

**COURT OF COMMON PLEAS  
LACKAWANNA COUNTY, PA**

<b>MARK F. SCHRANER, MARI T. CARR,</b>	:	
<i>Individually, and on behalf of all others</i>	:	
<i>similarly situated,</i>	:	<b>C.A. No. 2019-CV-4243</b>
<b>Plaintiffs,</b>	:	
<b>v.</b>	:	
	:	
<b>NORTHEAST REVENUE SERVICE, LLC,</b>	:	
<b>and CITY OF SCRANTON, PA</b>	:	
	:	
<b>Defendants.</b>	:	
	:	

**SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement (“Settlement Agreement”) is made and entered into by and among Plaintiffs Mark F. Schraner and Mari T. Carr (collectively “Plaintiffs” or “Class Representatives”), and Defendants Northeast Revenue Service, LLC (“NERS”) and City of Scranton, PA (“Scranton”) (collectively “Defendants”) (Plaintiffs and Defendants are collectively referred to as the “Parties”), subject to the approval of the Court.

**I. RECITALS**

WHEREAS, Plaintiffs filed a class action alleging the collection of delinquent refuse fees by NERS as the debt collector for Scranton violated the Municipal Claims and Tax Liens Law, 53 P.S. §7101, et seq. As a result, Plaintiffs assert claims arising under Pennsylvania’s Fair Credit Extension Uniformity Act, 73 P.S. §2270.1, et seq.

(“FCEUA”) and the Pennsylvania Unfair Trade Practices Act and Consumer Protection Law, 73 P.S. § 201.1, *et seq.* (“UTPCPL”);

WHEREAS, on December 14, 2020, Plaintiffs filed the Second Amended Class Action Complaint (“SAC”), which is the operative class action complaint in this matter;

WHEREAS, on September 13, 2021, the Court denied NERS’s final set of Preliminary Objections to the SAC;

WHEREAS, on February 25, 2022, the pleadings relating to the SAC were completed and closed;

WHEREAS, NERS and Plaintiffs had been engaged in the exchange written discovery for well over a year, and had completed extensive discovery concerning the claims and damages of the putative Settlement Classes;

WHEREAS, on April 4, 2022, the Court entered a stipulation agreed to by the Parties wherein the Parties would attend a mediation with the Honorable Diane M. Welsh at JAMS in Philadelphia, Pennsylvania;

WHEREAS, on October 26, 2022, the Parties participated in a full day mediation with the Honorable Diane M. Welsh (Ret.) at JAMS;

WHEREAS, on November 16, 2022, the Parties completed an agreement in principle on terms and conditions of settlement and executed a Terms Sheet;

WHEREAS, on January \_\_, 2023, NERS and Scranton resolved their respective cross-claims;

WHEREAS, after carefully considering the facts and applicable law and the risks, expense, and uncertainty of continued litigation, and after having engaged in extensive negotiations, the Parties agree that it is in their mutual best interests to resolve the claims in this Action on fair, reasonable, and adequate terms as set forth in this Settlement Agreement;

WHEREAS, the Parties agree that neither this Settlement Agreement nor the underlying settlement shall constitute or be construed as any admission of liability or wrongdoing on the part of Defendants, which both NERS and Scranton independently deny;

WHEREAS, the Parties are entering into this Settlement Agreement to avoid the risks, burdens, and expense of continued litigation;

WHEREAS, each Plaintiff and Defendant has independently determined that it is desirable and beneficial for the Action to be fully and finally resolved in the manner and upon the terms and conditions set forth in this Settlement Agreement;

WHEREAS, the Parties have continued to negotiate the final portions of this Settlement Agreement including fees and administrative matters; and

WHEREAS, the Parties, by and through their respective undersigned counsel, have agreed to this Settlement Agreement on the terms and conditions set forth below.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiffs (for themselves and the Class Members) and Defendants, that, subject to the approval of the Court, the Action and the Released Claims will be compromised and settled, and have judgment entered, on the terms and conditions set forth below.

