that complies with applicable automatic renewal laws. Defendant further agrees to disclose, in a manner that complies with applicable automatic renewal laws, how to cancel and by when in an acknowledgment email that is capable of being retained by consumers.

7. What settlement benefits am I entitled to?

Class Members with **active subscriptions** to FloSports may choose to receive either (1) a pro rata cash payment of up to \$30.00 for annual subscribers, and up to \$6 for monthly subscribers via check; or (2) a 10% discount on the next immediate FloSports renewal charge—which will automatically convert to an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions, if your membership is no longer active when the settlement becomes final (*see* Question 8).

If you are an **inactive subscriber** to FloSports, you may choose to receive either (1) a pro rata cash payment of up to \$30.00 for annual subscribers, and up to \$6 for monthly subscribers via check; or (2) an electronic voucher for a free pay-per-view event from FloSports, with certain exceptions. Details on the electronic voucher option can be found www.FSRenewalSettlement.com.

8. When will I receive my settlement benefit?

The hearing to consider the fairness of the settlement is scheduled for **[Final Approval Hearing Date]**. If the Court approves the settlement, eligible Class Members will receive their benefit **30 days** after the settlement has been finally approved and/or after any appeals process is complete. The cash payment will be made in the form of a check, and all checks will expire and become void 180 days after they are issued.

HOW TO GET BENEFITS

9. How do I get a benefit from the settlement?

You **must** complete and submit a Claim Form to receive a benefit from the Settlement. You may submit a Claim Form either electronically on the Settlement Website by clicking [here](http://www.FSRenewalSettlement.com) www.FSRenewalSettlement.com, or by printing and mailing in a paper Claim Form, copies of which are available for download [here](http://www.FSRenewalSettlement.com) www.FSRenewalSettlement.com. Claim Forms must be submitted online by 11:59 p.m. CT on **[date]** or postmarked and mailed by **[date]**.

REMAINING IN THE SETTLEMENT

10. What am I giving up if I stay in the Class?

If the settlement becomes final, you will give up your right to sue the Defendant and other Released Parties for the claims being resolved by this settlement. The specific claims you are giving up against the Defendant are described in the Settlement Agreement. You will be “releasing” the Defendant and certain of its affiliates, employees and representatives as described in Sections 1.33 and 3 of the Settlement Agreement. Unless you exclude yourself (*see* Question 13), you are “releasing” the

claims, regardless of whether you submit a claim or not. The Settlement Agreement is available through the “court documents” link on the website.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to the lawyers listed in Question 11 for free or you can, of course, talk to your own lawyer if you have questions about what this means.

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in the case?

The Court has appointed Bursor & Fisher, P.A. and Gucovschi Rozenshteyn, PLLC to be the attorneys representing the Settlement Class. They are called “Class Counsel.” They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

12. How will the lawyers be paid?

The Defendant has agreed that Class Counsel attorneys’ fees and costs may be paid out of the Settlement Fund in an amount to be determined by the Court. The fee petition will seek no more than \$1,000,000 of the Settlement Fund, inclusive of reimbursement of their costs and expenses; the Court may award less than this amount.

Subject to approval by the Court, Defendant has also agreed that the Class Representatives may be paid a Service Award of \$5,000 each from the Settlement Fund for their services in helping to bring and resolve this case.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How do I get out of the settlement?

To exclude yourself from the settlement, you must submit a request for exclusion by 11:59 p.m. EST on **[objection/exclusion deadline]**. Requests for exclusion may be submitted either on the Settlement Website (via the online form accessible [here](#) www.FSRenewalSettlement.com or by mailing or otherwise delivering a letter (or request for exclusion) stating that you want to be excluded from the *Young, et al. v. FloSports, Inc.*, Case No. 2023LXXXX settlement. Your letter or request for exclusion must also include your name, your email and billing addresses, that you enrolled in a paid FloSports subscription from August 29, 2018 to **[Date]** using a California, New York, North Carolina, Oregon, Florida, Illinois, DC, N. Dakota, Virginia, Hawaii, Vermont billing address and paid fee(s) in connection with such subscription, your signature, the name and number of this case, and a statement that you wish to be

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FSRENEWALSETTLEMENT.COM

excluded. If you choose to submit a request for exclusion by mail, you must mail or deliver your exclusion request, postmarked no later than [objection/exclusion deadline], to the following address:

FloSports Settlement
0000 Street
City, ST 00000

14. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue the Defendant for the claims being resolved by this settlement.

15. If I exclude myself, can I get anything from this settlement?

No. If you exclude yourself, you will not receive a payment from the Settlement Fund.

OBJECTING TO THE SETTLEMENT

16. How do I object to the settlement?

If you are a Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court a letter or brief stating that you object to the settlement in *Young, et al. v. FloSports, Inc.*, Case No. 2023L00000 and identify all your reasons for your objections (including citations and supporting evidence) and attach any materials you rely on for your objections. Your letter or brief must be filed with the clerk of the court or must be e-filed if you are represented by your own attorney. Your letter or brief must also include your name, your address, the basis upon which you claim to be a Class Member (either verification under oath of the date and billing address of enrollment in a FloSports subscription within the Settlement Class Period, or a receipt reflecting such purchase), the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with your objection, and your signature. If you, or an attorney assisting you with your objection, have ever objected to any class action settlement where you or the objecting attorney has asked for or received payment in exchange for dismissal of the objection (or any related appeal) without modification to the settlement, you must include a statement in your objection identifying each such case by full case caption. You must also mail or deliver a copy of your letter or brief to Class Counsel and Defendant's Counsel listed below.

Class Counsel will file with the Court and post on this website its motion for attorneys' fees and costs by [two weeks prior to objection deadline].

If you want to appear and speak at the Final Approval Hearing to object to the settlement, with or without a lawyer (explained below in answer to Question Number 20), you must say so in your letter or brief. File the objection with the Court (or mail the objection to the Court) and mail a copy of the objection to Class Counsel and Defendant’s Counsel, at the addresses below, postmarked no later than **[objection deadline]**.

Court	Class Counsel	Defendant’s Counsel
The Honorable [redacted] Circuit Court for DuPage County, Illinois, 18th Judicial District 505 N. County Farm Road Wheaton, IL 60187	L. Timothy Fisher Bursor & Fisher P.A. 1990 N. California Blvd. Walnut Creek, CA 94596	Ana Tagvoryan Blank Rome LLP 2029 Century Park East Los Angeles, CA 90067

17. What’s the difference between objecting and excluding myself from the settlement?

Objecting simply means telling the Court that you don’t like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Class is telling the Court that you don’t want to be part of the Settlement Class. If you exclude yourself per the terms in the settlement agreement, you have no basis to object because the case no longer affects you.

THE COURT’S FINAL APPROVAL HEARING

18. When and where will the Court decide whether to approve the settlement?

The Court will hold the Final Approval Hearing at **[time]** on **[date]** at the 18th Judicial Circuit Courthouse, 505 N. County Farm Road, Wheaton, IL 60187. The purpose of the hearing will be for the Court to determine whether to approve the settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the Class Counsel’s request for attorneys’ fees and expenses; and to consider the request for Service Awards to the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check for updates by visiting the Settlement Website at www.FSRenewalSettlement.com or calling **(800) 000-0000**. If, however, you timely objected to the settlement and advised the Court that you intend to appear and speak at the Final Approval Hearing, and the Court has your contact information, you will receive notice of any change in the date of the Final Approval Hearing.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you serve or file an objection or comment, you don't have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but it is not required.

20. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include in your letter or brief objecting to the settlement a statement saying that it is your "Notice of Intent to Appear in *Young, et al. v. FloSports, Inc.*, Case No. 2023L000XXX." It must include your name, address, telephone number and signature as well as the name and address of your lawyer, if one is appearing for you. Your objection and notice of intent to appear must be filed with the Court and postmarked no later than [objection deadline], and be sent to the addresses listed in Question 16.

GETTING MORE INFORMATION

21. Where do I get more information?

This Notice summarizes the settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [URL]. You may also write with questions to FloSports Settlement, P.O. Box 0000, City, ST 00000. You can call the Settlement Administrator at (800) 000-0000 or Class Counsel at (646) 837-7150, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the case website.

EXHIBIT E

**IN THE CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS
18TH JUDICIAL CIRCUIT**

DANIEL O'MALLEY, LUCAS YOUNG, and
CHARLES BUCKINGHAM, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

FLOSPORTS, INC.,

Defendant.