## **II. DEFINITIONS**

Whenever the following capitalized terms are used in this Settlement Agreement and in the attached Exhibits (in addition to any definitions provided elsewhere in this Settlement Agreement), they shall have the following meanings:

2.1 “Action” means this lawsuit captioned under *Mark F. Schraner, et al. v. Northeast Revenue Service, Inc., et al.*, No. 2019-cv-4243 (C.C.P. Lackawanna Co.).

2.2 “Administration Expenses” means the cost of the notice program relating to this Settlement Agreement and the costs of administering and processing of claims, disbursements of consideration and other necessary and reasonable expenses associated with administering the Settlement.

2.3 “Attorneys’ Fees and Expenses” means the amount awarded by the Court to Class Counsel to compensate them, and any other attorneys for Plaintiffs or the Settlement Classes, and is inclusive of all attorneys’ fees, costs, and expenses of any kind in connection with the Action and the underlying consolidated cases.

2.4 “Claim” shall mean a request for reimbursement under this Settlement.

2.5 “Claimant” is a Class Member or other person or entity eligible to make a Claim pursuant to this Settlement Agreement.

2.6 “Settlement Classes” include the following:

2.6.1 “Damages Class” shall be defined as follows:

*All individuals who paid delinquent Refuse Fees imposed by Scranton to NERS between September 12, 2016 and December 31, 2020.*

2.6.2 “Declaratory Relief Class” shall be defined as follows:

*All individuals who are subject to an unpaid municipal lien for delinquent Refuse Fees imposed by Scranton between September 12, 2012 and December 31, 2020.*

Collectively, members of the Settlement Classes shall be referred to as a “Class Member.” Excluded from the Settlement Classes are Defendants; any affiliate, parent, or subsidiary of Defendants; any entity in which Defendants have a controlling interest; any officer, director, or employee of Defendants; any successor or assign of Defendants; and any judge to whom this Action is assigned, his or her spouse; and individuals and/or entities who validly and timely opt-out of the settlement.

2.7 “Class Counsel” means the law firm of Saltz Mongeluzzi & Bendesky, P.C.

2.8 “Court” refers to the Court of Common Pleas, Lackawanna County, Pennsylvania.

2.9 “Effective Date” means ten business days after the later of (a) the date upon which the time for seeking appellate review of the judgment (by appeal or otherwise) shall have expired; or (b) the date upon which the time for seeking appellate review of any appellate decision affirming the judgment (by appeal or otherwise) shall have expired and all appellate challenges to the judgment shall have been dismissed with prejudice without any person having further right to seek appellate review thereof (by appeal or otherwise).

2.10 “Fairness Hearing” means the final hearing to be conducted by the Court on such date as the Court may order to determine the fairness, adequacy, and reasonableness of the Settlement in accordance with applicable jurisprudence, to be held after notice has been provided to the Settlement Classes in accordance with this Settlement, and where the Court will: (a) determine whether to grant final approval to the certification of the Settlement Classes; (b) determine whether to finally designate Plaintiffs as the representatives of the Settlement Classes; (c) determine whether to finally designate Class Counsel as counsel for the Settlement Classes; (d) determine whether to grant final approval to the Settlement; (e) rule on Class Counsel’s

Application for a Fee and Expense Award; (f) rule on the Class Representatives' Application for Class Representative Service Awards; and (g) consider whether to enter the Final Approval Order.

2.11 "NER's Counsel" means \_\_\_\_\_, who are the attorneys of record representing NERS.

2.12 "Scranton's Counsel means \_\_\_\_\_, who are the attorneys of record representing Scranton.

2.13 "Judgment" means the judgment to be entered by the Court in the Action finally approving this Settlement Agreement and dismissing the Action with prejudice.

2.14 "Notice" means the Short-Form Notice and/or Long-Form Notice and/or Published Notice, substantially in the same form as Exhibits A-C.

2.15 "Notice Date" means the date by which the Settlement Administrator completes the mailing of the Short and/or Long Form Notices by first class mail, postage prepaid, to each Damages Class Member after first running the addresses of the Damages Class Members through the National Change of Address database. Additionally, when the Settlement Administrator commences publication of the Published Notice for the Declaratory Relief Class Members.

2.16 "Preliminary Approval Order" means the order to be entered by the Court preliminarily approving the Settlement and directing that the Notice be given

to the Class Members, which Preliminary Approval Order shall be substantially in the form attached hereto as **Exhibit D**.

2.17 “Refuse Fee” means the fee charged by Scranton for the collection of refuse pursuant to Scranton’s Municipal Ordinance §400.12.

2.18 “Face Amount” means the base amount charged by Scranton annually for the collection for the Refuse Fee.

2.19 “Penalty” means the 12% multiplied by and added to the Face Amount of the Refuse Fee when the Refuse Fee becomes delinquent.

2.20 “Interest” means the interest calculated at a rate of 10% per annum on the Face Amount, Penalty, and Costs for the Refuse Fee when the Refuse Fee becomes delinquent.

2.21 “Costs” means any amount added to the Refuse Fee besides the Face Amount, Penalty, and Interest when the Refuse Fee becomes delinquent.

2.22 “Released Claims” means any and all claims, causes of action, demands, debts, suits, liabilities, obligations, damages, actions, rights of action, remedies of any kind and/or causes of action of every nature and description, whether known or unknown, asserted or unasserted, foreseen or unforeseen, regardless of any legal theory, existing now or arising in the future, by Plaintiffs and any and all Class Members relating to the facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances or other matters alleged in the



Action concerning the Refuse Fees, whether arising under statute, rule, regulation, common law or equity, and including, but not limited to, any and all claims, causes of action, rights or entitlements under any federal, state, local or other statute, law, rule and/or any consumer protection, consumer fraud, unfair business practices or deceptive trade practices laws, any legal or equitable theories, any claims or causes of action in tort, contract, products liability, negligence, fraud, misrepresentation, concealment, consumer protection, restitution, quasi contract, unjust enrichment, express warranty, implied warranty, secret warranty and/or any injuries, losses, damages or remedies of any kind, in law or in equity, under common law, statute, rule or regulation, including, but not limited to, compensatory damages, economic losses or damages, exemplary damages, punitive damages, statutory damages, restitution, recovery of attorneys' fees or litigation costs, or any other legal or equitable relief. The Released Claims do not include claims that are unrelated to the Refuse Fees, or any claim for death, personal injuries, damage to tangible property, or subrogation.

2.23 "Releasees" shall mean the Defendants and each of their respective future, present, and former direct and indirect parents, subsidiaries, affiliates, divisions, predecessors, successors, assigns, dealers, distributors, agents, principals, suppliers, vendors, issuers, licensees, and joint ventures, and their respective future, present, and former officers, directors, employees, partners, general partners, limited

partners, members, managers, agents, shareholders (in their capacity as shareholders) and legal representatives, and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing. As used in this paragraph, “affiliates” means entities controlling, controlled by, or under common control with a Releasee.

2.24 “Service Awards” means the \$2,500 (“Two Thousand Five Hundred Dollars”) that must be paid from the Settlement Fund to each Plaintiff who serves as a putative class representative in the Action, upon finalization of this Settlement Agreement and approval by the Court.

2.25 “Settlement” means the settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are as set forth in this Settlement Agreement and attached exhibits.

2.26 “Settlement Administrator” means the third-party entity who has been selected by the Parties, and appointed by the Court, to administer the Settlement and the claims process.

2.27 “Settlement Fund” shall mean the total payment of \$2,500,000 (Two Million Five Hundred Thousand Dollars).

2.28 “Settlement Website” shall mean the website created and maintained by the Settlement Administrator that will contain, among other things, the documents related to the settlement.