Case No. 2023LA000516

**STIPULATION REGARDING UNDERTAKING RE: ATTORNEYS' FEES, COSTS,
AND EXPENSES**

Plaintiffs Daniel O'Malley, Lucas Young, and Charles Buckingham ("Plaintiffs") and Defendant FloSports, Inc. ("FloSports") (collectively, "the Parties"), by and through and including their undersigned counsel, stipulate and agree as follows:

WHEREAS, Bursor & Fisher P.A. (the "Firm") desires to give an undertaking (the "Undertaking") for repayment of any and all award of attorneys' fees, costs, and expenses approved by the Court and paid to the Firm pursuant to Section 8.2 of the Settlement Agreement, and

WHEREAS, the Parties agree that this Undertaking is in the interests of all Parties and in service of judicial economy and efficiency.

NOW, THEREFORE, the undersigned counsel, on behalf of himself as an individual and as an agent for the Firm, hereby submits himself and the Firm to the jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, the Firm and its shareholders, members, and/or partners submit to the jurisdiction of the Circuit Court of DuPage County, Illinois, 18th Judicial District, for the enforcement of and any and all disputes relating to or arising out of the reimbursement obligation set forth herein and the Settlement Agreement.

In the event that the Settlement Approval Order and Final Judgment or any part of it is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, the Firm shall, within thirty (30) days repay to Defendant, based upon written instructions provided by Defendant's Counsel, the full amount of the attorneys' fees and costs paid from the Settlement Fund, including any accrued interest.

In the event the Settlement Approval Order and Final Judgment are upheld, but the attorneys' fees, costs, and expenses awarded by the Court or any part of them are vacated, modified, reversed, or rendered void as a result of an appeal, the Firm shall within thirty (30) days repay to the Settlement Fund, based upon written instructions provided by the Settlement Administrator, all attorneys' fees and costs paid from the Settlement Fund in the amount vacated or modified, including any accrued interest.

This Undertaking and all obligations set forth herein shall expire upon finality of all direct appeals of the Settlement Approval Order and Final Judgment.

In the event the Firm fails to repay to Defendant any of attorneys' fees and costs that are owed to it pursuant to this Undertaking, the Court shall, upon application of FloSports, and notice to the Firm, summarily issue orders, including but not limited to judgments and attachment orders against the Firm, and may make appropriate findings for sanctions for contempt of court.

The undersigned Firm attorney stipulates, warrants, and represents that he has both actual and apparent authority to enter into this stipulation, agreement, and undertaking on behalf of the Firm.

This Undertaking may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile shall be as effective as original signatures.

The undersigned attorneys for Plaintiffs and the Settlement Class declare under penalty of perjury under the laws of the United States that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:

DATED: _____, 2023

BURSOR & FISHER, P.A.

By: Scott A. Bursor, on behalf of Bursor & Fisher, P.A.
Attorneys for Plaintiffs and the Settlement Class

DATED: _____, 2023

Blank Rome, LLP

By: Ana Tagvoryan
Attorney for Defendant FloSports, Inc.

EXHIBIT F

**IN THE CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS
18TH JUDICIAL CIRCUIT**

DANIEL O’MALLEY, LUCAS YOUNG, and
CHARLES BUCKINGHAM, *individually and
on behalf of all others similarly situated,*

Case No. 2023L

Plaintiffs,

v.

FLOSPORTS, INC.,

Defendant.

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT AGREEMENT, CERTIFYING
SETTLEMENT CLASS, APPOINTING CLASS REPRESENTATIVES,
APPOINTING CLASS COUNSEL, AND APPROVING NOTICE PLAN**

WHEREAS, a class action is pending before the Court entitled *O’Malley, et al. v. FloSports, Inc.*, No. 2023L ; and

WHEREAS, Plaintiffs Daniel O’Malley, Lucas Young, and Charles Buckingham (collectively “Plaintiffs”) and Defendant FloSports, Inc. have entered into a Class Action Settlement Agreement, which, together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice as to Defendant (the “Settlement Agreement”), and the Court having read and considered the Settlement Agreement and exhibits attached thereto, and the Motion for Preliminary Approval of Class Settlement, Certifying Settlement Class, Appointing Class Representatives, Appointing Class Counsel, and Approving Notice Plan; and

This matter coming before the Court upon the agreement of the parties, good cause being shown, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

1. Terms and phrases in this Order shall have the same meaning as ascribed to them

in the Settlement Agreement except as otherwise noted.