### **III. SETTLEMENT CONSIDERATION**

In consideration for the Settlement, entry of Judgment, and dismissal, and for the Release provided herein, Defendants agree to provide the following consideration to the Class:

#### **Creation of the Settlement Fund**

3.1 Defendants will collectively pay \$2,500,000.00 (Two Million Five Hundred Thousand Dollars) to create a Settlement Fund. The Settlement Fund shall pay all related costs of providing notice and administration of the settlement, payment to the Settlement Administrator, and the payment of all Plaintiffs' Counsel's attorneys' fees and litigation costs and incentive awards. The distribution of the Settlement Fund shall occur as follows and as approved by the Court:

3.1.1 Within 30 (thirty) days of the Notice Date, NERS shall tender the payment to the Settlement Administrator for the costs of providing Notice to the Settlement Classes. This payment shall be deducted from the balance of the Settlement Fund payable pursuant to Section 3.1 above following final approval of the Settlement, but is not reimbursable and shall be borne solely by NERS if the Court does not approve the Final Approval Order;

3.1.2 NERS shall pay Class Counsel by wire transfer the full amount of the Court awarded attorneys' fees and costs within ten (10) days of the Effective Date;

3.1.3 NERS shall place the remaining balance of the Settlement Fund in the Escrow Account pursuant to instructions provided by Class Counsel and/or the Settlement Administrator within ten (10) days of the Effective Date for disbursement as directed by the Court and as follows:

3.1.3.1 the payment of an incentive award to the individual Plaintiffs, not to exceed \$2,500 per Plaintiff (collectively not to exceed \$5,000), in recognition of his or her services as a Class Representative;

3.1.3.2 the payment to each Damages Class Member as set forth in the final Plan of Allocation as finally approved by the Court in its Final Approval Order; and

3.1.3.3 the payment of costs associated with the services of the Settlement Administrator for distribution of settlement checks to Damages Class Members.

3.1.3.4 no other payment from the Settlement Fund shall be authorized and no further monies or other consideration shall be provided by NERS.

### 3.2 The Scranton Refuse Fee Lien Forgiveness Program.

3.2.1 Scranton shall release and forever discharge the amount of any lien for Refuse Fees exceeding the Face Amount of Refuse Fee owed for the Declaratory Relief Class.

3.2.2 Scranton shall be solely responsible for all costs, other than Notice Costs to Class Members, incurred in connection with this Scranton Refuse Fee Lien Forgiveness Program.

#### **IV. NOTICE TO THE CLASS**

4.1 **Notice Deadline.** No later than the Notice Date, the Settlement Administrator shall cause Notice to the Class to be disseminated by U.S. mail and the dedicated Settlement Website.

4.2 **Individual Class Notice to Damages Class Members.** Following the Court granting preliminary approval of this Settlement, the Settlement Administrator shall send the Short-Form Notice by direct U.S. mail to all reasonably identifiable Damages Class Members.

4.3 **Published Class Notice for Declaratory Relief Class Members.** The Settlement Administrator shall publish a summary notice substantially in the form set forth in the Published Notice, or as otherwise approved by the Court, in The Scranton Times and Citizens Voice for a period of 7 (seven) consecutive days.

4.4 Defendants shall assist Class Counsel in good faith and through reasonable efforts to identify the Damage Class Members, last known address, and Refuse Fees paid, including amounts over the Face Amount. The names and addresses of Damages Class Members shall be provided to Class Counsel and the Settlement Administrator within 10 days of the Preliminary Approval Order.

4.5 For all Damages Class Members for whom the Notice is returned with forwarding address information, the Settlement Administrator shall re-mail the Notice to the new address indicated. For all Class Members for whom the Notice is returned without forwarding address information, the Settlement Administrator shall perform an advanced address search and re-mail the Notice to the best-known address resulting from that search.

4.6 The Settlement Administrator shall further set up and maintain a Settlement Website where Class Members can access the Long-Form Notice, a copy of this Settlement Agreement, the operative complaint, and additional information about the Action and Settlement. The Short-Form Notice will include the address of the Settlement Website, as well as a toll-free number for an interactive voice recording service that allows Class Members to leave a request for a paper copy of the Long-Form Notice.