2. The Parties have moved the Court for an order approving the settlement of the Action in accordance with the Settlement Agreement, which, together with the documents attached thereto, sets forth the terms and conditions for a proposed class settlement and dismissal of the Action with prejudice (“Settlement”), and the Court having read and considered the Settlement and having heard the parties and being fully advised in the premises, hereby preliminarily approves the multi-state Settlement in its entirety subject to the Final Approval Hearing referred to in paragraph 5 of this Order.

3. This Court finds that it has jurisdiction over the subject matter of this action and over all of the Parties to the Action as it relates to the subject matter of this action and this Settlement, only.

4. The Court finds that, subject to the Final Approval Hearing, the Settlement is fair, reasonable, and adequate, within the range of possible approval, and in the best interests of the Settlement Class set forth below. The Court further finds that the Settlement substantially fulfills the purposes and objectives of the Action, and provides substantial relief to the Settlement Class without the risks, burdens, costs, or delay associated with continued litigation, trial, and/or appeal. The Court also finds that the Settlement (a) is the result of arm’s-length negotiations between experienced class action attorneys; (b) is sufficient to warrant notice of the settlement and the Final Approval Hearing to be disseminated to the Settlement Class; (c) meets all applicable requirements of law, including 735 ILCS 5/2-801 to 807; and (d) is not a finding or admission of liability by the Defendant or any other person, nor a finding of the validity of any claims asserted in the Action, of certifying the class for litigation and trial, or of any wrongdoing or any violation of law.

Final Approval Hearing

5. The Final Approval Hearing shall be held before this Court on _____, at _____. [*suggested date of 90 days after entry of this Order*] at the DuPage County Courthouse, 505 N. County Farm Rd., Wheaton, Illinois to determine (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate and should be given final approval by the Court; (b) whether a judgment and order of dismissal with prejudice should be entered; (c) whether to approve the method and amount of payment of attorneys’ fees, costs, and expenses to Class Counsel; and (d) whether to approve the payment of incentive awards to the Class Representatives. The Court may adjourn the Final Approval Hearing without further notice to members of the Settlement Class.

6. Class Counsel shall file papers in support of their Fee Award and Class Representatives’ Service Awards (collectively, the “Fee Petition”) with the Court on or before _____ [*suggested date of 52 days after entry of this Order, (i.e., 14 days before the Objection/Exclusion Deadline).*] Defendant may, but is not required to, file a response to Class Counsel’s Fee Petition with the Court on or before _____ [*suggested date of 21 days before Final Approval hearing.*] Class Counsel may file a reply in support of their Fee Petition with the Court on or before _____ [*suggested date of 14 days before Final Approval hearing.*]

7. Papers in support of final approval of the Settlement Agreement, proposed Final Judgment and any supplementation to the Fee Petition shall be filed with the Court on or before _____ [*suggested date of 14 days before Final Approval hearing.*]

Provisional Certification of the Settlement Class

8. For purposes of settlement only: (a) Bursor & Fisher, P.A., Gucovschi Rozenshteyn, PLLC, and Nick Larry Law, LLC are appointed Class Counsel for the Settlement Class; and (b) Daniel O'Malley, Lucas Young, and Charles Buckingham are named Class Representatives. The Court finds that these attorneys are competent and capable of exercising the responsibilities of Class Counsel and that Plaintiffs will adequately protect the interests of the Settlement Class defined below.

9. For purposes of settlement only, the Court conditionally certifies the following Settlement Class as defined in the Settlement Agreement:

All FloSports subscribers who, from August 29, 2018 through [date], enrolled in an automatically renewing FloSports subscription using a California, New York, North Carolina, Oregon, Florida, Illinois, DC, N. Dakota, Virginia, Hawaii, Vermont billing address and paid fee(s) in connection with such subscription.

10. The Court finds, subject to the Final Approval Hearing referred to in Paragraph 5 above, that the Settlement Agreement is fundamentally fair, adequate, and reasonable, and, solely within the context of and for the purposes of settlement only, that the Settlement Class satisfies the requirements of 735 ILCS 5/2-801, specifically, that: the Settlement Class is so numerous that joinder of all members is impracticable; there are questions of fact and law common to the Settlement Class under the respective states' laws (*e.g.*, whether Defendant's order pages failed to present the automatic renewal offer terms in a clear and conspicuous manner before the subscription or purchasing agreement was fulfilled for each vertical offering on its website, and in visual proximity to the request for consent to the offer for such vertical; whether Defendant failed to provide an acknowledgement that included the automatic renewal terms, cancellation policy, and information on how to cancel in a manner that is capable of being retained by Plaintiff and the Class Members; whether Defendant's conduct alleged herein