## **V. ATTORNEYS' FEES AND SERVICE PAYMENTS**

5.1 The Parties agree that Class Counsel may apply to the Court for an award of reasonable attorneys' fees up to one-third of the Settlement Fund, plus reimbursement of all litigation costs.

5.2 The Parties agree that Class Counsel may apply to the Court for Service Awards not to exceed \$2,500 (two thousand five hundred dollars) per Plaintiff, \$5,000 total, for service as a Class Representative.

## **VI. RELEASE**

6.1 Upon entry of a Court order granting final approval of the Settlement and entering judgment pursuant to **section** below, Plaintiffs and the Settlement Classes irrevocably release, waive, and discharge any and all past, present, and future Released Claims against Releasees. These include, by way of example, claims and/or demands for damages, costs, attorneys' fees, losses, that have been brought or could have been brought, whether known or unknown, existing or potential, or suspected or unsuspected, whether or not specifically named herein, asserted or unasserted, under or pursuant to any statute, regulation, common law, or equitable principle, and all legal claims of whatever type or description arising out of, that may have arisen as a result of, or which could have been brought based on, any of the facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances or other matters pleaded in any complaint filed in the Action concerning the front suspension steering damper in Class Vehicles.

6.2 **SCRANTON AND NERS TO INSERT THEIR DESIRED MUTUAL RELEASE LANGUAGE.**

6.3 Plaintiffs and Class Members recognize that, even if they later discover facts in addition to or different from those that they now know or believe to be true, they nevertheless agree that, upon entry of the Final Approval Order and Judgment, Releasees fully, finally, and forever settle and release any and all Released Claims

against Releasees. The Parties acknowledge that this waiver and release were bargained for and are material elements of the Settlement.

6.4 By this Settlement Agreement, Defendants release the Plaintiffs and Plaintiffs' Counsel from all claims or causes of action that were, or could have been, asserted by Defendants pertaining to this Action or Settlement. Defendants recognize that, even if it later discovers facts in addition to or different from those that it now knows or believes to be true, it nevertheless agrees that, upon entry of an order granting final approval of this Settlement and entering judgment, Defendants, fully, finally, and forever settles and releases any and all such claims. The Parties acknowledge that this waiver and release were bargained for and are material elements of the Settlement.

6.5 This Settlement and the release in the preceding paragraph do not affect the rights of Class Members who timely and properly request exclusion from the Class, or anyone encompassed within the class definitions set forth in the complaints in this Action who is not a member of the Class defined in this Settlement Agreement. The Parties do not intend this Settlement Agreement and release to affect any legal claims that arise out of a consumer's purchase or use of any vehicle other than a Class Vehicle.

6.6 The administration and consummation of the Settlement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and



implement the Settlement. The Court retains jurisdiction to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Settlement, including, but not limited to, orders enjoining Class Members from prosecuting claims that are released pursuant to the Settlement and allowing for discovery related to objectors.

6.7 Upon issuance of the Final Approval Order and Judgment: (i) the Settlement shall be the exclusive remedy for Class Members; (ii) Releasees shall not be subject to liability or expense of any kind to any Class Member(s) for reasons related to the Action except as set forth herein; and (iii) Class Members shall be permanently barred from initiating, asserting, or prosecuting any and all released claims against the Releasees.

## **VII. SETTLEMENT APPROVAL PROCESS**

### **A. Intention to Complete Settlement.**

7.1 The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement, shall promptly perform their respective obligations hereunder, and shall promptly take any and all actions and execute and deliver any and all additional documents and all other materials and/or information reasonably necessary or appropriate to carry out the terms of this Settlement and the transactions contemplated hereby. Plaintiffs shall prepare all preliminary approval and final approval papers.

7.2 If the Preliminary Approval Order or the Final Approval Order and Judgment is not obtained from the Court in the form contemplated by this Settlement or Final Approval Order and Judgment is reversed or materially modified on appeal, this Settlement shall be null and void ab initio upon election of any of the Parties and have no further force and effect with respect to any of the Parties in this Action. Nothing in this provision shall affect NERS's obligation to pay all costs reasonably incurred by the settlement administration process.