constitutes conversion and/or unjust enrichment under each state's laws; whether Plaintiff and the Class Members are entitled to damages and/or restitution; and whether Plaintiffs and the Class Members are entitled to attorneys' fees and costs.); the claims of the Class Representatives are typical of the claims of the members of the Settlement Class for the states at issue; the Class Representatives and Class Counsel will fairly and adequately protect the interests of the members of the Settlement Class; common questions of law and fact with respect to the renewing subscription claims predominate over questions affecting individual members; and a class action is a superior method for fairly and efficiently adjudicating the Action.

11. If the Settlement does not receive the Court's final approval, or if final approval is reversed on appeal, or if the Settlement Agreement is terminated or otherwise fails to become effective, and/or as otherwise stated in Sections 6 and 9 of the Settlement Agreement, the Court's grant of class certification shall be vacated, and the Class Representatives will once again bear the burden of establishing the propriety of class certification. In such case, neither the certification of the Settlement Class for settlement purposes, nor any other act relating to the negotiation or execution of the Settlement Agreement shall be considered as a factor in connection with any class certification issue(s).

Notice and Administration

12. The Court approves, as to form, content, and distribution, the Notice Plan set forth in the Settlement Agreement, including the Notice Plan, Claim Form, and all forms of Notice to the Settlement Class as set forth in the Settlement Agreement and Exhibits A, B, C, and D thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of 735 ILCS 5/2-803. The Court also finds that the Notice constitutes valid, due and sufficient notice to all persons entitled thereto, and meets

the requirements of Due Process. The Court further finds that the Notice is reasonably calculated to, under all circumstances, reasonably apprise members of the Settlement Class of the pendency of this action, the terms of the Settlement Agreement, and the right to object to the Settlement and to exclude themselves from the Settlement Class. In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this Action. The Parties, by agreement, may revise the Notice and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting.

13. The Court approves the request for the appointment of [TBD] (“TBD”) as Settlement Administrator.

14. Pursuant to paragraph 4.1 of the Settlement Agreement, the Settlement Administrator is directed to publish the Notice and Claim Form on the Settlement Website and to send direct notice via E-Mail and U.S. Mail in accordance with the Notice Plan called for by the Settlement Agreement. The Settlement Administrator shall also maintain the Settlement Website to provide full information about the Settlement and allow for the filing of claims online.

Requests for Exclusion from Class

15. Any person falling within the definition of the Settlement Class may, upon valid and timely request, exclude themselves or “opt out” from the Class. Any such person may do so if, on or before the Objection/Exclusion Deadline of _____ [90 days from the Notice Date] they comply with the exclusion procedures set forth in the Settlement Agreement and Notice. Any members of the Class so excluded shall neither be bound by the terms of the Settlement Agreement nor entitled to any of its benefits.

16. Any members of the Settlement Class who elect to exclude themselves or “opt out” of the Settlement Agreement must file a written request with the Settlement Administrator,

received or postmarked no later than the Objection/Exclusion Deadline. The request for exclusion must comply with the exclusion procedures set forth in the Settlement Agreement and Notice and include the Settlement Class member's name and address, a signature, the name and number of the case, and a statement that he or she wishes to be excluded from the Settlement Class for the purposes of this Settlement. Each request for exclusion must be submitted individually and be personally signed. So called "mass" or "class" opt-outs shall not be allowed.

17. Individuals who opt out of the Class relinquish all rights to benefits under the Settlement Agreement and will not release their claims. However, members of the Settlement Class who fail to submit a valid and timely request for exclusion shall be bound by all terms of the Settlement Agreement and the Final Judgment, including the Release in Section 3, regardless of whether they have requested exclusion from the Settlement Agreement.

Appearances and Objections

18. At least twenty-one (21) calendar days before the Final Approval Hearing, any person who falls within the definition of the Settlement Class and who does not request exclusion from the Class may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice. Any Settlement Class Member who does not enter an appearance will be represented by Class Counsel.

19. Any members of the Settlement Class who have not timely filed a request for exclusion may object to the fairness, reasonableness, or adequacy of the Settlement Agreement or to a Final Judgment being entered dismissing the Action with prejudice in accordance with the terms of the Settlement Agreement, or to the attorneys' fees and expense reimbursement sought by Class Counsel in the amounts specified in the Notice, or to the award to the Class Representatives as set forth in the Notice and Settlement Agreement. At least fourteen (14) days

prior to the Objection/Exclusion Deadline, papers supporting the Fee Award shall be filed with the court and posted to the settlement website. Members of the Class may object on their own, or may do so through separate counsel at their own expense.

20. To object, members of the Class must sign and file a written objection no later than on or before the Objection/Exclusion Deadline of _____ [90 days the Notice Date]. To be valid, the objection must comply with the objection procedures set forth in the Settlement Agreement and Notice, and include his or her name and address; an explanation of the basis upon which he or she claims to be a Settlement Class Member; a signature; all grounds for the objection, including all citations to legal authority and evidence supporting the objection; the name and contact information of any and all attorneys representing, advising, or in any way assisting him or her in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the “Objecting Attorneys”); and a statement indicating whether he or she intends to appear at the Final Approval Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Court Rules). If a Settlement Class Member or any of the Objecting Attorneys has objected to any class action settlement where the objector or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption.

21. Members of the Class who fail to file and serve timely written objections in compliance with the requirements of this paragraph and the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement or to any of the subjects listed in paragraph 5,

above, *i.e.* (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate and should be given final approval by the Court; (b) whether a judgment and order of dismissal with prejudice should be entered; (c) whether to approve the payment of attorneys' fees and expenses to Class Counsel; and (d) whether to approve the payment of service awards to the Class Representatives.

22. To be valid, objections must be filed with the Court and sent to the following: FloSports Settlement 0000 Street City, ST 00000. In addition, any objections made by a Class Member represented by counsel must be filed through the Court's electronic filing system.

Further Matters

23. All further proceedings in the Action are ordered stayed until Final Judgment or termination of the Settlement Agreement, whichever occurs earlier, except for those matters necessary to obtain and/or effectuate final approval of the Settlement and Judgment.

24. Members of the Settlement Class shall be bound by all determinations and judgments in the Action concerning the Action and/or Settlement Agreement, whether favorable or unfavorable.

25. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement Agreement. The Court may approve the Settlement, with such modifications as may be agreed to by the Parties, if appropriate, without further notice to the Class.

26. Any Settlement Class Member who does not timely and validly submit a claim: (a) shall be forever barred from participating in any distributions of the Settlement Fund; (b) shall be bound by the provisions of the Settlement Agreement and all proceedings, determinations, orders and judgments in the Action relating thereto, including, without

limitation, the Judgment or Alternate Judgment, if applicable, and the Releases provided for therein, whether favorable or unfavorable to the Class; and (c) shall forever be barred and enjoined from directly or indirectly filing, commencing, instituting, prosecuting, maintaining, or intervening in any action, suit, cause of action, arbitration, claim, demand, or other proceeding in any jurisdiction, whether in Illinois or elsewhere, on their own behalf or in a representative capacity, that is based upon or arises out of any or all of the Released Claims against any of the Defendant and the other Released Parties, as more fully described in the Settlement Agreement.

27. If the Settlement Agreement is not approved by the Court in complete accordance with its terms, each party will have the option of having the Action revert to its status as if the Settlement Agreement had not been negotiated, made, or filed with the Court as per the terms of the Settlement Agreement. In such event, the parties will retain all rights as if the Settlement Agreement was never agreed upon.

28. In the event that the Settlement Agreement is terminated pursuant to the provisions of the Settlement Agreement or for any reason whatsoever the approval of it does not become Final then (i) the Settlement Agreement shall be null and void, including any provision related to the award of attorneys' fees, and shall have no further force and effect with respect to any party in this Action, and shall not be used in this Action or in any other proceeding for any purpose; (ii) all negotiations, proceedings, documents prepared, and statements made in connection therewith shall be without prejudice to any person or party hereto, shall not be deemed or construed to be an admission by any party of any act, matter, or proposition, and shall not be used in any manner or for any purpose in any subsequent proceeding in this Action or in any other action in any court or other proceeding, provided, however, that the termination of the Settlement Agreement shall not shield from subsequent discovery any factual information

provided in connection with the negotiation of this Settlement Agreement that would ordinarily be discoverable but for the attempted settlement; (iii) other than as expressly preserved by the Settlement Agreement in the event of its termination, the Settlement Agreement shall have no further force and effect with respect to any party and shall not be used in the Action or any other proceeding for any purpose; and (iv) any party may elect to move the Court pursuant to the provisions of this paragraph, and none of the non-moving parties (or their counsel) shall oppose any such motion.