**B. Preliminary Court Approval.**

7.3 Promptly after execution of this Settlement by the Parties, counsel for the Parties shall present this Settlement to the Court for review and jointly seek entry of an order that certifies both the Damages Class and Declaratory Relief Class as the Settlement Classes, grants preliminary approval of this Settlement, and directs the Settlement Administrator to provide notice of the Settlement in the manner detailed herein.

7.4 No later than 20 days before the Court hearing on final approval of the Settlement, the Settlement Administrator shall provide affidavits for the Court, with a copy to Class Counsel, NERS's Counsel and Scranton's Counsel, attesting that Notice was disseminated in a manner consistent with the terms of this Settlement Agreement, or as otherwise required by the Court.

**C. Final Court Approval.**

7.5 Once the Court enters a Preliminary Approval Order, counsel for the Parties shall use their best efforts to promptly obtain entry of a Final Approval Order and Judgment that:

- (a) Finds the Settlement to be fair, reasonable, and adequate;
- (b) Finds that the Notice given constitutes the best notice practicable;
- (c) Approves the Release specified in Section \_\_\_ as binding and effective as to all Class Members who have not properly excluded themselves from the Settlement Classes;
- (d) Directs that Judgment be entered on the terms stated herein; and
- (e) Provides that the Court will retain jurisdiction over the Parties and Class Members to enforce the terms of the Final Approval Order and Judgment.

7.6 Upon entry of the Final Approval Order and Judgment, this Action shall be dismissed, on its merits and with prejudice, with respect to all Plaintiffs and all Class Members who have not properly excluded themselves from the Class, and without prejudice as to anyone else, subject to the continuing jurisdiction of the Court.

**VIII. REQUESTS FOR EXCLUSION**

8.1 The provisions of this section shall apply to any request by a Class Member for exclusion from the Settlement Classes.

8.2 Any Class Member may make a request for exclusion by submitting such request in writing as set forth in the Notice.

8.3 Any request for exclusion must be submitted no later than the date specified in the Court's Preliminary Approval Order.

8.4 Any request for exclusion shall (i) state the Class Member's full name and current address and (ii) specifically and clearly state his/her/its desire to be excluded from the Settlement and from the Settlement Classes.

8.5 Failure to comply with these requirements and to timely submit the request for exclusion will result in the Class Member being bound by the terms of the Settlement Agreement.

8.6 Any Class Member who submits a timely request for exclusion may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under this Settlement Agreement.

8.7 The Settlement Administrator shall report the names of all Class Members who have submitted a request for exclusion to the Parties within 10 days of the deadline for doing so set forth in the Court's Preliminary Approval Order.

8.8 Class Counsel represent and warrant that they have no other agreements with other counsel respecting Class Members, including any agreements with respect to referring, soliciting, or encouraging any Class Members to request to be excluded (or "opt out") from this Settlement Agreement.

8.9 Upon certification of the Settlement Classes in connection with the Preliminary Approval of this Settlement Agreement, Class Counsel agree to seek in the Preliminary Approval Order from the Court a provision encouraging all written communications to multiple Class Members with respect to this Settlement Agreement to be reviewed and approved by Class Counsel and the Court, and Class Counsel agree to abide by that provision as may be required by the Court.

## **IX. OBJECTIONS**

9.1 The Parties will request that the Court enter an order requiring any Class Member who wishes to enter an objection to be considered, to submit a written notice of objection to the Settlement Administrator by the deadline set in the Court's Preliminary Approval Order.

9.2 To state a valid objection to the Settlement, an objecting Class Member must provide the following information in his, her, or its written objection: (i) the case name and number, *Mark F. Schraner, et al. v. Northeast Revenue Service, Inc., et al.*, No. 2019-cv-4243 (C.C.P. Lackawanna Co.); (ii) his/her/its full name, current address, and current telephone number; (iii) a statement of the objection(s), including all factual and legal grounds for the position; (iv) copies of any documents the objector wishes to submit in support; (v) the name and address of the attorney(s), if any, who is representing the objecting Class Member in making the objection or who may be entitled to compensation in connection with the objection; (vi) a statement of whether

the Class Member objecting intends to appear at the Final Approval Hearing, either with or without counsel; (viii) the identity of all counsel (if any) who will appear on behalf of the Class Member objecting at the Final Approval Hearing and all persons (if any) who will be called to testify in support of the objection; (ix) the signature of the Class Member objecting, in addition to the signature of any attorney representing the Class Member objecting in connection with the objection, and (x) date the objection. In addition, any Class Member objecting to the Settlement shall provide a list of any other objections submitted by the objector, or the objector's counsel, to any class action settlements submitted in any court in Pennsylvania or the United States in the previous five years. If the Class Member or his or her counsel has not made any such prior objection, the Class Member shall affirmatively so state in the written materials provided with the objection.

9.3 If the objecting Class Member intends to appear, in person or by counsel, at the Final Approval Hearing, the objecting Class Member must so state in the objection. Any Class Member who does not state his or her intention to appear in accordance with the applicable deadlines and other specifications, or who has not filed an objection in accordance with the applicable deadlines and other specifications, will be deemed to have waived any objections to the Settlement and can be barred from speaking or otherwise presenting any views at the Final Approval Hearing.

9.4 The Parties will request that the Court enter an order providing that the filing of an objection allows Class Counsel or Defendants' Counsel to notice such objecting person for, and take his, her, or its, deposition consistent with the Pennsylvania Rules of Civil Procedure at an agreed-upon location, and to seek any documentary evidence or other tangible things that are relevant to the objection. Failure by an objector to make himself/herself/itself available for a deposition or comply with expedited discovery requests may result in the Court striking the objection and otherwise denying that person the opportunity to be heard. The Court may tax the costs of any such discovery, including the reasonable attorney's fees of the Parties, to the objector or the objector's counsel should the Court determine that the objection is frivolous or made for improper purpose. To the extent an objector seeks an appeal, the Parties shall demand the posting of a supersedeas bond for the full value of the Settlement Fund.

9.5 These procedures and requirements for objecting are intended to ensure the efficient administration of justice and the orderly presentation of any Class Member's objection to the Settlement, in accordance with the due process rights of all Class Members.

9.6 Any Class Member who fails to file and timely serve a written objection containing all of the information listed in paragraphs 9.2 and 9.3 above, including notice of his/her intent to appear at the Final Approval Hearing, shall not be

permitted to object to the Settlement and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by any means, including but not limited to an appeal.

9.7 The Parties shall promptly inform the Court of any consideration sought by an objector and the circumstances of such a request.

## **X. MISCELLANEOUS**

### **A. Choice of Law.**

10.1 This Settlement Agreement shall be governed by and construed in accordance with the substantive laws of the Commonwealth of Pennsylvania without giving effect to any choice or conflict of law provision, or rule that would cause the application of the laws of any other jurisdiction.

### **B. Not Evidence.**

10.2 The Parties understand and acknowledge that this Settlement Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties, either previously or in connection with the negotiations or proceedings connected with this Settlement Agreement, shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made or an acknowledgment or admission by any party of any fault, liability or wrongdoing of any kind whatsoever to any other party.



10.3 Neither this Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of it, (a) is, or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any legal claim made by Plaintiffs or Class Members, or of any wrongdoing or liability of Defendants; or (b) is, or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of Releasees in any proceeding in any court, administrative agency, or other tribunal.

10.4 This provision shall survive the expiration or voiding of the Settlement Agreement.

**C. Headings.**

10.5 The headings of the sections and paragraphs of this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

**D. Effect of Exhibits.**

10.6 The exhibits to this Settlement Agreement are an integral part of the Settlement and are expressly incorporated and made a part of this Settlement Agreement.