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

Judge [Name]

EXHIBIT G

**TIN THE CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS
18TH JUDICIAL CIRCUIT**

DANIEL O’MALLEY, LUCAS YOUNG, and
CHARLES BUCKINGHAM, *individually and
on behalf of all others similarly situated,*

Plaintiffs,

v.

FLOSPORTS, INC.,

Defendant.

Case No. 2023L

**[PROPOSED] FINAL JUDGMENT AND
ORDER OF DISMISSAL WITH PREJUDICE**

WHEREAS, a class action is pending before the Court entitled *O’Malley, et al. v. FloSports, Inc.*, No. 2023L ; and

WHEREAS, Plaintiffs Daniel O’Malley, Lucas Young, and Charles Buckingham (collectively “Plaintiffs”) and Defendant FloSports, Inc. have entered into a Class Action Settlement Agreement, which, together with the exhibits attached thereto, and this Court’s Preliminary Approval Order [Dkt. #], sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice as to Defendant upon the terms and conditions set forth therein (the “Settlement Agreement”), and

WHEREAS, on [date], the Court granted Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, conditionally certifying the Settlement Class pursuant to 735 ILCS 5/2-801 of “all FloSports subscribers who enrolled in an automatically renewing FloSports subscription using a California, New York, North Carolina, Oregon, Florida, Illinois, DC, N. Dakota, Virginia, Hawaii, Vermont billing address and paid fee(s) in connection with such subscription from August 29, 2018 to June , 2023;” and

WHEREAS, the Court has considered the Parties’ Class Action Settlement Agreement, as

well as Plaintiffs' Motion for Final Approval of the Settlement Agreement, Plaintiffs' Motion for Attorneys' Fees, Costs, Expenses, And Service Awards, together with all exhibits thereto, the arguments and authorities presented by the Parties, any objectors and their counsel at the Final Approval Hearing held on [date], and the record in the Action, and good cause appearing;

IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

1. Terms and phrases in this Final Judgment shall have the same meaning as ascribed to them in the Parties' Class Action Settlement Agreement and in the Preliminary Approval Order.
2. This Court has jurisdiction over the subject matter of the Action and over all Parties to the Action, including all Settlement Class members, as it pertains to the claims in this case.
3. The notice provided to the Settlement Class pursuant to the Settlement Agreement and order granting Preliminary Approval – including (i) direct notice to Settlement Class Members via email and U.S. mail, based on the comprehensive data provided by Defendant, and (ii) the creation of the Settlement Website – fully complied with the requirements of 735 ILCS 5/2-803 and due process, and was reasonably calculated under the circumstances to apprise the Settlement Class of the pendency of the Action, their right to object to or to exclude themselves from the Settlement Agreement, and their right to appear at the Final Approval Hearing.
4. This Court now gives final approval to the Settlement Agreement, and finds that the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class. The settlement consideration provided under the Settlement Agreement constitutes fair value given in exchange for the release of the Released Claims against the Released Parties. The Court finds that the consideration to be paid to members of the Settlement Class is reasonable,

and in the best interests of the Settlement Class Members, considering the total value of their claims compared to (i) the disputed factual and legal circumstances of the Action, (ii) affirmative defenses asserted in the Action, and (iii) the potential risks and likelihood of success of pursuing litigation on the merits under the laws of the various states at issue. The complex legal and factual posture of this case, the amount of informal discovery completed, and the fact that the Settlement is the result of arms'-length negotiations between the Parties via mediation with Jill Sperber, Esq. support this finding. The Court finds that these facts, in addition to the Court's observations throughout the litigation, demonstrate that there was no collusion present in the reaching of the Settlement Agreement, implicit or otherwise.

5. The Court has specifically considered the factors relevant to class action settlement approval, including:

(1) the strength of the case for the plaintiffs on the merits, balanced against the money or other relief offered in settlement; (2) the defendant's ability to pay; (3) the complexity, length and expense of further litigation; (4) the amount of opposition to the settlement; (5) the presence of collusion in reaching a settlement; (6) the reaction of members of the class to the settlement; (7) the opinion of competent counsel; and (8) the stage of proceedings and the amount of discovery completed.

City of Chicago v. Korshak, 206 Ill. App. 3d 968, 972 (1st Dist. 1990).