**E. Entire Agreement.**

10.7 This Settlement Agreement represents the entire agreement and understanding among the Parties and supersedes all prior proposals, negotiations,

agreements, and understandings relating to the subject matter of this agreement. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or understanding concerning any part or all of the subject matter of this agreement has been made or relied on except as expressly set forth in this Settlement Agreement. No modification or waiver of any provisions of this Settlement Agreement shall in any event be effective unless the same shall be in writing and signed by the person or Party against whom enforcement of the Settlement Agreement is sought.

**F. Counterparts.**

10.8 This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original as against any Party who has signed it, and all of which shall be deemed a single agreement.

**G. Arm's Length Negotiations.**

10.9 The Parties have negotiated all terms and conditions of this Settlement Agreement at arm's length. The provisions for Attorneys' Fees and Expenses and Service Awards set forth herein were negotiated separately from and after agreement on the provisions for relief to Plaintiffs and the Settlement Classes.

10.10 All terms, conditions, and exhibits in their exact form are material and necessary to this Settlement Agreement and have been relied upon by the Parties in entering into this Settlement Agreement.

10.11 The determination of the terms of, and the drafting of, this Settlement Agreement has been by mutual agreement after negotiation, with consideration by and participation of all Parties and their counsel. Since this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. The Parties were represented by competent and effective counsel throughout the course of settlement negotiations and in the drafting and execution of this Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Agreement.

**H. Public Statements.**

10.12 The Parties and their Counsel agree to keep the substance of this Settlement Agreement confidential, provided that this Section shall not prevent Defendants from disclosing such information, prior to the date on which the Settlement Agreement is filed, to state and federal agencies, independent accountants, actuaries, advisors, financial analysts, insurers, or attorneys, nor shall it prevent the Parties and their Counsel from disclosing such information to persons or entities (such as experts, courts, co-counsel, and/or administrators) to whom the Parties agree disclosure must be made in order to effectuate the terms and conditions of the Settlement Agreement; provided further that Defendants may disclose publicly the terms of the Settlement Agreement that it deems necessary to meet its regulatory obligations or fiduciary duties; and provided further that Plaintiffs may disclose the

terms to their expert(s). Neither the Parties nor their Counsel shall issue (or cause any other Person to issue) any press release concerning the existence or substance of this Settlement Agreement.

**I. Good Faith.**

10.13 The Parties acknowledge that prompt approval, consummation, and implementation of this Settlement is essential. The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement, shall promptly perform their respective obligations hereunder, and shall attempt to resolve any dispute that may arise under this Settlement in a good faith and expeditious manner.

**J. Continuing Jurisdiction.**

10.14 The Parties agree the Court may retain continuing and exclusive jurisdiction over them, and all Class Members, for the purpose of the administration and enforcement of this Settlement.

**K. Extensions of Time.**

10.15 The Parties may agree upon a reasonable extension of time for deadlines and dates reflected in this Settlement Agreement without further notice (subject to Court approval as to court dates).

**L. Service of Notice.**

10.16 Whenever, under the terms of this Settlement Agreement, written notice is required to NERS, Scranton or Class Counsel, such service or notice shall be directed to the individuals and addresses specified below, unless those individuals or their successors give notice to the other parties in writing:

As to Plaintiffs:

Patrick Howard  
Saltz Mongeluzzi & Bendesky, P.C.  
120 Gibraltar Road, Suite 218  
Horsham, PA 19044

As to NERS:

As to Scranton:

IN WITNESS HEREOF, each of the Parties hereto has caused this agreement to be executed, as of the day(s) set forth below.

Dated: December \_\_, 2022

**For Plaintiffs and the Settlement Classes**

\_\_\_\_\_,  
Patrick Howard  
SALTZ, MONGELUZZI & BENDESKY, P.C.  
120 Gibraltar Road, Ste. 218

Horsham, PA 19044  
Tel: (215) 496-8282  
Fax: (215) 754-4443

**For Defendant Northeast Revenue Service, LLC**

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Don

and

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Roger

**For Defendant City of Scranton, Pennsylvania**

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Greg

and

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Jessica?