6. The Court finds that the Class Representatives and Class Counsel adequately represented the Settlement Class for the purposes of litigating this matter and entering into and implementing the Settlement Agreement.

7. Accordingly, the Settlement is hereby finally approved in all respects.

8. The Parties are hereby directed to implement the Settlement Agreement according to its terms and provisions. The Settlement Agreement is hereby incorporated into this Final Judgment in full and shall have the full force of an Order of this Court.

9. This Court hereby dismisses the Action, as identified in the Settlement Agreement, on the merits and with prejudice.

10. Upon the Effective Date of this Final Judgment, Plaintiffs and each and every Settlement Class Member who did not timely opt out of the Settlement Class (whether or not such members submit claims), including such individuals' respective present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, as class members or otherwise, shall be deemed to have released and will be forever barred from filing, commencing, prosecuting, intervening in, asserting, instituting, or maintaining against Defendant, as well as any and all of its respective present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, divisions, related corporate entities, licensors, licensees, associates, affiliates, employers, agents, consultants, independent contractors, insurers, shareholders, investors, owners, and customers, including without limitation employees of the foregoing, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, owners, investors, trustees, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporation to the extent allowable under the law from, any and all causes of action, suits, claims, liens, demands, judgments, costs, damages, obligations, penalties, attorney fees (except as provided for in the Class Settlement), and all other legal responsibilities in any form or nature, including but not limited to, all claims relating to or arising out of state, local, or federal statute, ordinance,

regulation, or claim at common law or in equity, whether past, present, or future, known or unknown, asserted or unasserted, arising out of or in any way allegedly related to any FloSports' subscription offerings, including all facts, practices, or allegations asserted in the Action, and claims that were brought or could have been brought in the Action (the "Unknown Claims," as defined in the Settlement Agreement).

11. Upon the Effective Date of this Final Judgment, the above release of claims and the Settlement Agreement will be binding on, and will have *res judicata* and preclusive effect on, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all other Settlement Class Members and Releasing Parties in any jurisdiction or forum. All Settlement Class Members are hereby permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit or other action in any jurisdiction based on or arising out of any of the Released Claims. Any pending lawsuits by or on behalf of a Settlement Class Member shall be dismissed forthwith.

12. The Court has also considered Plaintiffs' Unopposed Motion For Attorneys' Fees, Costs, Expenses, And Service Awards, as well as the supporting memorandum and declarations, and adjudges that the payment of attorneys' fees, costs, and expenses in the amount of \$1,000,000.00 is reasonable in light of the multi-factor test used to evaluate fee awards in Illinois. *See McNiff v. Mazda Motor of Am., Inc.*, 384 Ill. App. 3d 401, 407 (4th Dist. 2008). Such payment shall be made pursuant to and in the manner provided by the terms of the Settlement Agreement.

13. The Court has also considered Plaintiffs' Motion, memorandum of law, and supporting declarations for service awards to the Class Representatives, Daniel O'Malley, Lucas

Young, and Charles Buckingham. The Court adjudges that the payment of service awards in the following amounts: (i) \$5,000 to Mr. O'Malley; (ii) \$5,000 to Mr. Young; and (iii) \$5,000 to Mr. Buckingham; to compensate them for their efforts and commitment on behalf of the Settlement Class, is fair, reasonable, and justified under the circumstances of this case. Such payment shall be made pursuant to and in the manner provided by the terms of the Settlement Agreement.

14. All payments made to Settlement Class Members pursuant to the Settlement Agreement that are not cashed within one hundred eighty (180) days of issuance shall be donated as *cy pres* to **the Legal Aid Society Inc.**; a non-sectarian, not-for-profit pro bono legal organization; or another non-sectarian, not-for-profit organization(s) recommended by the parties and approved by the Court.

15. Except as otherwise set forth in this Order, the Parties shall bear their own costs and attorneys' fees.

16. The Parties, without further approval from the Court, are hereby permitted to agree and adopt such amendments, modifications, and expansions of the Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) so long as they are consistent in all material respects with this Final Judgment and do not limit the rights of Settlement Class Members.

17. Without affecting the finality of this Final Judgment for purposes of appeal, until the Effective Date the Court shall retain jurisdiction over all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement.

18. The Court finds that there is no just reason to delay, and therefore directs the Clerk of Court to enter this Final Approval Order and Judgment as the judgment of the Court forthwith.

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

Judge [Name]